

cle, for the damages and expences of the war, during that time, might amount to more than all the property meant to be confiscated is worth. But Great-Britain having lost so much, the British government will be indifferent to the sufferings of those whose property has been confiscated; rather than continue the war, the British ministers might, I allow, abandon those wretches as a sacrifice to sad necessity, but if, by insisting strenuously on an article in their favour, they might reasonably hope to obtain it, national reputation, gratitude, and policy, will strongly impel them to contend, with the utmost decision, for a full indemnification, at least, of those sufferers, if not for an actual restitution of the property confiscated; the reasons assigned prove the probability of obtaining such an indemnification.

The delegates observe, "we have a right to be indemnified for the expences of the war, and devastation of our country;" granted, but does it follow that no other indemnification can be procured, but what is to accrue from the confiscation of British property? May not cessions be made in a treaty of peace of particular territories? May not Canada, for instance, as now claimed by Great-Britain, be reduced to narrower limits, and some peculiar commercial privileges granted to the United States? Nay, may not a sum of money be stipulated to be paid, as a compensation for those devastations which have been committed contrary to the rules of war? The supposition is neither improbable or unprecedented. The enemy, it seems, will not expect a restitution of the property of their subjects, or the value of it; "Shall that property therefore, exclaim the delegates, be given up, or we be taxed for the full value of it?" It has been observed, that the property of many, confessedly our own subjects, was reached by the bill, and meant to be confiscated without trial, contrary to our bill of rights, and also the property of many others, on the supposition of their being aliens, who really are not aliens, as I have endeavoured to prove in my first number. Debts due to British subjects were not reached by the bill, and why should lands, and other personal property, be made liable to confiscation? If a reparation of damages is the ground of confiscation in the one case, why not in the other? The damages done to, and expences incurred by us, will certainly swallow up both species of property. It has been proved, that by the law of nations, the property of unoffending British subjects ought not to be confiscated; but what of right ought not to be done, though we have the power, we should not do, and therefore, the property, if confiscated, of such British subjects, or the value of it, so far from being withheld from them, should not have been taken away. "We have earned, continue the delegates, this property (British) with our swords, and will keep it, to give this lesson to the world, that the enemies of liberty have not shared equally with its friends and supporters." If the world would not ascribe the keeping of this property to any other motive, than the desire of leaving it so useful a lesson, I should have no objection to the moral, abstractedly considered; but different motives for our conduct may perhaps occur to others, and, I fear, the most honourable will not be imputed to us. "We hold, say they in another place, our own, and British property within our state, by our swords, the title to both is the same." By repeating the sentiment, I conjecture, they thought it brilliant, however, its false brilliancy has betrayed them in this instance into some little inconsistency. If our resistance was lawful, and the war on our side just, the title to both properties is not the same; to some kinds of British property, I have endeavoured to prove, we have no title at all, and to our own, though we may not have a more secure, surely we have a juster title than mere force.

One great objection started by the senate to the confiscation and proposed hasty sale of part of this British property, at so inclement a season of the year, was, that few would probably attend the sales, and that engrossers and speculators becoming the purchasers, would turn into a private job, what might have been intended for a public benefit. That the purchasers would have consisted chiefly, if not altogether, of engrossers and speculators, I am induced to think from these two circumstances, they have the most money, and could not speculate to so great an advantage in any thing else, as in buying up confiscated property, at a quarter part perhaps of its real value. For the full information of the public; it is necessary to dwell a little upon this subject. Suppose the bill for the confiscation of what was termed British property, had passed towards the close of the last session; it could not pass till late in December, because it was withheld by the house of delegates, for reasons best known to themselves, from the senate, until the 15th of that month; the delegates inform us,

they had proposed to sell as much of that property as would have raised 5,220,000 dollars, and to have made the first payment by the first of next February; then, as much of that property as would have raised that sum, must have been advertised and sold in the space of one month, generally the most inclement in the year; a few only could have had notice of the sales, and few consequently (however great the number of persons inclined to purchase might have been) could have attended them, and become purchasers. It is probable, that twenty or thirty persons, at the outside, would have been bidders; might they not have previously agreed upon their respective portions of the property put up to sale, to avoid a competition of purchase and over bidding on each other? Although none of the delegates may have had such a scheme in view, whatever confidence they might thereby have shown of our success, yet the supposition, as to others, not members of our legislature, is not only possible, but probable. Then a given quantity of British property, which under more favourable circumstances would have commanded 20,880,000 dollars, for instance, would not have sold for more than 5,220,000 dollars; even the whole of this sum was not to have been paid down at once, but the payments were to have been made at different periods, as far as can be collected from some obscure intimations in the messages of the delegates to the senate, for their entire plan has been withheld from the knowledge of that branch. Whether personal property was intended to have been sold first, or both kinds, real, and personal, and what time was to have been allowed for the payment to have been made in, does not appear. Indeed, to judge from a part of the reasoning in the last message of the delegates, it should seem that they themselves had not very clear and distinct ideas of the proposed transaction; perhaps obscurity was affected. Speaking to the objection of the senate to the hasty sale of what they call British property, they observe, "the senate has thrown them into a dilemma; if we dispose of the property immediately, it is too soon, if not immediately, it is not soon enough; the sale of the property in question will not be affected by the depreciation of the currency, if it should depreciate still more, the property will command the more."

The reasoning of the senate on this point is so clear, that I wonder it should be misconceived by the delegates; was it misunderstood in order to be misrepresented? The objections of the senate to the hastiness of the sale, have been already explained; their objection to the terms of payment, I conceive, to be this. Suppose an engrosser or speculator had purchased an estate belonging to a British subject, in reality worth 60,000 pounds currency, for 15,000 pounds, owing to the want of competition, from the hastiness of the sale, and to the other causes just above mentioned. If this speculator is to be indulged with twelve months, for example, to make his last and perhaps principal payment on the 15,000 pounds, the money may in the mean time so depreciate, as not to be worth one half of what it was worth at the time of the contract; it is evident, if this should be the case, that the estate in question, sold this January, would not command more money a year hence, the contract being perfected by the last payment, and no greater sum being originally stipulated to be paid than the £ 15,000. The senate has suggested, and the suggestion is not improbable, that the arts of the purchasers would be exerted to depreciate the money, in the intervals between the times of making the contract and of payment. It would be the interest of the purchasers to have the money depreciate, and therefore it is probable they would wish and endeavour to depreciate it; whether they would succeed in their attempt, is another question; surely they would not pretend to any merit from their failing in the attempt. I have carefully perused the message of the senate, and have not discovered that "they are willing to hold out that the money will depreciate," they speak conditionally, "if it should depreciate such will be the consequence." Neither has the senate "seemed to suppose," that the purchase would, in their estimation be invidious, but that in the opinion of some, who might otherwise have been willing to have purchased, it might be thought so, and that that circumstance might contribute to lessen the number of purchasers. If the legislature has not a right, upon common law principles, or by the law of nations, to confiscate all other British property indiscriminately (debts excepted), if it has not a right to confiscate the property of absentees, under the pretext of its being British, and the property of both should be confiscated, the validity of the title of the purchasers may be doubted, although we should establish our independence. There is indeed the strongest probability that Great-Britain will be obliged to acknowledge our independence, yet considering the vicissitude

of all human affairs, more especially in war, no man, I believe, will be found so presumptuous as to place that event beyond the reach even of adverse fortune. To use power and victory with moderation, is the token of a great and noble mind; whole nations, as well as individuals, are susceptible of this elevation of sentiment, and the nation, whose striking characteristic it was, while acting upon that principle, was invincible. If we should not by magnanimity, be induced to act with moderation, while prosperous, prudence, at least, should incline us not to exceed the liberties of hostility; "for (as Pufendorf observes) the uncertainties and turns of fortune which may happen in war, ought to persuade men to be very temperate in the use of those liberties, for fear an alteration in affairs should, as it were, make their own weapons recoil, and return upon themselves the usage they gave others; and a man should be cautious that he don't set an example to others, that one time or other may be of dangerous consequence to himself."

It is somewhat strange, that the delegates, in some parts of their message, seem to have no other idea of right but what is founded on force, although mere force, unjustly exercised, can convey no right at all. There is nothing in the proceedings of the senate, which have come to my knowledge, to justify the assertion, "that they seem to entertain some doubts of the success of our arms;" indeed their message is full of confidence, founded, I hope, on a knowledge of the resources of this country, and a belief, that they will be called forth when necessary, and used with judgment and fidelity, and not be converted to private purposes; such an opinion surely would give them much greater encouragement, than any they could possibly receive from the interested willingness of engrossers and speculators, to realize, at an exorbitant profit, though with some little hazard, their ill-gotten pelf. Neither branch of the legislature, it is presumed, wants such encouragement at this, though the message of the delegates, which in this part of it has the appearance of a laboured apology for engrossers and speculators, insinuates as much against the senate. Should the legislature be disposed to resume the property so purchased by engrossers and speculators, the violation of public faith, the injustice done to men, who confiding in that faith had invested their money in the lands about to be resumed, would be founded in our ears by them and their advocates. Even to engrossers and speculators the legislature ought to do justice, and as they would have a just claim to be repaid the monies they had laid out in such purchases, those sums, or an equivalent for them, should be refunded in case of a resumption. Thus, although they might not, in the case put, make a profit, they would suffer no loss. But if the property in question should be confiscated, and once disposed of, is a resumption of it by our legislature certain, or even probable, though it should be evident that the public had parted with that property greatly under value? Mean conveyances of parts of it would probably be made, before the intention of resuming it would be known, or the resumption could take place; it would be extremely difficult in either case, and unjust in the former, to unravel and set aside the intermediate sales. That the engrossers and speculators would sell out again a part of their purchases, is probable, unless more effectual means should be taken hereafter, if the property in question should be confiscated, to make them pay the full value thereof, than would have been taken by the delegates at the last session, had it not been for the interposition of the senate. For if British property, improperly so called, had been confiscated, and put up to sale under the unfavourable circumstances already mentioned, there can be no doubt but what it would have sold much under its value, and little, but that the original purchasers by selling, perhaps, a twentieth part of their purchases, might have replaced in their own pockets the whole of the money paid to the public; and thus the money, "the means of speculation, would not have been drawn (as the message supposes) out of the hands of engrossers and speculators." View therefore the projected sales which way we please, the public would have reaped very little advantage from them; engrossers and speculators, at the work, would only not have made a profit, but might, if not strip of their purchases, have acquired great fortunes for small considerations. The message attempts to draw an argument in favour of an immediate sale of the property intended to be confiscated, from the possibility of the currency depreciating still more, but this argument the delegates have answered in another part of their message; if the bills of credit should continue to depreciate, less property will command the same of them, as they justly observe, though they apply the observation very improperly, as has been noticed.

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