

money they had actually advanced? No—they were to receive this ample justice by a bit of paper nominally for 10s. but which this very measure would instantly depreciate to 8s. or 6s. They would have this consolation, that, according to the gentleman's reasoning, they would still have a claim against the government for the balance; for if the original holder, by selling his certificate for 4s. has now a just claim against the government for the balance of 16s. which it is asserted he has, of course the alienee, to whom the public should now acknowledge a debt of 10s. which he should sell for only 6s. would hereafter have a just demand against the public for 4s. This reasoning might be carried further, for it would follow that whenever the public shall pay in paper which shall depreciate, the seller will have a demand against the government for the difference.

From the distance of time at which these securities were issued, it may be reasonably supposed that many of the original holders are now dead: the average life of man is estimated at seven years, according to the most accurate calculation on insurance of lives. Some of them are dispersed in foreign countries, or settled in the western territory; and it would be right before the House took such a step as this, to understand clearly to what amount these alienations had been made; at present they were uninformed on the subject, and had no documents before them. If these alienations were inconsiderable, this project would be dangerous, even admitting its justice. History affords no precedent for the measure. The gentleman from Virginia, whose industry was equal to his ability, would have produced some similar case, had any existed. The South-Sea scheme was totally inapplicable: there the directors of the company having been guilty of the most enormous frauds and villainous practices, the government confiscated their estates and bestowed them on the company which they had been the means of ruining, instead of promoting their interests of which they had been appointed the guardians. Were the purchasers of securities chargeable with any crimes for which they merited confiscation? Were they appointed by law the guardians of the property of the original holders?

Nor was the other instance, respecting the depreciation of pay made good to the officers during the war, more in point, for there the public paid them with the public money, and not with that of individuals.

The constitution itself, he said, was opposed to the measure, for it was an *ex post facto* law, which was prohibited in express terms. The transference of public securities was lawful at the time these alienations were made; an attempt therefore to punish the transferees, is an attempt to make an *ex post facto* law, by making that now unlawful which was lawful at the time it was done; it alters the nature of the transaction, and annexes the idea of guilt to that which, at the moment of commission, was not only perfectly innocent, but was explicitly authorized and encouraged by a public act of Congress. By that act those who had money were invited to purchase of those who held securities; and now they were called upon to punish the purchasers who bought under that invitation. The constitution restrains the states from passing any laws impairing the force of contracts: *a fortiori*, is the legislature of the union restrained. What an example to hold up to the judiciary of the United States! How could they annul a state law, when the state would be able to plead a precedent on the part of Congress; The right of property was a sacred right; no tribunal on earth, nor even legislative body, could deprive a citizen of his property, unless for a fair equivalent, for the public welfare. The purchaser was vested, by the sale, with an absolute right to the full amount of the security, and it was beyond their authority to divest him of it. They might, indeed, by an act of power, declare that he should be paid only half; but his right to the other moiety would not be extinguished. It had been said that the original holder still had a claim against the public, because he had received only 2s. 6d. for services worth 20s. On the same principle, and with more justice, the present holder would still have a claim for 10s. because he has the public bonds for 20s. No ingenuity can overcome these stubborn principles of law and justice; they are immutable and must ultimately prevail. The house had been told, that if the government had defrauded the original holders out of their dues, it was fit the public should rectify the fraud: the former government was not deficient in inclination to do them ample justice, but from the imbecility of the confederation had not the means. In those days of democratic enthusiasm, the people were afraid of an energetic government: having so recently experienced the severity of their former one, the citizens of these states were cautious in trusting any government with power; and it is not improbable, that some of the original holders, who suffered these embarrassments from the want of a government competent to the payment of its debts, would themselves have opposed the vesting Congress with powers adequate to this object. Even the present constitution, which is a mild one, met with considerable opposition: had it been rejected, the public securities would have never been paid.

Public opinion had been mentioned, as favoring the plan: nothing was so difficult to attain, as a knowledge of public opinion; but as far as he had been able to collect the public opinion, it was against the measure. Publications in newspapers appeared indeed on both sides, but a greater number against it. The legislature of his state had strongly expressed their sentiments, by rejecting almost unanimously a similar project; and in society he had met with but few advocates for it. Tho' it had been admitted that no instance of a similar nature had ever existed in other countries, yet it was asserted that this was because the depreciation of public securities in Europe bore no comparison with those in the United States. The securities in England had fallen to 70 per cent. without occasioning an interposition of the government, and there was no reason to assert, that a greater depreciation would have induced an interference; if the measure was unjust in the one case it was equally so in the other; the increased rate of depreciation could not justify it; for where would it cease to be unjust and begin to be just? What is the precise point of depreciation at which the government could be warranted in stepping in and depriving the holders of their rights? Right and wrong cannot depend on the amendment of depreciation; they are fixed principles which cannot fluctuate.

The hardship of requiring those who have lost four sixths of their due to contribute to the payment of taxes has been noticed. When they sold their certificates they thought that the person to whom they sold would one day or other receive something for it; and they knew that he could receive nothing unless the debt were funded, and that in such case they would be compelled to contribute their proportion of taxes. If they, on the other hand, were impressed with the idea that the purchaser would never be paid, then the bargain was not a fair one on their part, for they took the purchaser's money and gave him what in their belief was not equivalent.

The impolicy of the measure is evident, because it will check the negotiability of public securities; will enhance the terms of future loans, and injure the public credit. Public debts were said by some to be public benefits; doubtful as this doctrine may be, it is acknowledged universally that without a negotiable quality, instead of being of any utility, they would be a most grievous burden to the community. Who would purchase when he had before his eyes the terrors of a discrimination; a future occasion may arise, when, from the expences of a war or other emergency, a similar attack might well be apprehended. Purchasers therefore will be rare, and the risk they will run restrain them from giving the full value of the public securities. This will operate then as a considerable injury to the original holders who never alienated their certificates, and who ought not to be involved in the pernicious consequences of this measure. With respect to impracticability it was not the strongest objection with him, because if he were persuaded that it was both just and politic, he would go every length in endeavouring to accomplish it; but, even on this head, difficulties innumerable appeared. Some which were un-

answerable had been mentioned, and it had been clearly shewn, that it was absolutely impossible to trace the original holders. He had chosen to combat the measure on its principle, because he thought it was not a just one, and the establishment of it might lead hereafter to future interferences and unhappy consequences.

It was the wisest policy of governments to adhere strictly to their plighted faith, when it was in their power to do so, even should such strict adherence work an injury to some part of the community: this was the practice with nations in the case of a treaty, which, when made by competent authority, they considered themselves bound to observe, although they deemed it disadvantageous to them, at least a refusal should deter other nations from treating with them in future; it is by this line of conduct that public credit can alone be supported. Whatever may be the merits of the alienors, or the speculations of the alienees of public securities, it was not the business of government to interpose; there are the contracts—they must be paid as far as the public resources will extend. The claim of those unfortunate creditors whose distress drove them to the necessity of sacrificing their certificates, was a claim on the humanity of Congress; and he should not be opposed to giving them relief, provided the funds were taken out of the public treasury, and not in the manner proposed. In whatever light he viewed the project under consideration, he felt a strong conviction that it was such a one as ought to be rejected.

Mr. Ames agreed with Mr. Madison in regard to the validity of the debt. There was propriety in saying the nation is the same, tho' the government is changed. The debt is the price of our liberties, and cannot be diminished a farthing the gentleman says—and why—because the government, as one of the contracting parties cannot annul, or vary the bargain, without the consent of the other. If the measure proposed by that gentleman corresponds with that sound principle, he should have the pleasure of agreeing with him on the ultimate decision—but if the measure should be found, on a fair discussion, to be subversive of that principle, it would not merit the countenance of the committee.

A claim upon our justice is made on behalf of the original holders of securities who have transferred them. There is a benevolent prejudice in their favor. Does the plighted faith of the country stand charged to pay the difference between the price their securities sold for in the market and the nominal sum? In order to make the affirmative appear, the worthy gentleman has said, that the paper is the only evidence of a prior debt—and while the paper was sold, the residuary right to the debt still remained in the seller. Supposing this novel doctrine to be true, which cannot be conceded, it will not warrant any conclusion in prejudice of any purchaser of the loan office debt. For the paper was given when the loan was made. As no prior debt existed, the paper is the very debt. The gentleman ought therefore to confine his motion to the army debt, as his principle seems inapplicable to any other. And even on liquidating the army debt, the certificate extinguished the prior debt—otherwise the public would be twice charged—As when one man owes another on account, and gives his bond for the balance, the account is no longer of force. By the terms of the certificate, the person transferring has lost his claim against the public. He has freely transferred—for if violence or fraud were practised, the law will afford him redress. In society, as well as in a state of nature, property is changed by the consent of the last occupant. He may dispose of it by gift, or at half price—and give a complete title. Nor will the pretence that this transfer was free only in appearance, avail—for the motives which disposed the owner to sell cannot affect the right of the purchaser. Every such creditor risked something—either that government would not pay him at all, or not in due season. The risk computed in free and open market will be near right. It is a kind of insurance against these risks, and the insurers and insured will calculate the rate of insurance better than government can do it. If there is a new risk of government interposing, it seems that the purchaser, who may be called the insurer, did not rate his risk high enough. It seems pretty clear, therefore, that there is no claim on the stipulated justice of the country.

Another sort of justice is set up—a different sort from that which we were taught in the schools and churches. It is called abstract justice, and is said to demand allowance for the loss sustained by the failure of public payments. No man respects more than I do the merit of the army. But the soldiers, at least, had something towards justice by their bounty.

Stock has sold in England at 50 per cent. discount, and yet no retribution has been made.—Where then does this new line of justice begin? It can scarcely be denied that their claim, if they have any, is not a debt. The arguments alledged by the gentlemen are addressed merely to the compassion and generosity of the government.—Nor do I know that there is any ground for saying that public opinion is in their favor. It will be allowed that if justice is to be done, it should be impartial justice. Partiality would be more cruel than total neglect.—Will you refuse to make amends for paper money, for property taken by our army in Canada, for losses sustained during the war, for towns burned? In this last case, it is to be observed, that government has promised protection—and inability to protect it as much a debt as the case in question. The intermediate holders who bought at 6/8, and despairing of government sold out at 2/6, have an equal claim. Are all these to be excluded?—Let us not break contracts for half justice. The example of paper

money is adduced to shew that the public made up losses—but this is an example of the public fulfilling its contract—not annulling it. Paper money is a bad source to draw examples from.

But is it true that justice requires the public to pay for all the losses sustained in times of calamity? I think not—for by fraud the government would be obliged to pay for more than was lost. The resources of the sufferers will more easily repair such losses than the government can make them good—and besides, in extreme cases, it would extend and prolong the evil. If an army should invade England, and the city of London should be burned, and the country laid waste by order of the King, all Europe could not pay for it. What is justice—a line of public conduct which necessarily tends to utility. No pretence of abstract justice can be valid, if it tends to evil rather than good.

But if there subsists a claim on the public justice, it cannot impair the debt in the hands of the present holder for which the public faith is pledged. It is alledged that the seller, who sold for a trifle, will be taxed to pay the purchaser. He certainly ought to fare as other citizens do. But taxes are in proportion to property. If he has property then the plea of necessity is destroyed. If he has none then his taxes will be a mere trifle.

The project is not justice, even to those whom it pretends to relieve. If you allow less to the purchasers than they gave, it is downright robbery. If you allow more, it is half way justice to those who have sold. I would not risk every thing to do justice, as it is called, and then not do it.

But this fragment of justice cannot be given to some, without wronging others. You impair the property in the hands of the present original holders. It is not supposed that the alienated property is near equal to that which is still in the hands of the first holders. Be that as it may, I believe with confidence that it would be cheaper for the present holders to pay the market price of the paper proposed to be given to the former holders, than to suffer the shock which this measure would give to the credit of their paper. I will not enter now into the merits of the Secretary's plan, but I think it not difficult to shew that he proposes better justice to the present original holders than is contained in the motion, and that the debt funded on his plan would sell for more in the market. Great sums have been lent to the public by trustees who acted for others, and only lent their names. Many original creditors were not first holders—supplies were furnished to contractors for the army, who got credit, and afterwards paid in paper, as they received it of the public. Many towns hired soldiers for a gross sum, and agreed to take the wages—Private debts have been paid at par.—A man in embarrassed circumstances, instead of compounding with his creditors for ten or a dozen years forbearance, paid them at par, or near it, in public paper, which in that period was supposed to be as likely to be paid as his private note. No less a sum than 214000 dollars were paid in this way to one mercantile house, at about 15s. in the pound. Compare the gross injustice of these cases with the pretended justice of the motion—consider that it pretends to pay the purchaser.—But loan office certificates have sold from 15s. and 18s. in the pound to 5s. Foreign purchasers gave more than our market price. Before they bought, they got certificates of the nature of the debt, that it was not liable to any deduction, and that the transfer would be valid. People in the first offices in this country and abroad signed them. 500000 dollars were bought for one Dutch house, and registered, and the partners in the sum have divided the certificates by giving their own bonds. What will be the effect? Justice or injustice? In these cases, the gentleman will admit, that the rights of these people are perfect. The debt he says himself cannot be diminished a farthing.—Property is sacred. The right to a single dollar cannot be violated. Let the gentleman then acknowledge that he must give up his project, or his principles.

I have endeavored to shew what sort of abstract justice this is. But if it should be allowed that there is a claim of justice, what then? Let them claim justice of those who have done them injustice, not of the fair purchaser.

Let us examine the claims of the purchasers. The gentleman's argument on this point merits attention—if it is right, for it's novelty in Congress—if wrong, for it's tendency. Here I think it necessary to apologize—not for my sentiments—their apology must spring from their propriety—but for the manner in which I express them.—My zealous conviction may seem to arraign the opinions of other gentlemen—whom I respect as I ought. I know that men of the best intentions entertain a favorable opinion of a discrimination. There is a wish to do more than justice to the one, and the heart, betrayed by it's sympathy, consents to injustice to the others. But, Sir, I cannot claim the merit of moderation on this point. I will not pretend that I doubted first and then decided. The principles of my education, and the habits of my life, predisposed me to believe, and my short experience and reading have confirmed