

Gazette of the United States.

PUBLISHED WEDNESDAYS AND SATURDAYS BY JOHN FENNO, No. 9, MAIDEN-LANE, NEW-YORK.

[No. XC.]

SATURDAY, FEBRUARY 20, 1790.

PRICE THREE DOLLARS PR. ANN.

THE TABLET.

No. XC.

"Legislators by overlooking facts, sometimes trouble themselves to settle principles, when there is no occasion for them."

THE first object to be regarded in the examination of a practical subject, is to ascertain all the facts which relate to it. If this rule were strictly observed, many of the debates which take place in public assemblies would be avoided. There is no error to which men are more liable, than taking things for granted, which are not true. Mistakes of this kind expose people to much painful reflection, and produce a warmth and altercation of debate to no useful purpose. Why should one perplex himself to assign a cause for an effect which exists only in imagination? why should we attempt to apply a remedy to an evil, before we examine the facts, and determine whether the evil we propose to redress, has any existence. A man must feel in an awkward situation, who having employed several days in the discussion of principles, should find that the case, to which he meant to apply them, was merely a creature of fiction.

I can better illustrate my ideas by a specific example, than by general reflections. The very important question discussed in a respectable assembly is not remote from the purpose. I allude to the discussion relative to a discrimination between original and purchasing holders of public certificates. It does not come within the design of my speculations to enter into political disputes, and I shall wave a consideration of the principles that were adduced, in support of either side of the question. The debates on the occasion discovered good talents at investigation. The remarks were judicious, and the reasoning ingenious. But it was evident that the speakers were not generally acquainted with those facts that were the ground work of the whole business.

The point to be determined was, whether original creditors had any demand in justice for the indemnification of the losses incurred by the transfer of their certificates. It was pretended that the assignee ought to relinquish part of the sum expressed on the face of the certificate, for the benefit of the original holder. A compromise, it was urged, ought to be made between them, and the property divided. This pretence was founded on two premises, which many of the speakers conceived to be facts, without any enquiry into the matter.

One of these supposed facts is, that original holders have generally sold their securities at about one eighth part of their nominal value.

The other is, that they were compelled by necessity thus to dispose of their securities.

Few of the speakers, in the examination of the subject, expressed any doubt of the propriety of taking these suppositions for undisputed facts. By a misconception of the real state of the case, there was a most anxious effort to reconcile a difference of opinion, which would not have existed at all, had the facts been previously examined.

It may be proper in the first place to enquire who have been the principal losers by the fluctuating price of public securities.

And, secondly what were the causes that generally induced original creditors to transfer their certificates.

To the first of these points, I reply that if the government pays the possessor of a certificate, the amount expressed on the face of it, no class of creditors will suffer an undue proportion of loss. In such a decision all the creditors whether real or imaginary should be put into classes, and an opinion formed upon an aggregate view of each class. Some individuals in each division will no doubt be found to have been distinguished sufferers; but I believe if the losses are fairly stated among the several classes, the difference will be too little to agitate the public mind with devising a mode of redress. For setting aside the question of the justice or injustice of an interference of the government, the cases of real injury are too few to constitute any claims for general remedy. It is not probable that a twentieth part of the domestic debt is held under such circumstances as to render it a doubt, viewed either on principles of justice, or sentiments of generosity, whether any persons, but the present holders, should receive the payment.

It admits of a tolerable degree of demonstration, that the original creditors, who have alienated their securities, have sold them on an average of twelve shillings and six pence on the pound. As they have a long time had the benefit of the money, their situation is not less favorable than the present holders. It will here be observed, that many persons have in fact sold securities at two shillings and six pence on the pound; and it may be asked what description of persons sold at this low rate. This point is easily made clear. It should first be understood that not more than a tenth part of the domestic debt was in circulation, at the low stages of depreciation. Those who sold at the lowest ebb of stocks, and sustained the principal loss, were generally early purchasers and not original holders.

(To be continued.)

CONGRESS.

HOUSE OF REPRESENTATIVES.

MONDAY, FEBRUARY 15.

(CONTINUED.)

IN Committee of the whole on the report of the Secretary of treasury. Mr. Madison's motion for a discrimination under consideration.

Mr. Lawrence observed, that the proposition of Mr. Madison derived force from the talents and knowledge of that gentleman in public transactions; but that, on examination, it would be found to contain doctrines very repugnant to the interest and prosperity of the union.

Mr. Lawrence stated, that the debts contracted by the United States were for loans of money, supplies of articles necessary for the public wants, and for actual service rendered in different employments. These debts were ultimately adjusted and reduced to their present transferable form. Every part of the contract was essential to it: The negotiation was a material part, and the nature of the contract was frequently recognized by the late government. That in 1783, Congress recommended certain funds to be established to pay the interest and put the principle in a course of discharge. This recommendation was unequivocal, as to the nature of it, and made no discrimination between the possessor and the original holder. The subsequent conduct of that body was conformable to this recommendation. They annually called on the States to furnish money to pay the interest, without discriminating between the original holder and present possessor. They paid interest on the securities, without making any discrimination. Provision has been made for holders of loan-office certificates, that were subject to liquidation, to have them cancelled and others issued for the specie value. And the holders of certificates were enabled to have them registered to guard against accidents; & no distinction was made between the original holder and the alie-

nee. The transferable nature of the claim was for the benefit of the creditor, because it gave it an active value. He consented to take it, and consulted his own advantage. The conduct of the late Congress, since the war, has been uniform in the support of this contract, and they have done no act to impair its obligation according to the terms of it. This contract is valid against the government; for, notwithstanding the truth of Mr. Madison's observation, that the nation was the same tho the bodies that administered the government were different—there is yet a far greater security; and to remove all doubt, a clause is inserted in the constitution, that made all debts and engagements, valid against the United States under the late general government, valid against the present.

Mr. Lawrence further observed, that this contract having descended upon the government, there is no right in the legislature to impair the force of it. The particular governments are restrained from passing laws impairing the obligations of contract. This interference would be a violation of the contract between the individuals when the certificates were transferred; and it will not be pretended that the States are prohibited, and the general government has power to do it.

Mr. Lawrence adverted to the principles of Mr. Madison, to rest the obligation of the public on the original holder; and observed that the same principles are in favor of the present possessor. That public justice requires a performance of contracts, when there is no fraud on the part of the holder. The possessor has been guilty of no fraud, no deception: the contract between him and the original holder was fair, and a hazard and risk attended the purchase adequate to the advantage; and nothing short of a revolution in government could have produced payment. If there was an imposition, the public occasioned it; and between the original holder and the public, there might be a claim for retribution. Public faith is as sacredly pledged to the bearer, or present possessor, as to the original creditor. Public credit results from fair and upright conduct; and the government, to support it, must perform its contracts. This is a contract recognized by them, and as such should be discharged. The situation we have been in made it proper for us to be cautious on this subject; and even at present people doubt our disposition to establish our credit. This would give a fatal blow to it. Much has been said about public opinion. Public opinion is difficult to be ascertained; gentlemen have different modes to determine it. He supposed it was better ascertained by the acts of public bodies, than by squibs in the newspapers, or by a pamphlet written by any individual. The uniform conduct of men, deputed by the particular States to represent them in the late general government, was a standard; and their opinion, from 1783, was in favor of the present possessor. The conduct of the particular States is another circumstance: I do not know of any discrimination made by them, tho it has been attempted: The general opinion of men of property is against it; and these sources of public opinion are most certain and unequivocal.

Mr. Lawrence further observed, that altho he believed Mr. Madison supposed no advantage would be derived to the United States, from this discrimination, yet much would arise. Part of the army had been composed of foreigners; many had left the country, others are dead and their relatives; all their part would be unclaimed. That certificates were issued to public officers to a great amount, and were paid by them to persons from whom they purchased. The difficulty of making proof of the original creditor will be great; and from this circumstance great sums would be gained to the public. There are persons enough who would have sagacity to discern this; and they would doubt the purity of the public motive should the Gentleman's plan be adopted.

Mr. Lawrence adverted to the circumstance of the new creditor receiving paper: that this paper might be subject to another liquidation on the same principle as the present. That it would introduce doubt and distrust of public engagements; and there would be no greater security, although a fund was pledged, than there is at present; for whenever the public pleased, they might destroy the obligation.

Mr. Lawrence observed, that arguments were improperly addressed to their feelings; but that however hard it may be for the original creditor, who had parted with his certificates, to contribute to pay the debt; yet it would be equally hard on him who had been injured by continental money, who had been plundered by the enemy, who had his property burned by them in the course of the war; and instances of this kind were numerous.

Mr. Lawrence adverted to the doctrine of the high court of equity; and urged that this court must be governed by principle. Was the committee this high court, and the United States' original creditor and present possessor before them; If there appeared no fraud on the part of the possessor, the original creditor would have no just claim on him. Between the United States and original creditors, the United States were in fault; and the claim, if good would be against them.

Mr. Lawrence also noticed the resolution of Congress of 10th April, 1780, relative to the depreciation of pay to the army; and declared that this was limited to persons then in service: those who had left it, even the day before, had not this justice done them: But this case was between the United States, and the persons rendering them service. The act did not affect third persons; it did not take from one and give to another, as the present measure proposes and was therefore dissimilar.

Mr. Lawrence further observed, that his objection to the amendment was on the ground of the contract; yet he would mention some instances to shew the impracticability of the scheme. In many cases a State has sold lands, for low value in these certificates. By the law of this State, creditors residing within the British lines during the war, had received by law these certificates, at their nominal value, from their debtors. British and domestic creditors have received from their debtors large sums at their nominal value. Foreigners are possessed of large sums of the registered debts, in their names, for alienated certificates. These and many other instances which might be mentioned, will shew the difficulty of devising a scheme, with the checks and exceptions that would be proper to render it in any manner feasible. It has been objected to the Secretary's report, that it proposes a reduction of interest. He observed, that there is a material difference in a plan that made the consent of the creditor necessary, and one that reduces his capital without his consent. This part is not now under consideration; but the scheme of the gentleman from Virginia will add a considerable sum to the provision proposed by the Secretary, from the increased interest to be provided for, and the additional number of officers to be appointed to carry his plan into execution.

Mr. Lawrence observed, that he was still open to conviction; but that he was, at the time of speaking, against Mr. Madison's proposition.

Mr. Smith (S. C.) next rose and remarked, that it was necessary and proper the house should give the subject the most ample discussion. The question had long agitated the public mind, and the people should know that it had occupied the serious atten-

tion of their representatives, and be made acquainted with the principles of their decision. For his part, having bestowed on it the most attentive consideration, he could assert, that the more he contemplated it the more he was impressed with a conviction that the proposition was unjust, impolitic and impracticable. It consisted of two parts: the one was to take away the property of one person; the other was to give that property to another: and this by a voluntary interposition of the house, by a mere act of power, without the assent of the former, or without even the application of the latter; for it was remarkable that the original holders, who had alienated their certificates, had not come forward with this demand; and it is presumable that, had they applied for redress, they would reject any indemnification which was the result of such manifest injustice. To prove that this was taking away the property of a citizen by force, he observed, that the purchaser had, by a fair purchase, acquired a right to a full amount of the sum expressed in the certificate, which it was not within the power of the house to divest him of. No tribunal on earth could lawfully deprive a man of his property, fairly obtained. The purchaser bought under the act of Congress making the securities transferable; and having given the market price, without fraud or imposition, he was by virtue of such purchase vested with the complete and absolute ownership of the certificate, as fully as the original holder; and had as much right to demand full payment as the original holder would have had, had the security been still in his hands. Even should the house refuse, by an act of power, to pay him more than half, his demand for the other half would still remain against the public; it could not be extinguished; the debt would continue to haunt them; the creditors would loudly clamour for justice, and sooner or later the balance would be paid. Then would they incur all the odium of a violation of private rights, without deriving to the public any advantage whatever. He considered the measure as doing a certain evil that a possible good might result from it: this was not, in his opinion, the proper mode of doing good. Justice cannot be founded on injustice; and to take money out of the pocket of one man to put it into that of another, is a precedent which may justify future interferences. This step would lead the house to others: for if the principle be a just one, then the government should look into all the transactions and speculations of individuals, in order to correct them, and make retribution to every individual according to his losses. He was persuaded that the true policy of a legislative body, was to pursue the broad road of justice clearly marked out before them; for it was an undeniable truth, that whenever they deviated into these by-roads and trackless paths, without any other guide than their own imaginations, they would get bewildered in a labyrinth of difficulties, and rejoice to trace back their steps and regain the plain road. Now the plain line of conduct was, to do strict justice, such as is enforced in judicial tribunals between man and man in a similar case. The debtor is bound to pay the debt to the holder of the security; the contract, between the giver of the bond and the person to whom it was given, is done away the moment the latter assigns it to another person. If A. gives a bond to B. who parts with it to C. there is no longer any obligation on the part of A. to pay to B. but he must pay it to C. A. has nothing to do with the private negotiations between B. and C. nor to inquire what consideration was given for the security. All that he has to enquire is, whether he really signed it and had value received for it and the amount of it: he cannot say to the holder, you gave but 50 dollars for this security of 100, and I will pay you only 50; for the law will compel him to pay the 100. This is law and justice between man and man: is there another sort of law and justice for the government? By what rule is the government to square its conduct, if not by those sacred rules which form the basis of civil society, and are the safeguard of private property?

These observations fully refute the remarks of the gentlemen from Virginia, that the original holders still have a claim on the government, notwithstanding they have transferred their securities; and that in cases of individuals bearing an analogy to the present, a court of equity would interpose and give redress. The direct contrary was the fact; there never was an instance of a court of equity assuming such power. In cases of bankruptcy, which are under the superintendance of courts of chancery, the debts of the bankrupt are paid in equal proportions to all the creditors, whether original holders or assignees, and the court never enquires into the terms of the alienation. It cannot be said that the original holder has any claim of justice on the government; his claim must be addressed to our humanity; but the House have no authority to gratify their humane inclinations at the expence of justice, and by a sacrifice of private rights. If the project was unjust in itself, the application of the property to relieve the distresses of the original holder cannot change its nature; it must still be unjust; the mode of appropriation cannot alter the rectitude or turpitude of the measure. If therefore Congress have the right to take away the property of the present holders, they may apply the savings to public purposes; and what appearance would such a scheme have to the world? Would it not ruin forever our national character?

The gentleman from Virginia had said, that justice and good faith were the substratum of public credit: but he was persuaded that the justice and good faith held out by this plan, would be a substratum of sand, a foundation too weak to support our public credit, which would soon crumble to pieces. If the object of the gentleman be to afford relief to the distressed, without impairing legal rights, let enquiry be made into the cases of those original holders who sold from absolute distress—let those cases be selected and brought forward, and he would yield to no member in his alacrity to give them every adequate compensation, and to indemnify them for their sufferings;—but he could not assent to a proposition which blended together the cases of all the original holders, and gave them the property of others. That there were various classes of original holders; some had sold for purposes of speculation or trade; and had probably made good bargains, and were now in a better plight than if they had still retained their securities; others got rid of their securities because they had no confidence in the government: these the public are not bound to indemnify; this plan would place them on a better footing than those who having confidence in the general government had, notwithstanding their distresses, kept their securities; for supposing the former sold eight years ago for 45. in the pound, it was not improbable they had by this time doubled their money, and in addition to that they were to get 10. which would give them 18s. whereas the latter would be able to sell their securities at the market for 15 or 16s. after they were funded. Some had exchanged their securities for bonds of individuals, of which the real value cannot be ascertained, or for land or other property, which may have risen considerably in value. Some present holders have received their securities by way of legacy—Are these to have one half taken off?—is their patrimonial estate to be torn from them? Had their parent been still living, he would receive 20s. in the pound, but the circumstance of his death is to strip the child of one half.

The gentleman from Virginia had said, that giving the present holders, by alienation, the highest market price, would be doing them ample justice; but did the public mean to defraud them the