

British property within this state, was sent to the house of delegates by Charles Carroll of Carrollton, Esq;

By THE SENATE, DECEMBER 23, 1779.

GENTLEMEN,

ALTHOUGH by our message accompanying the bill for the seizure and confiscation of British property, returned with a negative, we plainly intimated we had not gone into a full consideration thereof, and assigned our reasons for not going into such a consideration at this session, yet, as in your message by Messieurs J. Hall and others, you urge the passage of the bill, and have adduced some arguments to induce us to alter our resolution, permit us to discuss them with that coolness which the importance of the subject requires.

Justice, policy, and necessity, you say, influence your conduct. It not unfrequently happens, that different ideas of justice, policy, and necessity, are entertained by different bodies of men. We are not convinced of the justice of the bill, less of its policy, and least of all of its necessity. We have not had sufficient time to make those strict and full researches into the law of nations, which, you say, you have made. As far as we have examined into the subject, we doubt, whether, by a fair construction of that law, the declaration of independence can have such a retrospective operation, as to vest in this state all British property acquired by individuals antecedently to it. We presume the law of nations lays down no rule, by which, in revolutions like the present, the subjects adhering to the old, may be clearly distinguished from those of the new government, otherwise you would not have thought it necessary to ascertain, by a positive law, who shall be deemed British subjects. The distinctions set up by the bill are in some instances arbitrary, and without the sanction of law, ought not of themselves to deprive the persons described of the benefit and privileges of citizenship, and therefore we do not well conceive, how the property of the persons meant to be included in the bill became vested in this state by the law of nations, co-operating with the declaration of independence. Some of the actions which are to constitute the actors British subjects, are of that nature as to make the bill, with respect to them, entirely retrospective, and of course contrary to our declaration of rights; others again are so highly criminal as to subject the offenders to our treason law, a law still subsisting, and evincing beyond the possibility of doubt, that the legislature which passed it, considered some of the very persons as subjects of this state, which the present bill considers as British subjects, thereby depriving them of the trial by jury, subjecting them to all the pains and penalties of treason, except death, inflicting outlawry and exile, without the judgment of their peers, and consequently having in many instances, the full force and effect of a bill of attainder. But admit, for the sake of argument, that by the rigour of the law of nations, the property of all British subjects, as alien enemies, is forfeited; the difficulty of drawing the line to ascertain who shall be deemed British subjects, without wounding the constitution, still remains; under this impression, therefore, we would rather err on the side of indulgence, though not merited, than violate our constitution, by throwing down those barriers with which it has wisely secured the liberty and property of the subject. We are averse from setting a precedent in order to reach persons really criminal, which may hereafter be extended to the oppression of the innocent; intemperate zeal and intemperate resentments have frequently given fatal habits to governments as free as ours. We need not remind you that the rigour of law is often softened in this very point by the present usage and practice of the most civilised European nations; for the truth of this assertion we appeal to Vattel, a late and celebrated writer on the law of nations. As an independent and civilised people, would we not rather wish to imitate the conduct of all the civilised and enlightened nations of Europe, than that of the piratical states of Barbary? The consequences of such a seizure and confiscation may be serious and perplexing; a negotiation may possibly take place this winter, and peace soon ensue; it may, and probably will, be made a preliminary article of the peace, that that very property which this bill is about to confiscate, shall be secured to the present owners in such a manner, that they may at least receive the full and real value thereof. If therefore it should at this time be confiscated and applied, our constituents must be taxed, to repay the original proprietors the full value of the lands and chattels so confiscated and applied; and this, in our judgment, forms one of the strongest objections to the policy of the measure. You say, you propose to raise five millions two hundred and twenty thousand dollars from the sale of British property, and to make the first payment on the first day of next February; if so, the property must be put up to sale immediately, or on the shortest notice, at a time too when from the inclemency of the weather few will be able to attend the sales; others may be discouraged by doubts respecting the title, and the possibility of a redemption; the invidiousness of the purchase may deter some from purchasing. Under this concurrence of circumstances, is it not rational to conclude, that there will be but few purchasers, and little competition, and of course that this property will be sold greatly under value? It requires no great degree of penetration to foresee, who will become purchasers; we may venture to predict, that they will consist altogether of engrossers and speculators, men who have acquired great sums for little value, and therefore may afford to run the risk, whatever it may be, of realising their money on such easy terms. We submit to your serious reflection, and that of our constituents, whether the practices of those men have been such as to deserve so great an encouragement from the representatives of the people. You have informed us of the time for the first payment on the sales of British property; we wish you had likewise informed us when the last is proposed to be made; if it should be deferred to a long day, we apprehend the advantage to the public will still be more considerable; for the industry and the arts of the probable purchasers, too successfully practised on other occasions, may depreciate the money to such a degree that the state may receive next to nothing in the end. But the public exigencies are such, as to lay you under the absolute necessity of selling British property, to raise the whole sum of fourteen millions two hundred and twenty thousand dollars, required by