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From the AMERICAN MERCURY.

The APOLOGIZER—No. II.

AS my enquiries are extended into the nature of anti-federalism, and of the motives which actuate such people, I become more convinced, that my design of a general apology for them is very meritorious, and ought to have been made long ago; and I cannot conceive the reason why it hath never been publicly attempted, unless it be the extreme difficulty of an investigation. In all other political subjects a writer may deduce his arguments and leading principles, from public utility, and from a number of moral maxims, which the courtesy of the world hath for many ages allowed to be sacred; but on attempting I find these sources fail me; to supply the want, I must have recourse, in my own meditations, to the situation, abilities, particular interests, and passions of certain characters; this method of actual experiment, I conceive to be a sure way of coming to the truth, but the progress is slow, and the public patience may be exhausted before the completion of this undertaking.

The last anti-federal subject, which I have had under inspection, furnished me some curious information in what philosophers have called, the scale of being, or a series of existencies with increasing sense and reason, from an oyster up to those genii of the air, which can play with mountains and hurricanes as a child doth with a rattle box. To my great surprize I found this gentleman, under a natural necessity, of being anti-federal or dishonest, and I can now assure my readers upon the strength of this experiment, that the popular opinion of at least a small degree of roguery, being at the bottom of anti-federalism, is not true in all cases, for I have found one honest man in this class of people, and whenever I find another, notice shall be given of the discovery. In this examination nothing appeared different from what is found in other men, except a strange limitation of all the seeing and judging faculties within very narrow dimensions.

The mind acted and judged vigorously on small objects, but was utterly incapable of extending its views to the policy of a nation, or the benefit of so great a number of people as inhabit the United States; neither could he conceive any kind of advantage from a communication between people so distant in situation. He feared much the same consequences from the union, as might happen from building a bridge to the moon, which would only serve as a pass way for lunatics and other dangerous enemies. After attempting a whole day to enlarge his understanding, I found my work in vain, and that no man can see further than nature has enabled him. From this I have taken the hint to form a scale of minds, which I have thrown into four grand divisions, viz.

Parish intellects,
County intellects,
State intellects, and
Federal intellects.

The sub-divisions in each of these classes, must be formed from future experiments, and when the scale is completed, I think it will be an infallible guide to all honest electors.

I would humbly propose to the respectable public, that when the scale is completed, the party terms of whig and tory, federal and anti-federal, republican and democrat, should be thrown aside, and every man's political opinions be described by the scale of his intellects. Names of men's invention cause much offence in the world; but I think no man can be offended, when we describe him by the standard of nature itself. Where there is no reason for blame there ought not to be any odium. Nature has made monkeys, men and angels—still we know that a monkey is not a man, nor a man an angel—each of these grades are made to see, move and be happy in the communion of their own order; and should we describe to a monkey the community of angels, with their constitution and laws, *Pug* would very honestly be anti-federal, and declare off from the union.

BON MOT.

A PERSON soliciting a citizen to be security to a friend of his for 500l. mentioned amongst other circumstances as testimonials of his credit, &c. that he had been twice round the world with Capt. Cook. If that is the case, replied the former, I would not be security for so many farthings for him! For he that would submit, for a trifling consideration, to be penned up in a compass of a few yards, twice three years together, would not value lying in goal all his life time for 500l.

CONGRESS.

HOUSE OF REPRESENTATIVES.

THURSDAY, FEB. 18, 1790.

IN Committee of the whole, on the Report of the Secretary of the Treasury. Mr. Madison's motion for a discrimination, still under consideration.

MR. MADISON next rose, and observed, that the opponents of his proposition had imposed on its friends not only a heavy task, by the number of their objections, but a delicate one by the nature of some of them. It had been arraigned as embarrassing measures which ought to be facilitated, and producing discussions which might end in disagreeable consequences. However painful it might be to contradict the wishes of gentlemen, whom he respected, he could promise nothing more, in the present case, than his endeavors to disappoint their apprehensions. When his judgment could not yield to the propositions of others, the right to make and support his own was a right which he could never suffer to be contested. In exercising it, he had studied to maintain that moderation and liberality which were due to the greatness of the subject before the committee. He felt pleasure in acknowledging, that the like spirit had in general directed the arguments on the other side. Free discussions, thus conducted, were not only favorable to a right decision, but to a cheerful acquiescence of the mistaken opponents of it. They might have the further advantage of recommending the result to the public, by fully explaining the grounds of it. If the pretensions of a numerous and meritorious class of citizens be not well founded, or cannot be complied with, let them see that this is the case—and befooled, under their disappointment, with the proof that they have not been overlooked by their country.

He proceeded to review the grounds on which the proposition had been combated; which, he said, he should do without either following those who had wandered from the field of fair argument, or avoiding those who had kept within its limits.

It could not have escaped the committee, that the gentlemen to whom he was opposed, had reasoned on this momentous question, as on an ordinary case in a court of law; that they had equally strained all the maxims that could favor the purchasing, or be adverse to the original holder; and that they had dwelt with equal pleasure on every circumstance which could brighten the pretensions of the former, or discredit those of the latter. He had not himself attempted, nor did he mean to undervalue the pretensions of the actual holders: In stating them he had even used as strong terms as they themselves could have dictated; but beyond a certain point he could not go. He must renounce every sentiment which he had hitherto cherished, before his compliance could admit that America ought to erect the monuments of her gratitude, not to those who saved her liberties, but to those who had enriched themselves in her funds.

All that he wished was, that the claims of the original holders, not less than those of the actual holders, should be fairly examined and justly decided. They had been invalidated by nothing yet urged. A debt was fairly contracted: according to justice and good faith, it ought to have been paid in gold or silver: A piece of paper only was substituted. Was this paper equal in value to gold or silver? No: It was worth in the market, which the argument for the purchasing holders makes the criterion, no more than one-eighth, or one-seventh of that value. Was this depreciated paper freely accepted? No: The government offered that or nothing. The relation of the individual to the government, and circumstances of the offer, rendered the acceptance a forced, not a free one. The same degree of constraint would viciate a transaction between man and man, before any court of equity on the face of the earth. There are even cases where consent cannot be pretended; where the property of the planter or farmer has been taken at the point of the bayonet, and a certificate presented in the same manner. But why did the creditors part with their acknowledgment of the debt? In some instances from necessity—in others from a well-founded distrust of the public. Whether from one or the other, they had been injured; they had suffered loss through the default of the debtor, and the debtor cannot, in justice or honor, take advantage of the default.

Here then was debt acknowledged to have been once due, and which was never discharged, because the payment was forced and defective. The balance consequently is still due, and is of as sacred a nature as the claims of the purchasing holder can be; and if both are not to be paid in the whole, is equally entitled to payment in part.

He begged gentlemen would not yield too readily to the artificial niceties of forensic reasoning; that they would consider not the form, but the substance; not the letter, but the equity; not the bark, but the pith of the business. It was a great and an extraordinary case. It ought to be decided on the great and fundamental principles of justice. He had been animadverted upon, for appealing to the heart as well as the head: He would be bold, nevertheless, to repeat, that, in great and unusual questions of morality, the heart is the best casuist.

It had been said, by a Member from Massachusetts, that the proposition was founded on a new principle in Congress. If the present Congress be meant, that is not strange, for Congress itself is new: If the former Congress be meant, it is not true, for the principle is found in an act which had been already cited. After the pay of the army had, during the war, been nominally and legally discharged in depreciated paper, the loss was made up to the sufferers.

It had been said, by a member from New-York, that the case was not parallel, there being no third party like the present holder of certificates. This objection could not be valid. The government paid ten dollars, worth in fact but one, to a soldier: the soldier was the original holder. The soldier assigned it to a citizen: the citizen then became the actual holder. What was the event? The loss of the original holder was repaired, after the actual holder had been settled with according to the highest market value of this paper.

He did not mean, however, to decide on the whole merits of this last transaction, or to contend for a similitude, in all respects, between the two kinds of paper. One material difference was that the bills of credit, by more frequent transfers, and by dividing the change of value among a great number of hands, rendered the effect of less consequence to individuals, and less sensible to the public mind. But this difference, whatever force it might give to the claims of the purchasing holder of certificates, could diminish nothing from the claims of the original holders who had assigned them.

It had been said by another member, from Massachusetts, that the old government did every thing in its power. It made requisitions, used exhortations, and in every respect discharged its duty; but it was to be remembered, that the debt was not due from the government, but the United States. An attorney with full powers to form, without the means to fulfil engagements, could never by his ineffectual, though honest efforts, exonerate his principal.

He had been repeatedly reminded of the address of Congress in 1783, which rejected a discrimination between original and purchasing holders. At that period, the certificates to the army, and citizens at large, had not been issued. The transfers were confined to loan-office certificates, were not numerous, and had been in great part made with little loss to the original creditor. At present the transfers extend to a vast proportion of the whole debt, and the loss to the original holders has been immense. The injustice which has taken place has been enormous and flagrant, and makes redress a great national object. This change of circumstances destroys the argument from the act of Congress referred to; but if implicit regard is to be paid to the doctrines of that act, any modification of the interest of the debt will be as inadmissible as a modification of the principal.

It had been said, that if the losses of the original creditors are entitled to reparation, Congress ought to repair those who suffered from paper money, from the ravages of the war, and from the act barring claims not produced within a limited time. As to the paper money, either the case is applicable or it is not: if not applicable, the argument falls; if applicable, either the depreciated certificates ought to be liquidated by a like scale, as was applied to the depreciated money, or the money, even if the whole mass of it was still in circulation, ought now to be literally redeemed like the certificates. Leaving the gentleman to make his own choice out of these dilemmas, he would only add, himself, that if there were no other difference between the cases, the manifest impossibility of redressing the one, and the practicability of redressing the other, was a sufficient answer to the objection. With respect to the towns burnt, and other devastations of war, it was taught by the writers on the law of nations, that they were to be numbered among the inevitable calamities of mankind. Still, however, a government owed them every alleviation which it could conveniently afford: but no authority could be found that puts on the same footing with those calamities, such as proceed from a failure to fulfil the direct and express obligations of the public. The just claims barred by the act of limitation were, in his opinion, clearly entitled to redress. That act was highly objectionable. The public which was interested in shortening the term, undertook to decide that no claim, however just, should be admitted, if not presented within nine months. The act made none of the exceptions usual in such acts, nor even in favor of the most distant parts of the union. In many instances it had been absolutely impossible for the persons injured to know of the regulation. Some of these instances were within his own knowledge. To limit the duration of a law to a period within which it could not possibly be promulgated, and then take advantage of the impossibility, would be imitating the Roman tyrant, who posted up his edicts so high that they could not be read, and then punished the people for not obeying them.

It had been said, that if the purchased certificates were funded at the rate proposed, they would fall in the market, and the holders be injured. It was pretty certain that the greater part, at least, would be gainers. He believed that the highest market rate, especially with the arrears of interest incorporated, well funded at 6 per cent. would prevent every loss that could justify complaint.

But foreigners had become purchasers, and ought to be particularly respected. Foreigners, he remarked, had themselves made a difference between the value of the foreign and domestic debt: they would therefore the less complain of a difference by the government here. It was his opinion that the terms stated in the proposition, would yield a greater profit to the foreign purchasers than they could have got for their money advanced by them in any of the funds of Europe.

The proposition had been charged with robbing one set of men to pay another. If there were robbery in the case, it had been committed on the original creditors. But, to speak more accurately, as well as more moderately, the proposition would do no more than withhold a part from each of two creditors, where both were not to be paid the whole.

A member from New-York had asked whether an original creditor, who had assigned his certificates could in conscience accept a re-embursement in the manner proposed? He would not deny that assignments might have been made with such explanations, or under such circumstances, as would have that effect. But in general the assignments had been made with reference merely to the market value, and the uncertainty of the steps that might be taken by the government. The bulk of the creditors had assigned under circumstances from which no scruples could arise. In all cases where a scruple existed, the benefit of the provision might be renounced. He would in turn ask the gentleman, whether there was not more room to apprehend that the present holder, who had got his certificate of a distressed and meritorious fellow-citizen, for one-eighth or one-tenth of its ultimate value, might not feel some remorse in retaining so unconscionable an advantage?

Similar propositions, it was said, had been made and rejected in the state legislatures. This was not fact. The propositions made in the state legislatures were not intended to do justice to the injured, but to seize a profit to the public.

But no petitions for redress had come from the sufferers. Was merit then to be the less regarded, because it was modest? Perhaps, however, another explanation ought to be given. Many of the sufferers were poor and uninformed. Those of another description were so dispersed, that their interests and efforts could not be brought together. The case of the purchasing holders was very different.

The constitutionality of the proposition had been drawn into question. He asked whether words could be devised that would place the new government more precisely in the same relation to the real creditors with the old? The power was the same; the objection was the same: the means only were varied.

An objection had been drawn from the article prohibiting *ex post facto* laws. But *ex post facto* laws relate to criminal, not civil cases. The constitution itself requires this definition, by adding to a like restriction on the states, an express one against retrospective laws of a civil nature.

It had been said that foreigners had been led to purchase, by their faith in the article of the constitution relating to the public debts. He would answer this objection by a single fact: foreigners had shewn by the market price in Europe, that they trusted the nature of the foreign debt more under the old government, than the nature of the domestic debt under the new government.

Objections to the measure had been drawn from its supposed tendency to impede public credit. He thought it, on the contrary, perfectly consistent with the establishment of public credit. It was in vain to say that government ought never to revise measures once decided. Great caution on this head ought, no doubt, to be observed: but there were situations in which, without some legislative interposition, the first principles of justice, and the very ends of civil society, would be frustrated. The gentlemen themselves had been compelled to make exceptions to the general doctrine: they would probably make more before the business was at an end.