



"Ours are the Plans of fair delightful Peace,
"Unwarp'd by Party Rage to live like Brothers."

VOL. I.

TUESDAY, JANUARY 7, 1800.

NO. 12.

DEBATE

On the bill to explain an Act to prevent any person who now does, or may hereafter hold any office, appointment, or authority under the Federal Government, from holding any office under this State.

MR. BLACKLEDGE observed, that the law which this bill was proposed to amend, includes persons exercising all offices under the United States. Some doubts had been entertained, whether, under this expression all, the Assessors lately appointed under the law for valuing lands, houses, &c. were included, and he knew that some suits had been commenced against Justices of the Peace who had accepted of this appointment, for having, contrary to law, exercised offices under the United States and the State at the same time, though they had never had an idea that they infringed any law of the State in accepting of this temporary employment, for a certain number of days. He was aware, however, that the law strictly construed, would render persons thus acting, liable to its penalties. He hoped, therefore, that this bill, which went to prevent its operation in this particular case, would pass.

MR. FISHER said, it struck him as strange, that gentlemen should bring forward a bill to explain a law which is perfectly clear in itself. It is clear, said he, if a man holding an office under the State, acts under a Federal Law, he is liable to a penalty of 100l. and now it is seen that this law is likely to operate, an attempt is made to rescue the offenders from its operation. He was of opinion, that a person who accepted of employment under the United States, for the sake of profit, ought to give up his office under the State. He was satisfied there are men in his part of the country, who would come under this law, and whom he should be sorry to injure; but, if they will act thus, they must take the consequence. It would be thought very strange, if an officer of the Militia should accept of a commission in the Army of the United States, and afterwards return and claim again his office in the Militia. He hoped, therefore, this bill would not pass; than which, he would rather the law itself was repealed. He moved that this bill lie over till the next General Assembly.

The question on postponement was negatived.

MR. CRIST said, if he could vote for this bill consistently with the oath which he took on taking his seat, he would do so; but, as it was clear to him, that the persons meant to be relieved by this bill, had become liable to the penalties of the law, to pass it would be to pass a retrospective law; which they were forbidden to do by the Constitution.

MR. PORTER should vote for this bill, without any scruples of the kind just mentioned. He considered a Justice of Peace as a constitutional officer, who could not be broken, unless for misbehaviour, absence, or inability; whereas this law says they shall be broken, without giving them a trial by jury, or allowing them the same privileges with other citizens. When the office of such persons under the General Government ceases, he tho't they ought to receive again their employment under the State. He believed many persons who had accepted of the office of Assessor, had almost been constrained to do so.

MR. FITZ believed many Justices of the Peace had accepted of the appointment of Assessor, without thinking they were doing wrong, nor would he say they had done wrong; but he was clearly of opinion, it would not be right to interfere in the business in the manner proposed by this bill. The law passed some years ago, upon the principle that these double appointments might create an improper influence one upon the other; and it may be that some persons already felt this improper influence. It has been said by a gentleman from Rutherford, that a Justice of Peace holds his office during life. Be it so, this bill does not propose to take away the office. No Justice of Peace can be compelled to accept of any employment

under the United States; but if, knowing it to be contrary to the laws of his country for him to hold the two offices, he accepts an appointment under the United States, it ought certainly to render null his State appointment. This bill goes further, and says that all Justices of Peace and other officers, shall be exempt from all penalties which they may have incurred from acting as Assessors. This would have a retrospective operation, by exonerating men from a penalty to which they are become subject, and of course be doing that which the Legislature has no right to do. To pass such a law would also be to establish a bad precedent; it would be to say, Officers may act in a double capacity, and on application to the legislature, they will be relieved from the penalties to which the law subjects them.

MR. BLACKLEDGE said, gentlemen were mistaken, when they spoke of this law having a retrospective operation. It would have no other effect than to re-appoint Gentlemen to their offices under the State, who had acted temporarily under the United States, and to release them from penalties not sued for; those which are already sued for, would not be affected by this law.

MR. ALEXANDER observed, that the Gentleman just sat down, had completely answered the objections raised to this bill as to its retrospective operation. He proposed to take a short view of the question on constitutional ground. It must be allowed, he said, by all, that a law passed contrary to the Constitution, is a void law. He then adverted to the law which this bill was proposed to amend, and compared it with the clause of the Constitution which says, that Justices "shall not be removed from office by the General Assembly, unless for misbehaviour, absence, or inability," and declared them in opposition to each other; for, observed he, it would be trifling to say, that an appointment under the Federal Government made a man less capable than before for doing the duties of a Justice of Peace; nor could such an acceptance be deemed a misbehaviour in his office. He argued from the laws passed on this subject, that the Legislature must themselves have been of opinion, that they could not divest Justices of Peace of their office, by prohibiting them from holding Federal and State offices at the same time, and by making a penalty the consequence, if they did so act. By the word resigning the State office, on accepting a Federal appointment, was only meant, he supposed, a suspension of it during the time that a person held an office under the United States; if it meant any thing more, the law would be unconstitutional, and consequently illegal.

MR. HAY said, whoever knew him, knew that he was as jealous as any man of an improper exercise of power; and he was clearly of opinion, that persons who accept of offices under the constitution, accept of them under such regulations as succeeding laws shall thereafter prescribe.

The present question, he said, was a question of policy. Shall it be determined, that when such of our citizens as are celebrated for wisdom and fidelity, shall be appointed legislators, or any other officers under the United States, and shall return home, tho't they are better informed, and fitter to serve the State than when they accepted of the Federal appointment, they shall be incapable of again serving the State? He hoped not. The other object respected Assessors, under a late law of the United States, who, it was admitted, were generally persons amongst the best informed and the most worthy of trust in the community, who had accepted of the appointment, without knowing they had violated any existing law; and yet suits were brought against these men, and without legislative interference, it was probable they would be convicted and ruined by the penalties of the law, which unknowingly they had infringed. To allow this, he thought, would be bad policy, since it is probable that if other persons had been appointed

to the offices, who were less capable of discharging their duties, improper and unjust valuations of property might have been made, and, of course, unequal taxes have been laid.

MR. H. denied that this would be a retrospective law; it ought rather to be considered as a law of pardon and oblivion; and when it was seen that men convicted of the most flagrant offences against Society are pardoned, he trusted, that men who had done important service to the country, but who had inadvertently erred, would not be rigorously dealt with.

It had been said, that the State-offices of all persons who had accepted of the office of Assessor, immediately became void. And shall we say that all the acts of Justices of Peace and others, since they became Assessors, are null and void? To do this, would be to create a confusion, of which Gentlemen seem not to be sufficiently aware; and since it was the business of the Legislature to preserve and restore order, and not to produce confusion in the affairs of the State, he hoped the present bill would pass. It had been said, that penalties had already attached upon these persons. This he denied; the penalties would not attach, until these gentlemen were prosecuted, and this bill was intended to save them from these prosecutions.

MR. FITZ observed, that he had said that this bill, if passed, would have an ex post facto operation, which was denied by the Gentleman last up. It is true, said he, that actions already commenced, will not be affected; but it also says, that no penalty shall be recoverable where suits have not been brought, which indicates clearly that the penalties have been incurred; and such persons as are sued will suffer, and others will not. With respect to the constitutionality of the law which this bill proposed to amend, he had no doubt on the subject. The Legislature had certainly a right to make such regulations with respect to the conduct of Justices of Peace as they think proper.

MR. BENTON said, if this bill were passed, the disqualifying law ought to be repealed altogether; otherwise it will appear to operate upon one part of our citizens, and not upon another. He instanced the case of Colonel Hunt of Greenville. If this law passed, he and all other persons similarly circumstanced, ought to be reinstated in their offices.

MR. C. JONES was in favour of the bill. He thought its retrospective operation was guarded against, by the exception of suits already commenced. Justices of Peace had frequently filled the office of Assessor; to make all their acts void since their appointment, would produce bad consequences, and suits would be innumerable.

MR. HAY said, that Colonel Hunt's case was different from those contemplated by this bill, because he received his appointment immediately from the President of the United States.

MR. MOORE did not understand Gentlemen who came forward and declared this bill not to be retrospective; if it were not, he did not know what a retrospective law was. He took a retrospective law to be, a law operating upon something done previous to the passing of that law; and certainly, if this bill goes to authorize and ratify the transactions of Justices of Peace who have accepted of Federal offices, it is of that nature. But Gentlemen say this bill is merely to restore these justices to their former standings. He said, there was no occasion for this, since, by reading the law, it would be found they are not disqualified. It had been said, that the law disqualifying persons from holding these double appointments of the State and United States was an unconstitutional law; if so, it could not affect the persons in question. If the object was merely to restore the Justices who had thus acted, to their offices, he thought it unnecessary, since he found nothing more easily done than the appointment of Magistrates. It required nothing more than a recommendation from the delegates of the Dis-

trict; and surely this would be a more easy way of reinstating these Gentlemen in their offices, than by passing a law for that purpose.

MR. LACEY said, so far as this bill respects Justices of Peace who have acted in this capacity, since they have been appointed Assessors, he was in favour of it. Much time had been taken up in shewing that this bill would, or would not, form a retrospective law. A retrospective law, Mr. Lacey observed, was clearly defined by the 24th article of our bill of rights; where it is said, "that retrospective laws, punishing facts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty. But this does not say any thing against repealing or suspending the penalties of any law. This bill does not propose to make any act a crime, which was not so when the act was committed; and this house can certainly repeal or suspend the operation of a penal law; it is frequently done. The two things, he said, were perfectly distinct.

MR. MARTIN had no objection to the bill, so far as it relates to Justices of Peace; but it extends to all other officers, Military as well as Civil, which might create much difficulty; for, said he, suppose a Militia Officer should be appointed an Officer in the troops of the United States; and after his place had been supplied, he should, after a time, relinquish his service in the army, and come back and demand his former situation in the Militia, would it ever be submitted to? It could not be expected that it would.

MR. ALEXANDER observed, that the bill did not go to reinstate these officers, but merely to take away the penalty to which they had subjected themselves.

The question on the passage of the bill was then put, and it was rejected 56 to 46.

ENGLAND.

From the London Gazette, Oct. 9.

Downing-street, Oct. 19.
DISPATCHES, of which the following are copy and extract, have been received from Lieutenant Colonel Ramsay, and Lieutenant Colonel H. Clinton, by Lord Grenville, his Majesty's Principal Secretary of State for the Foreign Department.

Copy of a Dispatch from Lieutenant Colonel Ramsay to Lord Grenville, dated

Head-quarters, Schaffhausen, Sep. 30.

MY LORD,
It is with extreme regret I inform your Lordship, that an attack has been made on the Allied Army, the result of which has been favorable to the enemy. The combined operations of the Allies, of which your Lordship is already informed, were intended to have taken place on the 26th and 27th; and six battalions of the army, commanded by General Korsakoff, were detached to Uznach on the 25th, for the purpose of increasing the force destined to act in that quarter. The enemy, who was, no doubt, apprized of this circumstance, attacked the Russian Army on the 25th, at a very early hour in the morning; a brisk attack of the musquetry was heard on our left, in the neighbourhood of Wallishofen, accompanied by a cannonade on our right, which appeared to proceed from the neighbourhood of Baden. The attack on our left was intended merely for the purpose of drawing the attention from the true point; and the enemy passed the Limmat in great force, in the neighbourhood of Weinengen, between Zurich and Bladen. By this manœuvre, they broke the line in that quarter, cut off from the army the eight battalions under the command of Generals Markuf and Durafos, who were posted between Weinengen and the Rhine; and, after leaving a corps for the purpose of observing and attacking them, they ascended the Limat towards Zurich.

A regiment of dragoons being, in consequence of the detachments that had been sent away, and the troops that had been drawn to the left, the only force remaining in

the part where the passage was effected, the enemy advanced, and arrived in the neighbourhood of Zurich, before they experienced any resistance of consequence: the plain in front of Zurich, between the Limmat and the heights, which, running parallel to the Limmat, form a continuation of the Albis to the North-West, being occupied at the same time by a line of their infantry and cavalry, who, with a very numerous train of Artillery, attacked with great vigour the troops in front of Zurich, and prevented their detaching to their right, the point on which the great efforts of the enemy were directed. At a late hour in the forenoon some reinforcements arrived on this side of the Limmat; but the enemy were already masters of some of the principal heights which command the town; and notwithstanding the bravery displayed by the Russians in their repeated attacks, the superiority in point of force and position on the side of the French, rendered it impossible for them to regain that which had been lost. At sunset the French had made themselves masters of Zurich-berg, and nearly surrounded the town.

The attack on the position of General Hotze had rather terminated in favour of the Austrians, but General Hotze was unfortunately killed at the beginning of the action, and General Petrasch, who succeeded to the command of the army, having resolved, in consequence of the loss he had sustained, to avoid the attack which he expected next morning, retreated in the night from Uznach. The situation of the Russian army was rendered still more critical, and it became absolutely necessary to abandon Zurich, and the position in that neighbourhood without delay. On the 26th, in the morning, the retreat took place, and the whole arrived, in the course of that night, in the neighbourhood of Eglisau and Schaffhausen, without experiencing any loss of consequence during their march.

We have to regret the loss of between two and three thousand men killed, wounded, and missing; and ten pieces of cannon have, with a part of the baggage, fallen into the hands of the enemy. A nearly equal number of French cannon were taken by the Russians, but the want of horses, which prevented them taking away their own, was the cause of their being also obliged to leave these. The army under the command of General Korsakoff is at present posted with its right to Eglisau, and its left to the lake of Constance.

By a letter just received from Field-Marshal Suwarrow, it appears that he has taken the Mount St. Gothard, and is at present advancing along towards Atdorf and Schweiz.

I have the honor to be,
JOHN RAMSAY.

Extract of a dispatch from Lieut. Col. Ramsay, to Lord Grenville, dated

Head-quarters, Schaffhausen, Sept. 30, 1799.

Your Lordship has already, no doubt, received accounts, through France, of the calamities which have befallen us in this country, in which our losses have most probably been exaggerated to a great degree. Aware of this, I would, if possible, have sent your Lordship an earlier account; but it was impossible for me to give a correct statement of things, which was much worse to appearance when the army first arrived here, than at present.

General Petrasch has retreated from the different positions between Uznach and Rheinech, where it is supposed he has already passed the Rhine, and this part of Switzerland may be considered as completely evacuated for the present; it is the more unfortunate, as the successes of Field-Marshal Suwarrow would have rendered the success of the projected operation almost certain, if we had fortunately been able to retain our position. At present the Field-Marshal's situation will be rendered very critical, if timely notice has not been received by him of the retreat of the armies.