

erty sold under the latter law; for it has been known that it is impossible that a construction which makes certificates receivable can be consistent with the latter act. If the two acts are considered as distinct and separate laws, those who maintain the opinion that certificates could be paid for the property referred to, must take one of two grounds; either that the prior repeals the subsequent act, or that the prior act could not be repealed by the legislature; the first is contrary to the known rule in the case, the last is directly contrary to the constitutional powers of the legislature. I admit that where funds are appropriated for particular purposes, such as to pay the state debt, or to redeem state securities, that it would be improper for the legislature, after purchases of the securities had been made upon the faith of the pledge, to apply the funds to other purposes; but this is a rule to govern their conduct, and not to make void their acts. In the present instance there can be no pretence of deception upon purchasers of certificates, for the two acts passed, I believe, within a few days of each other, both received the seals, and were promulgated together, and the acts always being in the power of the two houses until they receive the seals, it is not supposable that people were so intent on speculation, as to begin upon the acts before they had received the final sanction required by the constitution, and before colonel Ramsey, or those who tendered certificates, can claim to be purchasers of certificates under the funds alleged to be pledged by the "act to settle accounts, &c." they must show that they purchased after this act passed the legislature, and before the "act to procure a loan, &c." passed. Colonel Ramsey has shown the contrary, for he alleges his certificates were personally earned. I infer, from the wording of the act to settle accounts, &c. that the different bills for appropriating confiscated property were drawn and laid before the assembly for consideration at the same time; it is said, in the section quoted, such as is or shall be specially engaged, which implies that something was done towards the bill for procuring a loan, &c. It is certain that both acts passed at the same session, and so far as respects the present question upon the same subject; and in such case I believe the rule is, that the two acts shall be taken together, and considered as one law, and such construction given upon the whole as will correspond with the intention of the legislature. Suppose this rule is adopted, and the two acts, with the respective preambles to each part, are put together, and the true meaning of the legislature is to be thence collected, I believe no person inclined to form a true judgment would entertain the smallest doubt, but that the legislature intended that *specie* only should be paid, for this obvious reason, that *specie* alone could attain the objects designed to be accomplished, and that the engagement to receive certificates as *specie* for property thereafter to be sold, must be so construed as to exclude the property then directed to be sold for *specie*: by this construction the objects of the sale are preserved, and the promise to the owners of certificates is not destroyed, but the subjects upon which it is to operate are limited. By a contrary construction the *design of the sale is entirely frustrated*. If it be said that the words in the first act, only except property pledged, or to be pledged for a loan, it is answered, that in the construction of acts of assembly, the words must be so restrained or extended as to correspond with the certain intention of the legislature, expressed or implied in the same act, or in a subsequent act upon the same subject; and as the money intended to be raised by a sale of property was for the same purposes as the money intended to be raised by loans. The property directed to be sold, though not by express words, yet, by an intention as certainly shown as if express words had been used, was equally exempted from being paid for in certificates, as was the property pledged for a loan. And it may be farther observed, that if these acts are taken together, and it is impossible to reconcile the preceding with the subsequent parts, that the subsequent will prevail. By construing the two acts in the manner I have suggested, and as it appears to me, according to their plain and obvious meaning, no absurdity follows, no injury is done: but, by the construction you contend for, the most absurd consequences are produced; and those persons, our prisoners with the enemy, whom the state was particularly obliged to preserve, were left to perish for want of a provision. The construction I support, is confirmed by the opinion of the legislature at their session immediately after the transaction; and though I admit their declaration is not conclusive, yet it is of considerable weight, especially as they say it was evidently not the intention of the law-makers that certificates should be paid, an expression which shews, that in their opinion the case was perfectly clear.

It may be added to these observations, that it being certain, from the expression of the last act, that the four fifths of the purchase money for the property to be sold was to be paid in bills of credit, there could be no pretence that certificates were receivable in lieu of these bills; and this being the case, it will follow, according to the doctrine of you and colonel Ramsey, that the certificates could not be tendered to pay the least valuable part of the purchase money, yet they were tenderable for the most valuable part. This introduces another absurdity upon your construction. The circumstances of bills of credit being made payable for part of the purchase money,

is an additional proof, that the property intended to be sold was meant by the legislature to be altogether excluded from the payments in certificates; for if this property was meant to be pledged for certificates, it would have been as inconsistent to direct that four fifths should be paid in bills of credit, as that one fifth should be paid in *specie*. It is admitted by colonel Ramsey, that the two acts were differently construed, and understood by different persons: but whatever difference of opinion there might have been respecting the legal operation of the two acts, every body must have agreed, that certificates could neither furnish our prisoners with food, or our recruits with cloathing; and that of course these great and pressing objects which were intended to be provided for, would be defeated by receiving certificates for the property. This being the case, the officer of the state appointed to carry the views of the legislature into effect, ought not to have given countenance to an opinion destructive of the views of the legislature, by interesting himself in a purchase upon principles which could never be reconciled with the attainment of the end designed by the sale; and when the commissioners discovered the design of tendering the certificates, which it is admitted they did before the sale began, instead of becoming purchasers and realizing certificates, they ought to have postponed the sale altogether; but the bait was too tempting; the opportunity too favourable to be lost. It is more than probable that to this desire in the commissioner to realize his certificates, and to his acuteness at discovering the most profitable construction of acts of assembly, may be attributed the loss of a considerable sum of *specie* to the state, and all the consequences, both to the recruits and prisoners, which flowed from want of money. At that time many of our countrymen were prisoners with an enemy whose conduct towards them was cruel and destructive, and in nothing more so than in allowances for their support. The state intended to rescue them from destitution by a seasonable supply of money, but the commissioner's certificates must be realized. Let recruits go naked, let prisoners perish for want, it will be all one to them a thousand years hence: And he wished to enjoy the present moment! and with rich viands and a flowing bowl, an approving conscience will always whisper consolations, which those who suffered by his acquirements can never destroy.

To palliate the infringement of public duty, colonel Ramsey suggests, that the greater part of the property was purchased by officers of the Maryland line, with a view to realize their certificates. This assertion is contradicted by the commissioner's sale book, page 1, by which it appears that the greater part of the property was bought by persons in Baltimore-town, who had never been in the army, and that, the purchase made by Mr. Johns for colonel Ramsey excepted, there were but two officers of the army, and an issuing commissary, who bought property at this sale, and all of them lived at Baltimore-town. If it was right that any officers should realize their certificates in this manner, all the officers ought to have had an equal chance to share this advantage; but as there was no doubt respecting the construction of the law in any part of the state, except in Baltimore town, where colonel Ramsey was, and it never could occur to any officer who read the advertisement for the sale of this property that certificates would be received for the first payment, it would follow that this advantage of realizing certificates would be confined to the officers who resided at or near the place of sale, where alone it had been settled that certificates were to be received; *specie* at that time being very scarce, few were possessed of it; certificates were plenty, and in the hands of all the officers; and bills of credit were also plenty; no officer reading the advertisement, and not having *specie*, would think of attending the sale, because not prepared to make the first payment for the property; but suppose the land had been advertised to be sold for one fifth *specie* or certificates, and the other four fifths in bills of credit, which ought to have been done, if the true construction of the acts would have warranted a sale upon such terms, the property certainly would have sold for a price greatly beyond what it did, because then all officers and others who had certificates and wished to realize them, upon a supposition it could be fairly done, would have attended the sale either personally or by agents, and the competition and great quantity of certificates being brought to be realized; would have increased the price of the property. By the management of the commissioners the state failed in the design of procuring *specie*, without having the full advantage of selling for depreciated paper. Colonel Ramsey alleges, that it was known at the sale that the purchase was made by captain Johns for him, and the reason it was not charged to him in the commissioner's books was, that he being one of the commissioners could not have received a conveyance from the commissioners for the property, I think it very probable that it was known to some of those who became purchasers with intention to realize their certificates, that the commissioner was joined in the same scheme, and that they would have his weight and assistance in accomplishing the design, it was necessary that this should be known to the purchasers, because, otherwise some of them might have been induced to pay *specie*; and if this had been done by any of the purchasers; the delicacy of the commissioner's situation might have obliged him to have paid *specie* also;

but when it was known that the state's officer intended to pay certificates, all the other purchasers would conclude, that he who was intrusted with the execution of the business, must know the design of the legislature, and therefore his example would be followed by all; but that the officers, at their session immediately after the sale, knew nothing of the commissioner being so deeply instrumental in frustrating their views as he was; I can venture to assert: and if it had been known, that he was a purchaser intending to pay certificates, I think that there is not the least doubt but he would have been deprived of the capacity to do the like mischief by similar practices. The fact, that the purchase was made for col. Ramsey, was not known to me until October general court, 1785, when Mr. McLaughlin, sheriff of Baltimore county, shewed me the colonel's letter, wherein he had promised to be special bail for Mr. Johns, if necessary.

It would seem, from the preamble of the act of May session, 1781, above quoted, that the assembly, who I presume recited the transaction from the commissioner's report of it to them, that it was not generally disclosed, even to the persons who attended the sale, that certificates were receivable for property sold. The legislature declare, "that the property would have sold for a much greater price if the bidders and others had been informed, or believed that certificates would have been received in payment." This is very different from the account which col. Ramsey now gives of the transaction; for he declares, that the bidders for the property were under an impression that the first payment was to be made in certificates, and hence the property sold much higher than it otherwise would have done: it remains with him to ascertain the fact to be different from what is declared by the legislature, and to shew that the assembly received their information not from the commissioner, but from other persons: if this is not done, it may be fairly concluded, that the fact is now stated different from what it formerly was, and from the truth, to answer the present purpose of framing an excuse for the commissioner's conduct. The pretence that a commissioner could not be entered as a purchaser, because a conveyance could not be made to him, is perfectly frivolous: for if it was lawful for a trustee to be a purchaser, as the seizure of all British property was in the commissioners for the use of the state, a conveyance, if any was necessary, from the other commissioners to colonel Ramsey, would have been as effectual as if a conveyance had been made by three commissioners to Mr. Johns, and from him to colonel Ramsey. If it was not lawful for the commissioner being a trustee to purchase directly, it was certainly illegal for him to purchase indirectly; and if, as it is now suggested, Mr. Johns's name was only used to make a purchaser, who could receive a conveyance according to col. Ramsey's ideas of law, and not for the purpose of concealment; it ought to have been noted on the commissioner's books for what purpose and for whose use Mr. Johns was a purchaser. This would have fully answered the design of making a purchaser to receive a conveyance, and then the whole transaction would have been known; colonel Ramsey could certainly have paid the money, or made himself liable for it, no rule of law prevented this being done. The assembly would have then had the whole truth disclosed to them, and might have formed a proper judgment on it, and from no entry shewing the whole truth being made on the commissioner's books, or reported to the assembly; there is reason to believe that the business was conducted in the indirect manner to conceal from the legislature the part their commissioner had in defeating the design he was bound by every tie to promote.

To be Continued.  
DAN. OF ST. THO. JENIFER.

#### To the PUBLIC.

AS soon as there is room in this Gazette, a full answer will be given to Mr. Jenifer's publications. At present I shall only remark, that his assertion, that "I have, for the purpose of making an attack on him, been selected as the most likely of his enemies to gain credit with the public," is an impudent, base, and intemperate falsehood. The defence of my character against the *secret stab* which he intended to give it in his letter to a gentleman in Cecil county, and which is published in this paper of the 5th of October last, was my inducement to write. A perusal of that letter will shew, that the attack was made by him, and, I presume, it will be thought a wanton and unprovoked attack.

December 5, 1786.

#### LONDON, September 11.

LORD Walsingham will not expect any commendation for his resignation of the Irish vice-treasurership; as that event followed of course, from his appointment to a foreign embassy.—The vice-treasurership is not disposed of; nor is it at all certain to whom it will fall; though Mr. Eden's abilities, and his late intemperate application to the business of the public, give him of all others, the best claim to it. It is far from improbable that he will be the man.

The dissensions in Holland are alarming to none but the Dutch. They never can, by any consequence, affect the security of Britain.

The emperor of Germany has refused the Dutch the privilege of exporting their hearings into the Austrian Netherlands.

A correspondent wishes us to hint, that a commercial treaty between England and the dey of Algiers, might be very beneficial; the purpose of which should be, that the dey takes all our convicts in exchange for