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For the NATIONAL INTELLIGENCER.

MR. SMITH,

Remarking that a discussion which originated two years ago, respecting a Bridge over the Potomac, from the lower part of the City, has recommenced in your paper—permit me to request the favor of you to republish the subjoined queries, which were at that time given to the public through the medium of your paper, and one in this town. I trust nothing "empassioned," or indecorous will be found in them. If some of the expressions are earnest let it be remembered that they have fallen from a man who feels his interest in common with his fellow townsmen deeply implicated by the event—and who verily believes in the mischievous effects apprehended by the querist.

A Proprietor in George Town.

Queries relating to the proposed Bridge over the Potomac.

1st. Is it right to sacrifice the property of one part of the community, to the interest or advantage of the other?

2d. If the bridge contemplated to be thrown over the Potomac at a place four miles below that to which large sea ships have heretofore resorted, should prove to be an impediment to such navigation thereafter, will it not be, to sacrifice the interests of all the proprietors of the upper part of the city of Washington, and of George Town to the aggrandisement and the enriching of the lower part of the city, and of Alexandria?—will it not, at a stroke, lessen the value of their property one hundred per centum?—will it not by rapid degrees tend to remove the merchants, shut up the shops, drive away the tradesmen, moulder down the houses and wharves, and desolate the now fast thriving town of George-town?

Will it not immediately arrest the progress of the upper part of Washington, and turn all purchasers and improvements to the lower part of the city, to a spot the accessibility to which, by sea navigation, being below the bridge, there can be no fear of; will it not injure materially the interests of all the people to the westward of us, near any of the interior and non-navigable waters of the Potomac, by forcing them to seek a market six to eight miles lower, through an expanded, and to their stream boats, highly dangerous water; and at least by depriving them of the choice between the upper and lower markets on tide-water? Can it be doubted, that to erect a bridge at the place proposed, will not impede navigation? Is it not known, that let the construction of it, as to draws, be what it may, that it must delay and vex both large and small vessels in their progress, must not large vessels take down their sails and tow up when they approach near, warp through, and by this means often lose a tide or a wind, which may prove the loss of days—must not small craft be prevented entirely from going up and down with any wind, as they now do by beating from to shore shore, thro' the shallow as well as the deep water, and will they not be confined to navigating with certain winds, by means of which they can fetch the part where the draw is fixed; and when through, can they if the wind is a head, leave the bridge, in the way of the different tacks as it must be, and beat forward?

3d. Will it not speedily happen from the nature of things, that after the fixing the piles or piers on which such a bridge is to be erected, banks immediately below them will be formed, which in the progress of a very few years will so fill up the river thereabout, or so divert and bend the channel, if any left, as to prevent all vessels of burden passing, and have we not already but a very little above the spot in question, experienced the effect of the deposit made by the turbed waters of the upper Potomac, discovering evidently the tendency of this water, highly charged as it comes down (during many months in the year) with earthy particles and bearing them on while gliding rapidly through the narrow and deep parts of the river unopposed by any counter-current, to deposit those particles so soon as it meets the resistance of the tide in an expanded space, has it not been seen, and is it not known to the most superficial observer, resident in this neighbourhood that about this very place, every log, which born down the current has accidentally by ice, or other means been fastened to the bottom (commonly called planters) in a very few years has brought about it a bank rising so near the surface, as to be almost bare at low tide; and have not the citizens of George-town and the upper part of the city, during the two last summers, been exerting themselves at the expence of several thousand dollars from their private purses, expended in the purchase and working of a costly machine, to remove obstructions occasioned by the causes above recited; and shall these men, thus meritoriously anxious to keep open the high road of ship navigation, and thus liberally contributing from their own resources, to save their own and their neighbour's property from deterioration by contending with natural and accidental causes—have the mortification to see an artificial work erected within a stone's throw off their late operation, calculated to produce obstacles innumerable; and to their enterprise and industry insurmountable, to create banks, in comparison with which, that which has cost them two summer's work was but a Mole hill? Shall they see instead of a few *planters* accidentally lodged and collecting bars about them, a whole range of regular piers or piles planted in the river directly below, to form a series of little mountains from shore to shore, the slopes of which must join below and set navigation at defiance?

Would not such a measure be injustice, be oppression, be cruelty in the extreme, would it not drive these people to desperation, nay to madness; is it not asking a man to sit still calmly and see a fire-brand put to his house, and unagitated, to witness its consumption, story by story, with its valuable contents, his all?

Can the promoters of the petition to erect such a bridge be in earnest, in believing that Congress would sanction the measure, can they persuade themselves that the collected wisdom of these United States could practise such a violation of right? Is there a large commercial city on this or the other side of the Atlantic, on a river navigable to sea ships, below which there is a bridge? Search for an answer, the Thames, the Elbe, the Weser, the Garronne, the Loire in Europe, the Delaware, the Patapsco and other rivers in America, and shall the Potomac be the first to try the hazardous experiment? Shall the intended Metropolis of the United States put its progress in jeopardy by such a scheme?

What would the people of Philadelphia say to a proposition to facilitate the communication of roads by building a bridge just below their city? What would say the people of Baltimore to such a proposition—nay let them bring this nearer home, and ask the good people of Alexandria how they would relish a petition to Congress, from some company who might start up, to erect a bridge over the Potomac at the line of the district just below their town? And would the Jersey and Maryland avenue men think a bridge over the mouth of the Eastern Branch *a valuable improvement and a great accommodation to the public?*

REPORTS

Made to the House of Representatives.

The Committee, to whom were referred the memorials of Alexander Moultrie of South-Carolina, in behalf of himself and others, styling themselves the South-Carolina Yazoo Company, and of William Cowan, agent of the Virginia Yazoo Company, submit the following

REPORT—

It appears from the memorials, and from the documents submitted with them that on the 21st day of December, 1789, the legislature of the state of Georgia passed an act, to dispose of certain vacant lands lying within that state, by which it was enacted that the tract of country lying between the Mississippi and Tombigbee Rivers, and extending from the parallel of latitude, which crosses the Mississippi at the mouth of Cole's Creek, to the northern boundary of the state, together with a third tract lying on the Tennessee river, should for two years from and after passing the act, be reserved as a pre-emption for three companies styled the South-Carolina Yazoo Company, the Virginian Yazoo Company, and the Tennessee Company; and that the governor should issue grants for the said tracts, according to certain boundaries defined in the act, to these companies respectively, if they should, within two years, pay into the treasury of the state, the following sums, viz. the South-Carolina Yazoo Company the "*amount*" of 66,964 dollars—the Virginia Yazoo Company the "*amount*" of 93,741 dollars; and the Tennessee Company, the "*amount*" of 46,875 dollars.

It further appears from the documents exhibited that the South-Carolina Yazoo Company, on the 13th August, 1790, paid into the Treasury of Georgia in bills of credit, the sum of £. 630 18s. and on the eleventh of September, 1790, the sum of £. 500, in paper medium, making in the whole £. 1,130 18s. in part of the purchase money; and that on the 19th of December, 1791, the said company made a tender of the balance to the treasurer of the state. This tender was made as it is alledged, partly in specie, partly in South-Carolina paper medium, and partly in Georgia certificates, but was rejected by the treasurer, either upon a presumption that the law itself did not authorize the payment to be made in this description of paper, or in pursuance of a resolution of the same legislature passed in June 1790, directing the treasurer to receive after a certain day in the month of August following, payment for these lands, only in gold or silver, or the paper medium of the state.

The Virginia Yazoo Company, in a short time after passing the act, (but when not stated) paid the sum of 1,515 dollars in the paper currency of the state, as part of the purchase money, and on the 12th of December, 1791, made a tender of the balance to the treasurer, in state certificates, and orders on the treasury for liquidated claims. This tender was also refused, as it is presumed, for the same reason which governed in the other case, as above stated.

In consequence of the neglect or refusal on the part of these companies to pay within the stipulated period of two years, in such description of money as the treasurer of the state conceived himself authorized to receive, no grant issued, and the state ceded the same tract of country to the United States, by the articles of compact and cession bearing date the day of 1802.

The money deposited by the Virginia Company was withdrawn by John B. Scott, who was their agent, but who the memorialist alledges, was not authorized to receive the same. That deposited by the South-Carolina Company is said still to remain in the treasury of Georgia.

Both Companies now contend that they have a claim against the United States for compensation for losses sustained by them in consequence of the refusal on the part of Georgia to carry, what is called, their contract into effect, and urge that if the constitution of the United States had not been changed in relation to the suability of states, they could have compelled the state of Georgia to a specific execution of their contract. The act of 1789 is called a contract, because the memorialists say their petition to the legislature, upon which the law is founded, is referred to in the preamble of the act, and thereby becomes a part of it; and they state that in this petition it was proposed to make the payments in that description of paper which was afterwards tendered. The committee have not seen the petition, but they conceive that the idea of the petition being ingrafted into, and thereby becoming a part of the act, is too novel in its nature, to require any comment from them to prove its inadmissibility. They do not consider the transaction in the light of a contract, as the Companies were not bound by it to a compliance, and might have refused at any time to make a payment, without subjecting themselves to any penalty whatever. They view the act as a conditional grant, not of the land itself, but of the pre-emption right, and the title of the Companies was to be perfected, upon their complying with the condition contained in it. This condition was the payment of a sum of money, and if it had been fulfilled on their part, would have given them a claim upon the honor and justice of the state, for a perfect and complete title. To shew their compliance with the condition, they offer the evidence of their own petition referred to in the preamble of the law, the depositions of some of the members of the legislature, and the protest of the minority who voted against the passage of the act, to prove that it was the intention of the legislature, that payment might be made in that description of paper which was tendered.

The preamble of a statute is sometimes referred to, but always with caution, to assist in the interpretation of the enacting clauses, but the preamble of the act in question can throw no light on the present subject, as it contains no expression relative to the species of money or paper which was to be received in payment. The testimony of individuals who were members of the legislature, and the protest of the minority, should be resorted to with still greater caution, as they are mere matters of opinion, and the same, or a greater number of other individuals who were members of the same body, might have entertained opinions of a directly contrary nature. Indeed the resolution of June, 1790, passed by the same legislature, who framed the act of 1789, directing the Treasurer to receive in payment from these Companies only gold and silver, and the paper medium of the state, is a stronger evidence of its spirit and intention than any which has been offered, and this is in complete hostility to the pretensions of the present claimants. It is believed to be a sound doctrine that laws should, if possible, be interpreted, without calling in the aid of any foreign materials, and that the meaning of the legislature should be collected from the language which they themselves have used to express it. If there should be an obscurity in one clause, all the others of the same act ought to be carefully examined, and compared with that in which the obscurity exists. If in this manner the meaning of the legislature can be found, and that safe be rendered clear which was obscure before, it is the safest method of interpretation, and is always preferred.

The memorialists appear to rely with much confidence upon one expression contained in the first section of the act of 1789, and this is the only one which favours their construction. They alledge that as the law declares they shall be entituled to a grant upon paying into the Treasury the amount of 66,000 and 93,000 dollars respectively, they were at liberty to pay, in any paper at that time current in Georgia (except what was called Rattle snake money) whether bills of credit, certificates, or liquidated claims upon the Treasury. The expression (the *amount* of 66 000 dollars, &c.) is certainly not a very common one as here applied, the word *sum* being more generally used in this sense; but it is by no means an incorrect expression. If the companies were authorised to give it the construction which they contend for, it might with equal plausibility be extended to wheat, flour, corn, tobacco, or almost any other article which is a subject of traffic between individuals, or indeed to the old continental currency, and to the bills of credit issued by any other state in the union. This certainly cannot be permitted, as in such case, the lands might have been paid for in paper, not worth more than one dollar in the hundred. If, however, the use of the word *amount*, instead of the word *sum*, in the first section, creates any doubt as to the intention of the legislature, this doubt will be removed by referring to the fourth section of the same act, which is in these words: viz. "That the Treasurer of this state shall, on application of any agent of either of the said companies, within the said term of two years, *receive the sum or sums of money, which they are hereby respectively directed to advance*, a certificate or certificates of which payments, under the hand of the Treasurer, shall be a sufficient voucher for the Governor to issue the grants to the respective companies aforesaid." In this clause the intention of the legislature is clearly and accurately expressed, as they speak of the *sums of money which the Companies were by the act directed to advance*, thereby referring to the 66,000 and 93,000 dollars, which was to be paid for the land, and *rendering* it clear beyond a doubt, the *money* alone was to be received.

The committee have been thus minute in investigating this case, because the memorialists appear to entertain an opinion that if the state of Georgia had been guilty of a breach of faith, the United States were bound in equity to make good the damages, they being second purchasers with notice. Without undertaking to decide this question, or to say whether it would be proper to place these Companies on the same footing, with those who claim under the act of 1795, the committee are decidedly of opinion that the Virginia Yazoo Company, and the South-Carolina Yazoo Company have no claim whatever upon the United States.

The Committee to whom was referred a resolution directing an enquiry into the expediency of vesting the powers usually exercised by a court of equity, in the judges of the United States, within the Indiana and other territories; and also into the expediency of allowing writs of error and appeals from the judgments and decrees of said judges to the supreme court of the United States,

REPORT—

That courts without equitable jurisdiction will inevitably, in some instances, become the instruments of iniquity instead of the administrators of justice.

Fraud, accident and hardship, ingredients in many of those transactions of human life which constitute the basis of litigation, entrenched within legal forms, and veiled with specious but deceitful appearances, are, many times, not within the reach of a tribunal vested with common law powers only. To develope and relieve against them an equitable jurisdiction is necessary. It may be proper also to observe, that parties may avail themselves of the powers of a court of equity to obtain more complete relief, by coercing the specific execution of contracts fairly made, and rescinding those that are bottomed upon deceit, than a court of law is competent to grant—Add too, that *trusts* which frequently become sources of forensic controversy, are matter properly cognizable in courts of equitable jurisdiction.

The committee therefore have agreed, respectfully to submit to the consideration of the House the following resolution:

Resolved, That it is expedient to vest the powers usually exercised by a court of equity, in the judges of the United States in the Indiana and other territories.

As to the second matter referred to them for their enquiry, the committee beg leave to observe, that the attainment of an uniformity of decision in any section of country subject to the same laws and usages, is one of the principal objects of the institution of a supreme court with appellate jurisdiction. Where there are many courts dispersed over a country, though subject to the same laws and usages, yet without one common tribunal which shall have power to revise and correct the judgments and decrees of the inferior courts, their decisions will be various and contradictory; but to attain this uniformity of decision in each territorial government, it is not necessary to allow writs of error or appeals to the supreme court of the United States, because each territory has a supreme court (relatively speaking) within itself, which is composed of three judges; and has, or may have, appellate jurisdiction over all other erected in the territory, whereby it may preserve that uniform rule of decision so desirable.

Correctness or propriety of decision is the only other object, the attainment of which can be aided by allowing writs of error and appeals from the territorial courts to the supreme court of the United States. The committee are not informed, nor do they believe there is any unusual want of confidence in the courts of the territories; they are aware that hardship and injustice will result to individuals, in some instances, from the erroneous decisions of those courts; but it has not occurred to them that an appeal will insure infallible relief.—Infallibility is not the attribute of any earthly tribunal.

So vast is the distance from the territorial courts, to the supreme court of the United States, that the mischief resulting from the necessary delay, expense, and inconvenience of prosecuting or defending writs of error and appeals, cannot in the opinion of the committee, be compensated by any advantage to be derived from the revision of the judgments and decrees of the courts of the territories, by the supreme court of the United States.

It is obvious to those who have had an opportunity of observing the spirit which often prevails with litigants, that the right of appeal would sometimes be made use of as an instrument of vexation and oppression, where the distance is so great from the inferior to the superior court.

The committee therefore, upon the second matter referred to them, agree to submit the following resolution:

Resolved, That it is inexpedient to allow writs of error and appeals, from the judgments and decrees of the courts of the Indiana and other territories, to the supreme court of the United States.

The Committee appointed on the eighth instant, to whom was committed, the bill sent from the Senate, intituled, "An Act to divide the Indiana Territory into two separate governments" have according to order, had the said bill under consideration, and thereupon report to the House—

THAT by the ordinance for the government of the territory, north of the river Ohio, it is stipulated that