

# MARYLAND GAZETTE.

T H U R S D A Y, D E C E M B E R 14, 1786.

[Continued from our last]

To GABRIEL DUVAL, Esquire.

S I R,

YOU admit, that if any purchaser should deny the purchase, it is incumbent on the commissioners to prove it to entitle them to commission. This admission goes a great way to destroy all your preceding assertions, for at the time you received the money for the whole of the commission charged on the article referred to, it was impossible for you to tell how many purchasers might deny their purchases, and what determination might be given upon the proof you offered, and therefore, according to your own acknowledgments, you received the commission when you were not entitled to it, not having proved the purchase in all cases where it might be denied, and there not being judgments in the cases where this proof might be called for. The recovery by the state was contingent, your receipt of commission certain, which is in part the objection made to the commissioners account as passed. But I cannot admit, that if you were able to prove the purchase that you would consequently be entitled to commission. For suppose the debtor should be insolvent, and the debt or part of it lost, and that owing to the neglect of the commissioners in not taking bond and security; I believe no person capable of determining would say, that the commissioners were entitled to commission. How many cases of this kind there may be it is impossible to say, and therefore the payment of any reward to the commissioners ought to have been delayed until the business was finally settled, and the money received by, or secured to the state. When this was done, and it appeared nothing was lost by the neglect of the commissioners, then, and not until then, a just and proper compensation ought to have been made, but even under such circumstances they would not be entitled to full commissions, because a part of the duty was not performed. You state, that I examined the list of debtors, and thought them solvent and ordered suits. In doing this I acted from the information of the commissioners as to the sales, and from the best of my judgment as to the solvency of the purchasers, but in neither case could I act upon a certainty from the nature of the things to be determined on; but what has this to do with your right of commission, if my determining to bring suits would as certainly and expeditiously bring the money into the treasury, as the order you received for the whole of your claim took it out, there might be some force in stating the above circumstances; but you know, and the public creditors feel, that this is not the case. As a particular instance to shew the probability that the state would never realize the sums you charged and received commission on, I mentioned the case of a charge to Stephen Steward, and company, that you did not know who the company were, and that Stephen Steward denied the purchase; it is not pretended that Stephen Steward, sen. bought the property, but you allege it was bought by Stephen Steward, jun. he has made the following affidavit upon the subject.

Baltimore county, November 22. 1786.

Then came Stephen Steward, jun. before me, one of the justices of the peace of said county, and made oath on the Holy Evangelists of Almighty God, that he, the deponent, did not bid for but two lots of land at the sale of the Nottingham company's property that were struck off to him, both of which lots were afterwards transferred to the present holders of the Nottingham forges, nor did he authorize any person whatever to purchase land for him at said sales; that during the time of the sale he observed the vendue-master, Mr. Thomas Yates, had struck off several lots of land to Stephen Steward, and company; that this deponent went to Mr. Yates and asked him what he meant by striking off the land to Stephen Steward, and company, Mr. Yates gave him for answer, that the commissioners had determined not to let any of the land go under the assessment, and when the price bid for a lot did not exceed the assessment, he struck it off to Stephen Steward, and company, to give a sanction to the sale, as he said.

STEPHEN STEWARD, jun.

Sworn to and subscribed before me,

THOMAS RUSSELL.

Major Yates has given me information agreeing in substance with Mr. Steward's affidavit. The property Mr. Steward bought and afterwards transferred to the Nottingham company, is no part of the property charged to him, and denied to be bought, and the allegation of Mr. Howard, the gentleman you allude to,

that he was a bidder against Mr. Steward for some of the property, must, I apprehend, have been for the two lots which Mr. Steward really bought, and not any part of the property disputed.—Col. Ramsey informed me, that the sale was really made to Messieurs Steward, and company, and that he believed major Yates was one of the company, and I was induced by this assertion of colonel Ramsey, to believe the sale was really made, and being under this impression, I ordered suit to be commenced, as the charge was made on the commissioners books and the commissioners alleged the sale could be proved. But upon further inquiry, it turns out that the sale was merely nominal.

The third objection stated by me to the commissioners account is, that they were indebted to the state for property when the greater part of the commission claimed by them arose, and that therefore the charge for commission ought to have been discounted for money due for property, and the commissioners ought to have taken credit to the year 1790 under the act for consolidating the funds, &c. which passed in November session 1781, for only the balance due by them, after such discount, and that they ought not to have been allowed to postpone the payment of their whole debt to the state until the year 1790, and to have received cash for the state's debt to them.—To this you answer, that neither you or Mr. Hollyday owed the state one shilling at the time your account was passed in July 1786.—What a pitiful evasion is this.—You intended to deceive by concealment of facts, which the least regard to candour would have induced you to disclose.—I mean, that you paid in certificates £. 1116 4 7 on the 27th day of March 1786, in part of your bond, the balance of £. 602 18 11. I presume you paid in certificates in May 1786.—Mr. Hollyday paid in certificates July 19, 1785, £. 803 9 1.

You admit, that you and Mr. Hollyday were indebted for property in November 1784, when the above act passed, and you do not deny that colonel Ramsey is still indebted for property. Your allegation that you did not take credit to the year 1790, will not answer the objection, unless at the same time you shew you did not use the privileges given to those who had a right to an indulgence to the year 1790, by paying in certificates, worth little more than one half the money due for your debt, or of the money received for your commission. If you could not claim the indulgence to the year 1790, you had no right to pay certificates, but taking a credit to the time just mentioned, you availed yourself of the rights given to those who were entitled to such credit by law. Wherein is the difference upon the present argument, whether you delayed payment until the year 1790, or paid in depreciated paper before that time?—If indeed you had discharged your debt to the state by paying cash agreeably to the tenor of your bonds, then you might have fairly argued that no injury was done by receiving your commission in money. You very well knew that the inference for or against you from the fact of your payment of the debt would depend altogether upon what you paid,—and therefore you tell us, you have paid your debt, and have left the public to conjecture in what manner you paid it. If by concealing the manner, you could induce a supposition that you had paid money, then every body would conclude, that it was not material whether you put money into the treasury with one hand, and took it out with the other, or discounted with the state.—If you failed in the intended imposition, you thought your case would not be worsened by the attempt, as it was impossible to meet the argument in front, and oppose the principles upon which it must rest.

How you can apply the principle, "That in a free country there ought to be one equal rule of justice to all the citizens," to combat my argument upon the present question, I am at a loss to conceive, for my reasoning is not at all opposed to this principle, but in perfect conformity with it; and by attempting to establish the commissioners claim to receive money from the state for what is due to them, and pay the state certificates for what is due to it, where the debit and credit were in money nominally the same, and equal in value, you are directly contrary to the principle suggested; for your argument must suppose a privilege in the commissioners to be exempt from the rule of discount, which every other citizen is subject to, or in other words, that a different rule of justice is applicable to the commissioners than that which universally takes place, and is established by law, between all other citizens of the state. My position includes, not only the commissioners, but all other citizens under similar circumstances, and before you can expect to derive any assistance from the principle you lay down, you

ought to shew that other citizens, under circumstances substantially the same with the commissioners, are entitled to receive specie from the state, and pay certificates.

The fourth objection made by me to the commissioners account is that a quantity of ore and coal at the Lancashire works had not been accounted for in any manner to the state. Both you and colonel Ramsey attempt an answer to this objection, and have given relations of facts which do not contain a full and true state of the circumstances existing in the case: it will be necessary that the facts should be known, to enable the public to form a just decision on the transaction, which has become very interesting to the state, by a late determination of the arbitrators between it and Mr. Garretson; the following is a just account of this business. In September 1781, a tract of land called Buck range, containing 750 acres, on which the Lancashire furnace stood, was sold to Job Garretson for £. 5062. Upon this land, and at this furnace were about three hundred loads of coal, and about three hundred tons of ore, as proved by Mr. Welton, who superintended the works, and other testimony before the arbitrators.—Mr. Garretson claimed this ore and coal from the terms of sale, alleging, that the land, with the furnace ready to go into blast, and every thing on the land, except negroes, live stock and household furniture, were sold to him. This property was sold before colonel Ramsey became a partner in the purchase of the Nottingham iron-works; afterwards, colonel Ramsey being a partner of Ridgely, and company, in the Nottingham works, on the second day of March, 1782, wrote colonel Garretson the following letter:

S I R,

I was surprised to learn from Mr. Bayley, that you refused to let him move off the coal and ore which were left on that land you purchased; you must have forgot that I agreed to your taking possession on the express condition, that these things, together with the hay, might be moved off at any time. I have directed the gentlemen who purchased them to take them off whenever they please; I hope, upon reflection, you will not attempt to oppose them, as the duty which I owe to the public will oblige me to take steps which may be finally disagreeable. If I could conceive that you had any well founded claim, I would not wish to deprive you of it, and promise you, that should you hereafter be able to establish your pretensions, you shall be allowed the full value of the articles removed. I am, your obedient, humble servant,

Signed,

NAT. RAMSEY.

Baltimore, 2d March, 1782.

Colonel Garretson.

In consequence of this letter, the ore and coal were taken by Mr. Bayley, who was concerned in the White Marsh furnace. And 120 tons of ore, and 106 loads of coal, were charged in the commissioners books to Samuel Norwood, and Co. amounting to £. 254 5 0; a junction was afterwards formed between Mr. Bayley, one of the purchasers of the White Marsh furnace, and the purchasers of the Nottingham forges. Mr. Garretson applied to the general assembly for relief, and at November session 1784, the following resolve passed both houses.

By the HOUSE OF DELEGATES, January 6. 1785.

Whereas it appears to the general assembly, that Job Garretson, of Baltimore county, in the year 1781, bought of the state seven hundred and fifty acres of land, part of the property of the late Principio company, at six pounds fifteen shillings per acre, for which the said Garretson bonded as the law directs; that by actual measurement the same only contains six hundred and sixty-one acres, which leaves eighty-nine acres short, as appears by the certificate of the surveyor appointed by the commissioners of confiscated British property; that the said Garretson bought all the property on the land called Buck-range, or the Lancashire furnace, except the negroes, live stock, and household furniture; that there were three hundred load of coal, and three hundred and thirty-two tons of ore taken away by order of the commissioners aforesaid, and that considerable damage was committed upon the furnace aforesaid, after the sale and before the delivery;

RESOLVED, That the intendant of the revenue be required and directed to adjust and settle the same with the said Garretson, and in case of diversity of sentiment, that the same be referred to three disinterested persons to be nominated by the said intendant and Garretson, who upon hearing all the circumstances on oath, shall settle and adjust the same.

By order,

W. HARWOOD, clk. ho. del.

By order,

J. DORSEY, clk. sen.