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CONGRESS OF THE UNITED STATES.

HOUSE OF REPRESENTATIVES,

February 24.

A Memorial of Thomas Barclay was read and committed.

A memorial of N. Gore was read and referred to the secretary at war.

A memorial of David S. Franks was read and laid on the table.

The house resolved itself into a committee on the report of the secretary of the treasury.

Mr. Benson in the chair.

The proposition for the assumption of the state debts being under consideration.

Some debate took place on this proposition, when Mr. Madison moved for an amendment to the following purport—That effectual provision be at the same time made for the liquidation of, and crediting to the states, the whole of the expences during the war, as the same has been, or may be stated for that purpose, that the best evidence of the same be taken that the nature of the case will admit.

The committee rose without deciding on the proposition or the amendment.

February 25.

Several petitions were read.

The bill to provide for the enumeration of the inhabitants of the United States was brought in engrossed, when the speaker signed the same.

The bill for securing to authors and inventors the exclusive right of selling copies of their writings and inventions, was read a second time and committed.

The house then resolved itself into a committee on the report of the secretary of the treasury, relative to a provision for the support of the public credit of the United States.

Mr. Benson in the chair.

The proposition relative to the assumption of the state debts, and the amendment proposed thereto by Mr. Madison, being still under consideration.

Mr. Huntington stated some objections to the last part of the amendment proposed by Mr. Madison, which declares "that the best evidence shall be taken as the nature of the case will admit." There was no necessity, he said, of drawing such a rule into precedent. And if there were any particular cases, such as the loss of vouchers, &c. that required legislative interference, Congress could always make a provision for the purpose.

Mr. White then rose and proposed an amendment to this effect—that only the balances due by the states, over and above the quota required of them for the common defence, should be assumed by Congress.

Mr. Gerry, in a speech of some length, combatted the principle on which the motion was founded—it contemplated, he said, the debts in question as the debts of the states, while in fact they were the debts of the United States; for the states had contracted the debts as agents of the Union—and it was well known, that a debt contracted by an agent was as binding as though it had been done by the principal, it being an established maxim, "*quod facit per alterum facit per se*," there can be no distinction in equity then between a debt contracted by Congress, its quarter-masters, or other purchasing officers, and by a state employed by Congress; the creditors in each case being the creditors of the Union. Mr. Gerry said, he had before stated, that the first army, although federal, was raised, supported and supplied by the states, till it was commanded by continental officers—that the states, on the requisitions of Congress, had made good the depreciation of the pay of the army—had frequently supplied and recruited it, had at the request of Congress, assumed the debts of the Union, by taking up certificates of purchases made by federal officers, by paying interest of the federal debt, and by various other modes, and one state (Pennsylvania) if he was not misinformed, had assumed to the amount of five million dollars of the federal debt due to her citizens, and placed this sum on the state funds. As the states then are indebted to their citizens, ought not these in equity to be paid by the United States for property thus supplied them? When the citizens credited the states, the latter had all the resources of the Union; they had the impost, excise, and sole right of direct taxation; for although Congress had not the power of taxing *states*, they could go no farther, and that power could not be exercised from the want of a rule of apportionment required by the confederation, because the states could not form an estimate of their property as required by that compact: it must therefore be evident, as the citizens entrusted the states with supplies for the Union, on the credit of certain state resources, and by the late revolution in the system of government, these resources are by the union part alienated from the states to the federal government, which is the case of the impost; and as Congress

are now extending their taxation to another part, the excise, on which resources the state creditors principally depended, Congress are bound in justice and equity to provide for the payment of these debts contracted at the request and for the benefit of the United States.

They are bona fide debts of the Union, and only differ from the federal liquidated debt in the form of the negotiation; perhaps it may be said, that the creditors having considered the states as debtors, have no legal claim against the United States. But should Congress act upon such an unjust and ungenerous principle, would not the state creditors have reason to consider the whole as a state trick or juggle to defraud them of their dues? And would they ever after rely on the *faith* of Congress? There can be no good reason then for the assertion, that the states can only be creditors, or in other words, that their debts can be only assumed, according to the proportions of the balances that may be due to them respectively on a final liquidation. Mr. Gerry said, the gentleman (Mr. White) had observed, that by adopting the first amendment we should again open the door for state claims; that if it should remain shut, perhaps some injustice would take place, but if the doors should again be opened, there would be great uneasiness among some of the states. In answer to this Mr. Gerry conceived, that the states considered justice as the basis of their system of policy, and would never be opposed to a measure that would prevent injustice. If however, he was mistaken in this point—if the foundations of the state and federal governments were not laid in justice, he thought their career would be but short; but he had no apprehensions of this kind.

He observed, that Mr. White had said, in case of an assumption, some state creditors may accede to it, and others not; that of the latter number would probably be the citizens of Virginia—in which case she must pay her own creditors, and contribute to the payment of the debts assumed by the union. But where is the difficulty, says Mr. Gerry, in this case? Congress, considering the state creditors of Virginia as creditors of the union, will provide for them as for other federal creditors. And it will make no difference to the creditors, to the state or to Congress, whether the latter pays the interest to the state, and the state to the creditors, or whether Congress pays it directly to the creditors. This seems too clear to be denied.

The gentleman has said, if the debts are assumed, Congress will fund, but not discharge them; whereas the states will do both. How, says Mr. Gerry, does it appear that Congress will be less disposed than the states to pay off the public debt? The secretary in his report has an eye to a sinking fund; and there is no doubt of every exertion on the part of the union to discharge the debt. True it is, the states, with the impost and excise, have made some progress in this business; but deprived of those resources, there will be less prospect of the debts being paid by the states than by the United States. The debts of the states will now accumulate, as the federal debt did whilst the states had those resources.

The gentleman says, that if all the revenue from impost and excise is thrown into our hands, it will not be adequate, and we must resort to direct taxes, which would meet the disapprobation of all the states. But in answer to this, Mr. Gerry observed, that we have had but little experience of the avails of the impost, and none of the excise, and can therefore form no judgment how far they are capable of improvement. One thing we know, that the impost is greatly injured by the state administration of excise, and we also know that the latter is eluded in a great measure in each state; so that under the federal administration of impost and excise, both would probably be much increased.

Mr. Gerry then mentioned the defalcations of excise; that the collection of it was generally supposed in Massachusetts, not to exceed 2% per cent. of what ought to be the amount, and stated the manner in which the payment of it was eluded. It is impossible therefore, says he, at this time to determine whether those resources are or are not equal to the funds required. But suppose they are not, how does it appear that the states will be uneasy at direct taxation, if it is necessary to support public credit? I consider public credit as the main pillar of the government. If it is well established it will be more valuable than the mines of Peru; for it will command what resources you may want—and those can do no more; it will also command the confidence and attachment of your best citizens, which will be infinitely more valuable—will strengthen your government, and make it immoveable. A government founded in justice is so great a blessing, as that enlightened citizens, like those of the United States, will not only contribute their property, but will risk every thing in support of such a government. Mines may enable a government to procure an army of mercenaries; but the power of these is not to be

compared with that of good citizens. . . . from principle. It cannot therefore be doubted . . . it dir times are necessary to pay the just debts of the uni and to support its credit, the citizens will submit it.

If we refer to the propositions of the states for amending the constitution, there is nothing in them that justifies the contrary opposition; but I shall always oppose to direct taxes till it shall appear that they are indispensably necessary. The gentleman supposes that the assumption will lessen the influence of the states and elevate the general government, and he quoted my observation, that the states out of debt would be out of danger; and not as gentlemen in the opposition conceived, in debt out of danger. To constitute this doctrine, the gentleman has stated a case and says, if owning an estate he owed money on it he should think it more safe to take the estate into his own hands and pay his debts with its incomes, than to mortgage his estate to another on his engaging to pay the debts—But Mr. Gerry observed, that the resources for paying the state debts are taken from them, and the question in the case stated is, whether the owner of an estate who owed debts on it, would not expect that the person who occupied it should with the incomes pay the debts of the estate rather than leave the owner to pay them. In the case of a minor, ought not his guardian, who receives the incomes of an estate, to pay the minor's debts, and not to apply the incomes to his own use whilst the debts are accumulating? Much had been said respecting part of the state debts being for *state* and not for *federal* purposes; but would any gentleman deny that a moiety the whole expenditures of the states, excepting the expenses of their civil governments, were for federal purposes, or that the taxes of the states had far exceeded the civil lists and other expenses of the states? Is it not evident then that the existing debts of the states must be far short of their demands against the United States for supplies furnished by their citizens? And where is the force of this objection? It has been urged by another gentleman from Virginia, (Mr. Moore) that an assumption is unconstitutional. He has mentioned the accounts of that state, which containing state and federal charges, obliged the state to discriminate between them. But how does this prove the unconstitutionality of the measure? The debts of the states are either debts of the union or not; if not, we have no desire to assume them; if they are, we think it unjust to avoid payment, because of the mode in which they have been negotiated; and we conceive it is sufficiently evident that the existing state debts are for the property or services of individuals received by the union. But suppose we should refuse to assume the state debts, will not the injured creditors of the states be forever opposed to your government? Will they not consider this measure, explained as it will be in the progress of the debates, as a state or vice to demand them of their property? For although the integrity of the honourable mover is unquestionable, yet if his proposition, when examined, has the tendency pointed out, it will, if adopted, be considered as *artifice*. The state creditors in a common cause will probably not refine their opposition to the collection of a federal excise, but will extend it to the impost, which will be considered as an unjust alienation of the state funds to pay the federal at the expence of the state creditors. Such policy instead of promoting peace and concord, will be a source of war and discord between the different classes of citizens of the United States. For these and other reasons that may be urged, Mr. Gerry hoped the proposition would be rejected.

Mr. Livermore was of the same opinion as Mr. White, that Congress should assume only such debts as were owing by the states over and above their just proportion of the expenses of the war. In making some general observations in objecting to the original proposition, he said it was bad policy to pay money first, and then settle the account afterwards. He always liked to see accounts first settled, and then the money paid. It appeared strange to him, how an individual, or a nation, deeply in debt, could raise their credit by assuming to pay the debts of others. The assumption of the state debts would injure the individuals who were creditors—they had trusted the states, and Congress had no right to interfere in these contracts. As for his part, he should thank no man for taking his estate out of his hands to pay his debts—he should rather handle the money himself. With respect to the maxim, out of debt out of danger, he thought it went against the measure; certainly then going into debt was going into danger; and would no gentlemen have the same concern for the general as for the state governments. And why run the general government into danger when there was no need of it?

Some further conversation took place on the subject, when the committee rose without coming to a decision.