

goods of private subjects, by any purely positive law made pledges to all the world, the good behaviour of the nation, or of its constitutional government, but because, by the positive law of all nations, though it consists of many individuals, is considered as one collective body, and in consequence of the general consent, all the members of this collective body are deemed parties in any injury which the body does, as far as this injury produces a claim to reparation of damages in the person against whom it is committed. If a nation makes war, and never reparation of any damages that has been done to it, this claim to such goods as are taken in the war, takes place from the beginning of the war, to the extent of the damages done by the enemy; begins a war, causelessly, and the nation which suffers itself a just injury from the enemy, before the war began, this claim does not take place from the beginning; but the nation can have no right to an equivalent, where it has sustained no damage. However, a claim, though it begins with the war, will arise in the progress of it: for the war itself is an injury; and consequently the nation, against which it is made, will have a right to reparation for all the damages which are done to it in the war.

Secondly, that a nation has a right to be paid the expences that it makes in a just war. These expences are indeed so many additional damages; for whatever the nation is forced to expend in recovering its right, is a loss, which is occasioned by the fault of the enemy, who withholds that right.

As the nation therefore acquires property in the goods which it takes from the enemy, to the amount of the original damages that occasion the war, and of the fresh damages that are done in the war; upon the same principle, it acquires property in what it takes, as an equivalent, for the current expences that are made in carrying on the war.

We are inclined to think the authorities cited will convince our people of the right they have to seize and confiscate British property in their power.

The policy of the measure depends on opinion. We think it impolitic to load our constituents with taxes, and convinced that they cannot pay what is really necessary to carry on the war, without selling part of their property to raise the money, we thought sound policy dictated the propriety of first selling the property of our enemies.

We must now beg leave so far to intrude on your honours' time and patience, as to make a few strictures on your arguments, or rather objections to the bill. Permit us to discuss them with that temper and disposition their importance and weight may require.

It is made an objection by your honours against the confiscation of British property, "that it may be made a preliminary article of the peace, to be secured to the present (or, as we would rather say, original) owners." It has been an argument with other states, and it is also an argument with us, why it should be confiscated, that it may not be in the power of the enemy to make it a preliminary article; for while it remains in its present state, it is possible that it may be given up, but when confiscated and applied, it would be so that it is impossible. Other states have made it impossible with regard to them; and shall this state leave it possible with regard to her alone? If the giving up this property would purchase peace, shall we alone be at the expence to purchase it? Nay, by her hesitation to confiscate this property, will she alone be the means of continuing the war? For your honours' must be sensible, that a want of resolution implies weakness, and from this timidity and half-hearted temper of our counsels, the enemy will be encouraged to persevere longer than they had expected to do, so that however we admire the moderation, yet we cannot approve the policy of your honours' in thus inviting the enemy to make that a preliminary article, which it is possible would otherwise have escaped them. Certainly if they consider, which undoubtedly they must do, that we have a right to be indemnified for the expences of the war, and for the devastation of our country, they cannot believe that we will resign the property which we have in our possession. If our purses have been drained, and our country wasted, shall our enemy, who has done this, receive the property of the subjects, as they formerly possessed it, or shall we be taxed for the full and real value of it? Your honours must be better acquainted with the sentiments of the people of this country, than to believe it probable that the suggestion can be received, but with the utmost indignation. It cannot be received; and the property in question cannot be given up: we have won it with our swords, and we will possess it for ourselves; Providence has put it in our power, and we leave it as a legacy to the world, that those who have fought against liberty have not shared equally with those who have fought for it.

Your honours are apprehensive, that if the property in question is confiscated and sold, engrossers and speculators will become the only purchasers. We do not think it probable that this will be the case. The objects of these men are the necessaries of life, and the commodities of foreign countries; but, if they should be the purchasers, we cannot help believing, that it will be desirable; for thereby the money, which is the means of their speculation, will be drawn out of their hands, and if, as your honours seem to suppose, the title may be doubtful, and the purchase uncertain, engrossers and speculators are the persons whose hands it can fall into; for, if they have acquired great sums for little value, they will be nothing, and to your honours and the public resentment against them will for once be satisfied. But if these men become purchasers, it will at least argue, that they have some confidence in the success of our cause, which will be an encouragement to your honours, who seem to entertain some doubts of it; for it will hold our own property and that in question by our swords, the title to the one is equally valid with the title to the other. We agree with your honours, that it is not our wish or desire "to raise great emoluments to a few individuals, at a certain and heavy loss to the public." We could wish your honours would manifest an equal instance of moderation, and not be willing to secure great emoluments to a few individuals, who have no right to them. We cannot believe your honours will lay us under the necessity of proposing, that any partiality or affection for the old government still remains, or that it can be the wish or desire of a senator to secure the interests of the late proprietary, at a certain and heavy loss to the public.

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John Smith
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