

articles; I collect both from colonel Ramsey's letter, published in my last, and from the articles being charged in the commissioners books, and not in Mr. Russell's, and the report cited by you, which was grounded upon Mr. Garretson's application, stating the sale to have been by Mr. Russell, does not destroy the evidence arising from the circumstances before mentioned, because as to the subject of Mr. Garretson's petition, the fact, *sub ject* the ore and coal, whether Mr. Russell, or the commissioners, was not material; and it is also observable, that the resolve mentioned in my last, does not state who sold the ore and coal. The loss, which the state has sustained by this transaction, you would now ascribe, in great measure, to the damage done the works, by persons not under your control; but if you will examine into the matter more minutely than you seem to have done, you will find that the great and principal damage was the loss of the ore and coal, which certainly was a consequence of colonel Ramsey's order, that these articles should be given up.

Although you have traduced and vilified me in the most gross terms when it suited your purpose, yet when anything which you allege has fallen from me formerly weighs in your favour, you are very ready to catch at it to support your own reputation; now I should suppose if you really believed I deserved all the coarse epithets you have so liberally bestowed, you would not suppose my testimony in your favour ought to be admitted to weigh at all on the side for which it was given, but the reverse. With all your desires to misrepresent and misinterpret, can you seriously be of opinion that the conversation to which you allude, the particulars of which I do not now remember, can be fairly used to destroy the objection made to the commissioners account, or to contradict the motives which have been ascribed to their conduct, in particular instances? At the time the conversation happened, whatever it was, I had not the grounds and facts to judge on, which have since come to my knowledge. It is not my disposition or practice to pronounce unfavourably, without the surest grounds. Whatever opinion I gave at the time you refer to, was under the impression, which I hold right to judge favourably where proof is not clear and decided against the persons of whom a judgment is formed; but this by no means precludes from forming and giving a different judgment when the proof is too clear to be doubted by the most charitable. By assigning weight to the declaration you say was made when I was less under the influence of prejudice than I now am, you seem to have altogether forgotten, that you had charged me with having such enmity to, and prejudice against the commissioners, long before the time of the declaration, that one principal motive of my vacating the sale of Nanticoke manor to the injury of the state, was to discredit the commissioners, and I think to have acted from such motive, a man must have been as much blinded by enmity and prejudice, as it is possible for human nature to be, and in truth to take the declaration as you state it to have been, is of itself sufficient to disprove your repeated allegations, that I had on all occasions shewn the strongest desire to traduce and injure the commissioners, and if you were not deaf to the voice of reason, you must allow that I have never wantonly meddled with the commissioners, or shewed on any occasion, the least desire of doing them an injury and if the malevolent spirit which you have attributed to me had existence, I certainly had no personal reason to suppress it, at the time referred to. At least as to some of the commissioners.—If I comprehend your argument, to shew your right to a commission on the property laid off to Mr. Russell, it is, that you had as much trouble and expence in doing this as if the property had been sold at auction; and that as you would have been entitled to receive a *per diem* allowance for the time spent in doing this business, had it been done while you acted under a *per diem* allowance, you are of course entitled to a commission on the value of this property. It appears to me that your reasoning, if it may be so called, is by no means satisfactory. The law under which alone you can be entitled to commission, gives it only upon the amount of sales in full for all services. The law does not give a commission for years of trouble or millions of expence, unless there be a sale of the property made by the commissioners, and in this instance there was no sale but a partition.—The *per diem* allowance was given for every day spent in the public service, and therefore shewing you would have been entitled to a *per diem* allowance, does not prove your right to commissions, the point upon which the right depends being altogether different. Suppose for instance, that while the commissioners acted for a *per diem* allowance, a sale had been advertised at a distance, the commissioners went to the place of sale, but the weather was so bad that no purchasers came, and of course no sale. The commissioners would nevertheless have a just claim to their *per diem* allowance for every day spent in going to, remaining at, and returning from, the place of sale. But suppose the same case while they acted under commission; they certainly would not be entitled to commission. This shews that the same rule is not applicable to prove a claim to commission and a claim to *per diem* allowance.

—To prove that the trouble and expence does not give a right to commission. Suppose the commissioners went twenty times to the place of sale, and from badness of the weather, or other accidents, no sale was made, the commissioners could not be entitled to commission on the value of the property, although

they had more trouble and incurred more expence than they would have done if the property had been sold at the first time of meeting, which would have entitled them to commission. It extraordinary trouble was given where no commission was allowed, and the commission was not enough upon the rebels, for all services, there might be just grounds to apply to the legislature for reasonable compensation, and this you ought to have done in the instance mentioned, if you supposed you ought to have any thing for doing this business; but to lay down a rule for compensation to yourselves, in a case not provided for, was acting both as judges and parties.

This property was valued the 22d of October, 1782, and is charged in your books in the following manner:

Thomas Russell to confiscated property per sale book, page 37. £. 5550 7 6, omitted the 2d April, 1782.

This was to give colour to a charge of commission, which you never lost sight of in your most zealous moments of attention to the interest of the state. It appears to me, that whenever any officers have a particular allowance for the usual and common services, to be performed by them, that if other services are directed to which the allowance is not applicable, by the terms of it, and no allowance is made by the law directing the service, that the legislature considers the service as incidental to the office, and intends no reward for it, and I conclude from the silence of the legislature as to reward where this service was directed, no reward was intended to be given, and that to establish your claim to commission, you must not have recourse to the law by which commission is given, but you must make a law for the purpose.

The act of assembly gives a commission upon the amount of your sales, your law is, to give commission in all cases where there have been no sales, if the commissioners had as much trouble and expence as if there had been sales. It I recollect rightly, an act of assembly gave the commissioners power to bring suits for property to which the state had right. Suppose under this power suits had been brought, and the commissioners had attended to these suits with some trouble and expence, and had recovered property. I ask if commission could have been charged upon the value of the property? It certainly might, if your reasoning is sound.

I stated, that in examining the commissioners account, it appeared, that they had in the year 1782, given the state credit for £. 1186 4 0 specie, and that you had set the above sum of specie against so much of your commission, when in truth about half the sum in specie was worth the sum of £. 1186 4 0, of your commission, payable as directed by law. Your reply to this is, that the specie mentioned by me, was expended for the state, and paid into the treasury, and therefore there is no ground for what I have said; and you also allege that the reverse of what I have stated is true, the commissioners having received red money when they were entitled to specie. To set this matter in a proper light it is necessary to give an exact state of your account as it passed, and from which I made the allegation.

Dr. The state of Maryland to the commissioners of confiscated estates.

To Clement Hollyday services 300 days 50¢	£. 750 0 0
To Nathaniel Ramsey do. 320 do.	800 0 0
To Gabriel Duvall do. 161 do.	402 10 0
To 2½ per cent. commission on £. 298 689 6 8, as per sale book and list in the auditor's office,	7467 4 8½
To 465½ bushels of wheat, short received on order the 15th Nov. 1782, at 7/6	174 9 4
To cash paid for freight of wheat to the Head of Elk	15 9 10
To do. for surveying, as per account rendered,	35 7 6
	£. 9645 1 4½

Proved, the 29th of March, 1786, by Clement Hollyday and Gabriel Duvall, before (Signed) JAMES BRICE.

N. B. Mr. Hollyday was commissioner throughout the whole business, Mr. Duvall from the 11th of July, 1781, to the 21st of November, 1782, and from the 18th of September, 1784, to the 20th of December, 1785.

Contra. Cr.

By £. 93 state money received the 7th of March, 1781, by Clem. Hollyday of the eastern shore treasurer at 3½ for 1,	£. 28 12 3
By cash received of the western shore treasurer 29th of Aug. 1781, red,	170 0 0
By do. Sept. 1, 1781, do.	50 0 0
By do. Jan. 1, 1782, do.	150 0 0
By do. July 22, 1782, do.	351 7 9
	750 0 0
By do. April 12, 1784, specie,	200 0 0
By do. of Dan. Jenifer, on account of iron-works,	5 12 0
By do. do. of Layton and Sears, tenants on Indian Lands,	9 10 0
	965 2 0

By do. received by Nath. Ramsey of treasurer 8th of July, 1782,	805 0 0
By do. do. the 12th of April, 1784,	£. 1005, 200 0 0
By do. by G. Duvall 18th March, 1782,	357 14 6
By do. received of Levin Lecompt, By overcharged in expences to B. Morgan's account,	196 4 0
By cash received Hollyday, Ramsey, and Duvall, for iron from John Skinner, Nottingham works, specie,	22 10 0
By do. do. do. do.	450 0 0
By do. do. do. do.	540 0 0
By do. of the treasurer March, 1782, red,	1000 0 0
By do. do. do. do. June 5, 1782, do.	1000 0 0
Order the 15th of November, 1782, 3000 bushels wheat, do.	£. 4115, 1125 0 0
By cash received by Hollyday, and Duvall, of the treasurer Decem-ber, 1784	171 15 2
By balance of cash account in the commissioners books,	587 3 4½
By balance due the commissioners,	2224 11 8½
	£. 9045 1 4½

By the account it appears credit is given to the state as suggested by me; there is no date to these credits, but as the date next antecedent is the 18th of March, 1782, I presumed the money was received in the year 1782, and subsequent to the 18th of March. It appears also that there is no charge in this account of money paid into the treasury, or money expended for the state, except the sum of £. 35 7 6 for surveying. The other charges are all for *per diem* allowance, and for commission. The *per diem* allowances were separately kept settled by the respective commissioners with the auditor, their accounts passed and paid by order on the treasury in the year 1782, except about twenty days charged by you in January 1782, which was not brought into your account as settled and passed in that year: so that the *per diem* allowances which were separately kept had been settled and paid, except a small sum to one of the commissioners, had no connection with the joint accounts of the commissioners for commission, and in fact the charge of commission, and the small sum of £. 35 7 6 for the expence of surveying, and about twenty days allowance to you, were the only real debits in your account; this being the case, and the credits being given as before stated could be applied to nothing of any consequence but your commission; as, according to your assertion, you paid to, and expended for the state, the sum of £. 1186 4 specie, then it ought to be struck out of this account altogether, for the payment and expence ought to be charged in the account, and if either of these is done, the balance due you will appear to be £. 3410 15 8, instead of £. 2224 11 8. Is the former the sum which can be claimed by you, or is the latter all you pretend to? If our state of your payments and expences is right, and you received no other money applicable to these payments and expences, and your commission was right as charged, you would certainly be entitled to the former sum; and I believe no person will be of opinion, that it would not be claimed, if there was the smallest colour of right to it. How is this matter in truth and reality? Why did not you make the charges of the payments and expences? And why was the credit for this specie given in your account for commission, if it was not applicable to the debit for commission? I made my conclusions from your own account; if any thing exists which the account did not shew; it was next to impossible for me to know it, however industrious in my researches.—I see the sum of £. 450 specie received, credited in account of commission, which, it would appear from the manner of stating the account, was received in 1782. No charge made of payment of this money into the treasury. Would it ever occur to any man, that to know that whether there was not a charge answerable to this credit, and different from the charges in the account, that he ought to examine the treasurer's books, in the year 1781, to see if this money was not paid into the treasury?—You have given a copy of a receipt, by which it appears the commissioners, on the 3d of July, 1781, paid a sum of £. 450 into the treasury; if this is the same money, with which you credit the state in your account for commission, the payment ought to have been charged; but it appears by the receipt, that this money was paid to the treasurer before you were appointed a commissioner, which, according to the note to your account, was not until the 11th of July, 1781. This being the case, for what purpose could money paid to the treasury by the commissioners before you were appointed be brought into the joint account of Hollyday, Ramsey, and Duvall? If the money was received and paid by other commissioners, as the sum, for which the receipt is given, certainly was; what had you to do with it? The commissioners having received the money, under the sale you say was directed, paid it into the treasury, both the receipt and payment are proper for the accounts of those who received the money and made the payment; but it does not appear to me, that it was at all connected with a joint account in which you are a party, and in which, the only unsettled charge, of

any consequence, alone the credits account, as stated and expended conf those credited in brought into it; b your books, where the expences mentioned were no why should they, what is done by y the account of yo mission against the The sum of £. necessary charges would not answer, and the vouchers for the vouchers, I rot been able to specifying the sums tioned, except in commission, as bes I can discover how these sums, except on. There is an pences attending t &c. &c. the amount mention of the abo either of them app se. From these c peal to every man year account was allow, either, that leged, or you mu depending with the sum impropr claimd by your mining your book that the sum of £ compt, is credited of the book, and t your cash list. If was not brought in ed with that of th is paid by you, th your per diem allo been justified in ap to the payment of whatever you ma subject, it appear commissioners acc diem allowances, apply the specie to which nevertheless their commission. Dr. The State of To his services as days betwixt M and Jan. 23d. 1781, Aug. 14. furer Dec. 4. By ditto June 28, 1782 £. 505, specie, Signed, Received an on for the above. Signed, Dr. The State of 1781, To 19 day millions at 50/p To 19 in To 24 in To 23 in To 28 in To 28 in To cash p clerk o extracts To ditto wood March 18, 17 Signed, ZE On the back of Received the the governor and treasurer of the w Signed Dr. The State of To his service at 21 50/p per day 1781. By £. 93 cash on shore tr By ditto