

justice done their more distressed brethren; those who sold, did it in most instances from necessity, those who hold at present are the more wealthy.

The same gentleman has observed, that had the market price risen to 20s. that this plan could not have been adopted. I allow the difficulty which would arise, but contend that in that case the public faith would not have been discharged; but the case is the reverse, the house knows the market price, and has it within their compass to do justice. But, says the gentleman, the soldier might have kept it to the present moment, and then it would have been worth the 20s. Unfortunate, foolish soldier, indeed! Why didst thou not steel thy feelings against the wife of thy bosom, and behold thy beloved children without a murmur or an exertion, straying on a dunghill? then thou mightest have kept thy nominal 20s. until it became a real one. But is this the language of mercy, or of justice? what will a man not give in exchange for his life? and, if he has feelings, for that of his wife and children?

But public opinion is vague, say gentlemen; and the house has been cautioned against pamphlets and newspapers, as if the plan had been composed from thence. The abilities of the honorable gentleman will give a serious refutation to this charge. For my part, I have the candor to assure the gentleman that I have taken hints, and that I always will take hints, whilst in public life, from any valuable information given in either: like the berry on the brier, if I could pluck it with safety, I would; and, if a valuable hint is encircled with a torrent of abuse, I would accept the hint whilst I would despise the remainder.

Sir, said he, public opinion divided us from Britain; public opinion induced us to oppose her arms; public opinion induced us to change the former for the present constitution; public opinion brought us here to legislate; and public opinion can replace us in our former situations; and however public opinion may be censured by some gentlemen, I trust she never will need an advocate on this floor.

This public opinion is in favor of the original creditor; it is impossible to be otherwise. The people of America are a grateful people, and they cannot, with indifference, view the earnings of those who established their independence converted to the coffers of the wealthy and ambitious. The speculator is already more than satisfied, if it is only on the principle of interest which has accrued for 6, 7 and 8 years past, and which they have speculated on since.

Conceiving the objections raised by the opposition refuted, the next consideration is the impracticability.

The gentleman that brought the plan forward, is more capable of answering the numerous obstacles thrown in by the phalanx of orators yesterday; but I shall undertake to answer a few of them.

A gentleman (Mr. Boardnot) has declared it impracticable, because the quarter masters of the late army, and the clerks of office, received the certificates in their own names; and, as an instance, quotes himself as having received large sums in that manner. But, are not the books, the documents remaining? Is there not evidence still existing of the original creditor? That gentleman's own objection proves it. We will call him as an evidence; and there is no doubt but mankind are not so debased, but that many other similar confessions will come forward. Besides, there can be a touchstone applied equal to what the highest court of equity used, and there is little fear but the truth would be found out, and a detection of the fraudulent claim. The impracticability, is out of the question, with respect to the speculator, who would receive the highest market price.

But the public accounts are many of them lost. Make it worth the time of the original creditor, and this would be in a great measure obviated.

Again, says a gentleman (Mr. Sedgwick) the certificates are in fictitious names, and he knows an instance in Boston: then that gentleman is likewise good evidence; and the claim, from his testimony, would be invalidated; but if not, the same equitable proof would be required.

Mr. Jackson observed, that here, Proteus like, the gentlemen changed their reasoning, and declared the public would be gainers by the mode. He, however, asserted that it would not be the case by their account. If the claimant did not come forward, he could not contend that the public, not the speculator, ought to be the gainer; that the public here, would possess the same right as to an estate left without an heir.

But it has been advanced, that the money would be again generally distributed among the poorer class of people, and that speculators would be flying to every part of the union to reap second crops. Such a distribution would be a public blessing, and by the measure, the tears of the afflicted would be dried up, and the widowed heart be made to sing for joy. The lesson I believe has been now taught, and will prevent the extremes of speculation in future. The second crop can not be so injurious to the community, or prove so plentiful an harvest to the speculator, as the first.

It is necessary, it is said, and we shall consequently have an host of officers. Mr. Jackson denied that necessity: and there are numbers of officers in the treasury department who might attend to the business; and a small fee, which would be cheerfully paid, would find officers, if necessary, of responsibility and character in the different states.

But it is an *ex post facto* law. This I deny to be the case: no law has yet passed for funding the debt; we have a right to fund the debt as we please. Some gentlemen, opposed to the present principle, join the Secretary in opinion for lowering the interest; we have seen threats, under that idea, not to fund at all; and we cannot compel subscriptions without the holders consent.

It is again said, that if government do this now, they may take the same step hereafter: this, is reasoning on turmife. It is not probable, if within the sphere of possibility, that America will ever have a debt in the same situation. Loans, if exigencies should arise, will be procured on adequate provisions; and foreigners, from viewing our justice and the unanimous resolve respecting them, will place a value and dependence on us. If America is wise, said he, few wars will arise; situated as we are, in a remote country from the warlike nations of Europe, the wars we may expect will be with a few tribes of Indians; great loans will therefore not be required. But, supposing all these possible exigencies, the soldier is as necessary a requisite as the supply: will he trust again your broken faith?

The gentleman from Massachusetts [Mr. Ames] has charged the favourers of the motion with church-yard terrors; with what propriety I can not judge, unless that gentleman, like a man passing through a church yard saw an apparition, and had the impression so strongly on his mind that he insisted on it that all his neighbours saw it also.

The dangers that have been magnified are on the other side. We have been told of the 15s. in the pound, paid by foreigners in Holland; and one gentleman (Mr. Gerry) has denounced against us the terrors of the *ultima lex regnum*. Are we, said he, independent or not? If we are, we have a right to modify our own debt. What would Britain or Holland say, should we interfere with their funds? Would they not suppose us deprived of reason, or laugh at our imbecility in attempting it? Those who have purchased in our domestic funds are on the same footing with our own citizens. If we are not independent it is high time to make ourselves so, whatever power might oppose us. The gentleman who brought forward the motion, has been charged with addressing the passions: this might be retaliated; for declamation has been used for argument on the other side.

Equity, said he, if the cause be equal, will suffer, in many instances, the heart to decide. The gentleman from S. C. (Mr. Smith) has declared, that what he has seen written on the subject had been as much on the one side as on the other; if so, the heart, in this instance, ought to govern; and gratitude and humanity, its noblest principles, are in favor of the original creditor. I have been, said he, against the funding principle at this present moment; but as the house has determined on it, it becomes my duty to acquiesce, but on principles of honor and justice. And it is to be remembered, that the landholder of America is the person ultimately to pay this debt, and his property will be mortgaged for it; for although commerce may immediately supply the revenue, the landholder is the consumer: I therefore hope the debt will be funded on principles congenial with their wishes. That class of people, when they contemplate their independent situation and their domestic happiness, although they would revolt at the idea of filling the pockets of the speculator, will cheerfully advance their proportion for the payment of the soldier and the citizen, whose exertions have procured them the blessings they enjoy.

Mr. White said he agreed with the gentleman from Massachusetts (Mr. Sedgwick) in the principle, that if a contract is made for a valuable consideration, and with the understanding of both parties, the legislature ought not to interfere in it; and should it appear that the transaction, between the original holders of certificates and the purchasers, was a fair one, the dispute in his mind was at an end; but no gentleman had attempted to shew that this was the case, though all the arguments against a discrimination were founded on that supposition. Perhaps it might be said, that every argument ought to be considered as fair, unless the contrary be proved; but where one man has obtained the property of another, to the amount of 100l. for 10l. or 12l. 10s. the transaction, he said, must be explained to him, before he would believe it to be honest. What was the present case? The original holders, who have parted with the evidences of their debts, were principally common soldiers, militia-men and farmers, in indigent circumstances. Who were the purchasers? The Secretary of the Treasury tells us, that the most enlightened among our citizens are the creditors of the United States; common soldiers cannot be comprehended in this description. What must have passed, he asked, between the soldier, the militia-man or farmer, and the purchaser? What reason could the purchaser assign for offering 10l. for a paper which specified an obligation to pay 100l.? It must be something like this: The states will never pay you; if they do, it will be at a very remote period, so long as to be useless to you; but to relieve your present necessities, I will take the risk on myself and give you 10l. Now, could any enlightened man, he asked, in 1783, or at any subsequent period, in which time the transfers took place, believe that the independence of America was in danger? or that the debts would not be provided for?

He said he knew so many instances of transactions like that which he had stated, that he doubted not the greater part of certificates had been obtained by similar means. Indeed he could not conceive any other by which they could be obtained.

He said we were perhaps without a precedent in any other nation that would be applicable; but he desired gentlemen to determine for themselves, whether, under such circumstances, the man who had rendered services to his country should be deprived of his reward, or whether the purchaser ought to receive it. He said it was very different in the common transactions of life. If a man purchased a tract of land for 1000l. paid the money, and took a bond for the conveyance, a third person, by informing the purchaser that the seller could not make a title, or by other false suggestions, should obtain a transfer of the bond in consideration of 100l. and get a conveyance and possession of the land; yet, on repaying the 100l. the conveyance would be set aside, and he would be restored to his land.

Mr. White gave some other instances of a similar nature, and said he believed, if a bond, whether due, or to become due, was assigned under such circumstances, that the obligee would be justifiable in contesting it in a court of law, and that the injured person would, on application, obtain redress. He said, that in cases of extreme hardship, courts of equity would give relief without express proof of fraud. That this was the law of the kingdom of Great Britain, and was agreeable to the principles of the civil law. That the Roman jurists, he believed, had fixed the point of extreme hardship to one half of the value of the property transferred; in England the court was to judge.

He said he did not think the present holders were strictly entitled to any thing more than the original purchasers: That here the maxim quoted on the other side of the question, that the assignee stands in the shoes of the assignor, properly applied: You cannot place another on more advantageous ground than that on which you stand yourself: That the plea of an innocent purchaser could not take place; the nature of the transaction must appear evident to every man concerned in a transfer.

He said the reverse of this did not hold: That an assignee was not always in as advantageous a situation as the assignor; and influenced the case of his testator's bond at an under value; and who, he said, could not retain in his hands the amount of the sum specified in the bond, which the creditor might have recovered, but only the sum which he actually paid for the bond.

Mr. White said, that though in his opinion the present holders of certificates were strictly entitled to no more than what had been paid to the original holders, yet—as an investigation of that circumstance would be involved in inextricable difficulties, and since we were (as had been very properly observed and well expressed by a gentleman from S. C. Mr. Burke) settling the business of a family—he was willing to acquiesce in the motion of his colleague. He said that arbitrators often gave the injured party less than his due, for peace sake; and he was willing to act on the same principle. He doubted not but courts of justice would give relief in particular cases; but, in a matter of that magnitude, he thought the interference of the legislature very proper. The S. Sea business he thought, in that respect, a good precedent. Two gentlemen had mentioned the business: he would not say they had imitated the transaction, but he thought their accounts imperfect. They said they had the documents under their hands; he wished they had been read; he had them not, but would state from memory what he thought applicable to the case in question. The directors of the S. S. Company, by various arts, induce the people to give as high as 1000l. for 100l. stock; in many instances the money was paid, in others it was contracted to be paid. A gentleman has said, that Parliament interfered not to violate, but to perfect the contract: But what did parliament do? They confiscated the estates of the directors, and applied the amount to the relief of those who had actually paid their money, and suspended suits against those who had not paid; and authorized the debtors to discharge their debts by the payment of 10 per cent. or the real value of the stock subscribed for. But if he was wrong in supposing the present holders ought to stand in the place of the first purchasers, they could be considered only as having purchased in market, a paper of indefinite value: if then they get the highest market price, they are not injured.

(To be continued.)

MONDAY, FEBRUARY 22.

Mr. Schureman presented a petition of James McComb, relative to certain inventions, which was read.

The amendments of the Senate to the bill for enumerating the inhabitants of the United States, were read.

The enumeration is to commence on the first of August next, and to be completed within nine months. Returns to be made on or before the first of September, 1791. The second schedule was struck out by the Senate; these amendments were agreed to, excepting those which reduced the compensations.

The order of the day being called for, the House went into a committee of the whole on the report of the Secretary of the Treasury.

The question being put upon Mr. Madison's amendment to the second resolution, brought in by Mr. Fitzsimons, it was negatived by a large majority.

The question on the second resolution was then put; several amendments were proposed, which were negatived, and the resolution carried in the affirmative without amendment, viz.

Resolved, That permanent funds ought to be appropriated for the payment of the interest on, and the gradual discharge of the domestic debt of the United States."

The third resolution was then read, viz.

Resolved, That the arrears of interest, including indents issued in payment thereof, ought to be provided for on the same terms with the principal of the said debt."

Mr. Lee proposed an amendment, "that appropriations of the lands in the Western Territory be assigned for the purpose of discharging the interest due on the debt of the United States."

This amendment was not seconded.

Mr. Gerry said, that it appeared to him that the indents, in the several State Treasuries, and which thro negligence have not been paid into the Public Treasury agreeable to the requisitions of the late Congress, ought not to be included in the provision. He moved an amendment to the resolution to that purport: This occasioned considerable debate; but the motion was finally negatived.

The question on the third resolution was then put, and carried without amendment by a large majority.

The fourth resolution was then read, viz.

Resolved, That the debts of the respective States ought, with the consent of the creditors, to be assumed and provided for by the United States."

It was then moved that the committee rise, &c. which motion was adopted.

A message from the Senate, informing the House that they recede from their amendments to the enumeration bill, which had been disagreed to by the House. Also, that the Senate have accepted of the cession of territory made by the State of North-Carolina; in which acceptance they request the concurrence of the House.

The memorial of the commissioners for settling accounts between the United States and the individual States respecting the salaries of the Clerks in their office, was read the second time, and referred to a committee of three, viz. Mr. Gerry, Mr. Trumbull, and Mr. Goodhue.

The House then adjourned.

TUESDAY, FEB. 23.

A report from the Secretary of the Treasury on the petition of Francis Bailey was read—this report states that the invention of the petitioner in typographical printing may in their application, render the pernicious practice of counterfeiting much more difficult than it has heretofore been—that the request of the petitioner, to be employed in using his invention in the public service, must be left to the discretion of the Legislature—laid on the table.

In committee of the whole House on the report of the Secretary of the Treasury.

Mr. Benson in the Chair.