

nominally so high, because the articles in which it was to be paid was not worth what they were nominally rated at; that all the other officers of government had received those articles specifically, at a time when they were worth little more than one half of what they were rated at, and of course the officers of government received in real value little more than half their nominal salaries; that the commissioners could therefore only be entitled to receive in specie the real value of the articles when the commission was earned; that the state had, upon unsettled accounts, made good the value of depreciated money paid for specie debts; and therefore, upon every principle of mutual justice, the state ought only to pay the specie value for debts contracted in depreciated paper. You would also have been told, that although it might not have been your fault that bonds were not taken, yet as this was part of the duty required to gain a right to the whole commission, and the performance of it was attended with some trouble and expence; and this must be done by some body to put the state revenue in proper order, that a reasonable deduction ought to be made from the specie value of the commission on this account; this, I think, would have reduced your claim of commission to one and a quarter per cent. upon the first sales, supposing in every instance you had done your duty, and had shewn it as clearly as the contrary is capable of being proved. I will suppose also, as to the resale, that it had been as clearly the intention of the legislature to give you a commission as it really was to give you none; and suppose the legislature had not expressed the rate of commission, and a judge was called on to make a construction on the act as to the commission the officer should have, I apprehend he would determine that the officer was entitled to a reasonable reward, and if he found the legislature had established a rate of one and an half per cent. to another officer for a similar service, it would be a good guide for his determination of what was a reasonable reward; he would not suppose, because a reward was given by the legislature upon former occasions in articles at a nominal and arbitrary value, that he ought therefore to give a reward in specie equal in nominal sum to the reward given in articles estimated at an excessive and arbitrary value; but if he found that by reducing the nominal sum formerly given to its real value, it agreed with the sum given in specie to the officer for similar services, he would not hesitate to determine, that this was the rate which legislature had thought right, both in past and present times. Those who determined in favour of your claim, gave you commission where none was directed by law, and fixed it in specie as high in sum as the reward which had formerly been given for other services, was in depreciated paper; and this you attempt to justify, with as much confidence as if there really was no difference between specie in 1785, and in red money in 1782.

The only argument used to support this extraordinary measure of justice is, that the commissioners, three in number, being necessary during the war, ought to have been each allowed as much as the intendant was allowed for selling property in time of peace, and therefore it is right that the commissioners for sales in time of peace ought to have an higher commission than the intendant, to make up for the deficiency of their commission in time of war: but this will not do in practice in the present case, if it was right in theory, unless you give your colleague, colonel Ramsey, who resigned before this peace establishment, an equal share of it with you and Mr. Holliday, for he was as great a loser certainly by the very low commission during the war as you were; but before this rule of making amends can be established, you ought to prove the commission during the war was so low for the men engaged in the business, and it will be very difficult to induce a belief that the reward was not fully equal to the services rendered, or that either of you was ever engaged in a business so lucrative in peace or war.

I have considered the question upon the grounds of construction only, and it will, I think, be difficult for you to shew any principle of expounding laws, or any circumstance attending the passage of the act referred to, which entitles you to double commission, even suppose you were not so culpable in the execution of the trusts reposed in you, as I believe you to be.

I readily agree, that if you had fully discharged the duties of your office, you required such a right in the reward stipulated for your services, that you ought not to be deprived of it by acts of legislature; but suppose this to have been the case, it will not follow that you are entitled to double commission because you resold the property without any additional reward proposed, and under an idea that none was intended to be given, and with a view only of preventing a dispute respecting your right to any commission. But according to your own admission, if the first sales were not properly conducted by the commissioners, they are not entitled to any commission on them, and then, instead of 893l. being deducted from your accounts, the deduction ought to have been equal to all the commission charged on the first sales of property, rightfully ordered to be resold, which will amount to a larger sum than the deduction stated by me. That the resales were necessarily and properly directed, and that the necessity of resale, and consequent loss to the state where any happened, proceeded from your misconduct, I shall

now proceed to shew: and first, as to the subject of Nanticoke manor, for which bonds were taken by you and lodged in the treasury, from which you allege you acquired a right to commission on the sale of this property. If the sale had been made in such manner that the state could have fairly and honestly compelled those who purchased to pay what they had passed their bonds for, then I agree you acted within the spirit of the law directing sales to be made in convenient lots; but if the state could not, consistently with justice, have compelled the purchasers to pay, and that owing to the manner in which the sale was made, then you must allow that the resale was proper, and that your charge of commission on the first sale cannot be supported. I asserted, that "it was proved the first sales of this property were made in such manner, that the lands the purchasers thought they bought, would not fall to them by following the plot used by the commissioners, and that the sale was made in such a confused manner, that it would have been wrong for the state to have attempted to compel payment of the money mentioned in the bonds which were passed by the purchasers, upon the supposition and belief that the commissioners had given a true state of the location of the land; whereas, upon examination, it was found that the lines of the lands bought when run agreeably to the plot by which the commissioners sold would not include the places alleged to be included when the sales were made. You deny that such proof was given to the delegates or the intendant as would justify a resale of the land, and declare that the true reason why the purchasers wanted to vacate their bargains was, that the land sold too high, and that the petitions and depositions were a mere artifice to deceive, and ought not to have been regarded. As to Mr. Hollyday's purchase of three lots, you admit they did not lie as he supposed—these were parts of the lands described on the plot; and the whole land was laid off into lots or parcels upon the plot. Now, if Mr. Hollyday's lots did not lie as was supposed, and were cut to pieces by pursuing your plot as he alleges, I ask if the admission of this single fact does not prove that the other lots would be thrown into confusion, and would lie differently from what was supposed and declared? Let any man make a plot with lines for lots No. 1, 2, 3, 4, &c. binding upon, and connected with, each other. Suppose lot No. 1 is said to contain a certain field, No. 2 binds on No. 1, and so throughout the plot; but when No. 1 is actually run according to the lines in the plot, it is found not to include the field, but that the field will fall into No. 2 and perhaps a field or other improvement intended to be included in No. 2 will be left for No. 3, and part of the land described to be in No. 3 will fall into No. 4, and so every lot will be deranged. You also admit that Doctor Sullivan, who bought lot No. 4, was deceived in his purchase; this adds strength to the above reasoning. The method I am informed you took to describe the land, and to include such parcels as were intended to be included, was as follows: You had a plot made for the revenue office under the old government, upon which the extent of certain leases was delineated, and some small tracts of patented land were described without survey or examination. You drew lines on this plot so as to include certain portions of ground with certain improvements. When the sale was made it was declared, that such a lot, No. 1 for instance, included such ground and improvements, but, when the land was actually surveyed, it was found that your random line did not include the land intended; and Mr. Hollyday's purchase, as appears by his letter, was divided by a lot running between the several parts of it; and he had four lots by pursuing your lines, whereas he really bought but three lots, and none of the four joined; whereas he asserts the contiguity of two out of the three lots was the cause of his buying. Now, will you be pleased to let us know how Mr. Hollyday's and Doctor Sullivan's lands, as they really purchased them, can be laid down, and the other locations connected with, and dependent on them can be preserved? Produce your plot; let us have the written evidence you refer to stated; do not suppose it will be sufficient to say you have satisfactory proof without producing it; for if this would do, no man could stand upon equal ground with you. Having shewn by demonstrative argument, from facts you admit, that the lands could not lie as given out by the commissioners at the first sale, I will also shew by proof of witnesses, that the other facts in the case correspond with the reasoning from the facts admitted. The reason of my omitting to publish the depositions in my answer to your first publication was; because it did not appear to me that you could possibly deny what you knew could be so easily proved. I will now insert them with Mr. Hollyday's letter and my answer, and the public will judge whether I wantonly set aside the sales to the injury of the state, or you made the sales in such manner that the purchasers were deceived, and would have been injured if they had not been set aside.

The deposition of Richard Standford, (the vendue master) of full age, being sworn on the Holy Evangelists, deposed and saith, that at the time of the sale of Nanticoke manor by the commissioners of confiscated property, lot No. 4 was set up, and declared to contain part of the plantation where Godfrey Medes lived, part of the plantation where Eleanor Jones lived, and a small plantation where some free negroes

lived; that said lot was bought by James Sullivan; and further, when said lands were laid out by the surveyor, parts of the aforesaid plantation were taken away from said lot by a tract of land belonging to James Steele; that three lots, purchased by James Sullivan, John Smoot, and Hugh M^r Bride, in the town of Vienna, lie within a survey made by Pritchett Willy; and further saith not.

RICHARD STANDFORD.

Sworn before me the 5th day of April, 1785.

JAMES SHAW.

The deposition of Levin Bestpitch, of full age, being sworn on the Holy Evangelists of Almighty God, deposed and saith, that when the commissioners for confiscated British property made sale of Nanticoke manor, that lot No. 8 was declared to contain only two hundred and fifty acres of land, said to take in the land where John Pike formerly lived; that when it was laid off by the surveyor it contained three hundred and forty-three and one quarter of an acre; that the plantation where John Pike lived was entirely left out but about two acres, and nearly the whole of the land lay in deep swamps, and very little of the whole cultivated; and further saith not.

LEVIN BESTPITCH.

Sworn to this 5th of April, 1785.

JOHN SMOOT.

The deposition of Richard Standford, of full age, being sworn on the Holy Evangelists, deposed and saith, that when the commissioners of confiscated British property made sale of Nanticoke manor, lot No. 5 was declared to contain the plantation where William Smith formerly lived; and further saith, that when said land was laid down by the surveyor, great part of the aforesaid plantation was taken away by lot No. 4.

RICHARD STANDFORD.

Sworn to before me the subscriber this 5th of April, 1785.

JOHN SMOOT.

The deposition of Richard Standford, of full age, being sworn on the Holy Evangelists, deposed and saith, that when the commissioners for confiscated British property made sale of Nanticoke manor, lot No. 6 was declared to contain three hundred and eighty acres, and only eighty acres thereof marsh; and further, when the said land was laid down by the surveyor it only contained three hundred and twenty-four acres, and fully one half thereof marsh, and not more than thirty-five acres of woodland; and further saith not.

RICHARD STANDFORD.

Sworn to before me the subscriber, this 5th day of April, 1785.

JOHN SMOOT.

The deposition of Richard Standford, of full age, being sworn on the Holy Evangelists, deposed and saith, that when the commissioners for confiscated British property made sale of Nanticoke manor, lot No. 9 was declared to contain the plantation where Michael Holland lived; and further, that when said land was laid down by the surveyor, a great part of the aforesaid lot was taken away by a tract of patented land belonging to James Steele, not laid down, also by another tract of patented land belonging to Benjamin Crain; and further saith not.

RICHARD STANDFORD.

Sworn before me the subscriber, this 5th day of April, 1785.

JOHN SMOOT.

The deposition of William Wheeland, of full age, being sworn on the Holy Evangelists, deposed and saith, that when the commissioners for confiscated British property made sale of Nanticoke manor, lot No. 10 was declared to contain the lands held by a certain Levin Bestpitch, by leases from the lord proprietor, which land, when laid out, in a great measure excluded him from the same, and that by Party certificate, said to contain the quantity of three hundred and seventy-one and three quarters of an acre, and that when said lands were resurveyed by a certain Matthew Smith, deputy surveyor, the aforesaid lot No. 10 only contains one hundred and eighty-two acres, as by certificate, reference being had thereto, will more fully appear; and further saith not.

WILLIAM WHEELAND.

Sworn to this 5th day of April, 1785, before

JAMES SHAW.

The deposition of John Hicks Travers, of full age, being sworn on the Holy Evangelists, deposed and saith, that when the commissioners for confiscated British property made sale of Nanticoke manor, that Pritchett Willy bought three lots, No. — — —, lying in the back part of