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## CONGRESS.

### House of Representatives.

WEDNESDAY, January 18.

Debate on Mr. Rodney's motion for the extinguishment of the Balances reported to be due by several States.

Mr. WILLIAMS of North-Carolina.--- This being a question of importance to the State I have the honor to represent, I will offer some reasons to the House in favor of the present resolution. I shall first contend that the act passed in the year 1790, was in violation of the original compact, which was entered into by all the States, establishing the principles by which each State was to supply her part for the support of the revolutionary war; and that by changing that mode it operated against the State of North Carolina. *Secondly*, that by the settlement which was made by the commissioners, injustice was done to that State.

In making these remarks, I do not wish to be understood by the House that they ever ought to go into an examination of that settlement, but if from the nature of things any one State can show how she was injured, that will have considerable weight, and be a good reason to abolish those debts which are said to be due from the several States. In the 8th article of the confederation, all charges of war, and all other expenses, that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of the common treasury, which shall be supplied by the several States in proportion to the value of all land within each State, granted to or surveyed for any person as such land, and the buildings & improvements thereon shall be estimated according to such mode as Congress shall from time to time direct and appoint. In the 12th article it is expressly declared, that the articles of this confederation shall be inviolably observed by each State, nor shall any alteration take place, unless such alteration be agreed to in Congress, and afterwards confirmed by the legislatures of every State.

But a gentleman from Pennsylvania, has stated, that Congress unanimously agreed to change the 8th article of the confederation; therefore the act passed in 1790, saying that each State should pay in proportion to the number of inhabitants was done by consent, and that consent would do away error; but if the gentleman will examine the case strictly, he will find he is wrong, for two States never did consent to alter the original mode prescribed by the confederation, and it is a principle, which cannot be denied, that wherever parties enter into a contract, they must all consent before it can be altered; and I take the question now before us to be similar; for each in her sovereign capacity, entered into that compact, and Congress had no more right to pass a law in violation of it, than we now have to pass a law directly in violation of the constitution which we have sworn to support.

I will now endeavour to shew that by changing the mode by which each State was to furnish her proportional part to support the war, it operated against the State of North Carolina. I believe after the close of the war, it was nearly ten years before the number of inhabitants was taken within the United States; during that period there was considerable emigration to that State, it being extensive in territory, and land very cheap.

But let us consider what is the comparative difference between the price of land in the northern States and in North Carolina. I believe, Sir, at the time this settlement was made, it was at least five to one; that is, one acre would sell for as much as five; therefore in the same proportion as our population increased, and the inequality of the value of land, so much was the relative proportion of the debt changed, and thrown on the citizens of that State; and whenever a capitation tax is laid, it always operates hard on that part of the community which are upon an equality, and not very wealthy.

I will now shew in what manner injustice was done to that State, in the settlement of the accounts. In the year 1781 the Legislature passed a law giving full power to the board of auditors to settle and liquidate the claims of individuals for supplies furnished during the war, and fix the price of articles. In 1783, a law was passed fixing the scale of depreciation, and under those existing laws the commissioners must have settled the accounts of that State, or it would be impossible for her to have been a debtor State. But it may be said that if the State passed laws which operated against her, it was not the fault of the general government. But at that time we had not adopted the federal constitution, therefore each State had a right to pass such laws as would discharge her from a heavy debt, which she had incurred in our struggle for liberty. Also the very situation of our country rendered it impossible for an accurate account to be kept of the supplies furnished by the different States, when an enemy was ravaging our country, and if one State should have the good fortune to keep her accounts more accurate, she ought not now to wish to exact the sums stated to be due from her sister States. I believe there were few States in the Union, which suffered more than the State of North Carolina, for she not only was ravaged by a foreign enemy, but a continual scene of distress was kept up by an internal enemy. A number of her citizens, after having furnished all they could spare to support our army, were perhaps the next day stripped of all their property and nothing left to support their helpless families.

It appears that Congress repeatedly recommended to the several States, as well for hastening the extinguishment of the debts, as also for the establishing of the harmony of the United States, to make liberal cessions of their territorial claims. The Legislature of North Carolina, taking the matter into consideration, not only made a liberal cession of her claims, but ceded all that extensive country, which forms the State of Tennessee. This I take to be a strong reason why she ought to be released from her debt. The gentlemen who have spoken against the resolution, I take it, have not stated any solid reasons why the debts should not be abolished; they have contended that the settlement made by the commissioners was a just one, and that it would be impossible to rectify the matter; and that if they release those debts the creditor States may be called on to refund the money they have received. I think neither of those positions are correct: for I believe the settlement was made in the dark, and in darkness it will remain. The total amount of the advances made by the several States as fixed by the final settlement is not known. Neither has the proportion of the debts been correctly ascertained. This matter has been kept a secret, and if the business had been conducted with such propriety, & settled fairly, why is it concealed from us? I am warranted to make use of these expressions from the proceedings of Congress.

After the adoption of the federal constitution Congress was anxious to bring the matter to a close, and labored some time to effect it, but at last they assumed a debt of upwards of twenty millions of dollars, whereas it was only necessary to have assumed about eleven millions of dollars, and the same result which now exists might have been effected, had they waited till the accounts had been settled; and thus they created a debt of upwards of ten millions of dollars. Therefore Congress have in the whole of their proceedings shewn clearly that they never intended to call on the debtor States, and that it was only necessary to make provision for those States which had a balance struck in their favor. Ought not then those creditor States to be content, when they have had their debt assumed by the government, and they are annually drawing interest for the same? and with respect to the objections which gentlemen have made, that by discharging the debtor States, it will be the means of destroying their debts, they are merely ideal. I believe there is not a person on this floor who is in favor of the resolution, that has any

such wish, neither do I think it ever will be attempted.

Some gentlemen have said if we release the debtor States, what is the quid pro quo. Have not the creditor States got their debt funded, and the faith of our government pledged for the payment? But independent of that, I think Sir, the liberty and freedom we now enjoy would be a sufficient quid pro quo. But there is one reason more which I think alone would be sufficient to extinguish those debts. The cause which gave life to them; that noble cause of liberty which gave to us our independence. It seems as if the God of nature had destined this happy land of America, the only asylum for liberty; and I would ask these gentlemen if it was not by the joint effort of all our sister States that we liberated ourselves from the hand of tyrants? Was it not owing to the supplies of the several States, be it great or small, that we are now breathing the air of liberty.

Was it not by that noble impulse which filled the breasts of the American people with a thirst for freedom that gave birth to our government? For in that momentous hour, when the fate of our nation was suspended on the wings of fortune, if one of our States had withdrawn her assistance from the Union, I believe we should not now be within these walls as Legislatures, but under the scourge of a monarch—and in order to unite us more permanently under our present form of government, I think it would not only be policy but justice to abolish these debts, which are said to be due, as it is impossible to know, whether they were settled on principles of equity and justice between the several States—and as it was a joint cause, & one which will always do honor to America as long as time shall last, I hope that the House will reject the report of the committee, and be of the opinion that the balances, which are reported to be due from the several States ought to be extinguished.

Mr. KENNEDY. Mr. Speaker—the State which I in part represent, being one of those that are denominated debtor States, and being strongly impressed with a belief, that the means by which she has become so, are improper, I conceive it my indispensible duty to submit to the House my reasons for forming such opinion.

In endeavouring to perform this task, the first point I shall attempt to establish is, that the act of Congress which fixed the ratio according to numbers, and under which the accounts were settled that produced these balances, was unconstitutional, and in order to prove this position, it may not be improper to give, for the information of those gentlemen who have not made themselves particularly acquainted with the subject, a concise statement of the proceedings of the old Congress, relative to the matter now under consideration—Permit me, Sir, in the first place to premise that when the King of Great Britain thought proper to commence a cruel and distressing war against the American colonies, for the purpose of reducing them into a state of passive obedience; it became their interest to unite for their security, and accordingly they associated and leagued together, under certain terms and conditions, the whole of which are contained in what is known by the articles of confederation, the 8th of which declares, that all charges of war and all other expenses that shall be incurred for the common defence, or general welfare, shall be defrayed out of a common treasury; which shall be supplied by the several States in proportion to the value of all land within each State, granted to or surveyed for any person, as such land, and the buildings and improvements thereon shall be estimated according to such mode as the United States in Congress assembled, shall from time to time direct, and appoint—and the 13th article thereof prohibits any alteration in any of them, unless agreed to in Congress, and which shall be afterwards confirmed by the Legislature of every State.

From which it may be perceived that the manner of settling, adjusting, and finally determining the proportions to be borne by the several States of the expenses of the war, was as completely

fixed and established as the same by language could be done.

In the year 1782, in order to bring the accounts relative to those expenses to a final settlement, Congress appointed commissioners for that purpose, and at the same time recommended to the several States, to authorize Congress in the final settlement of the proportions to be borne by each State of the expenses before mentioned, to adopt such principles as from the particular circumstances of the several States at different periods, might appear just and equitable, without being confined to the rule laid down in the 8th article of confederation—this recommended alteration did not meet with the approbation of all the States—of course it failed, and the article intended to be amended, or affected, thereby remained untouched and unrevoked.

In the year following, they formally agreed to revoke that article, and in place thereof declared that the charges and expenses of the war should be apportioned among the States according to numbers which was submitted to the Legislatures of the several States, for their ratification—but, in this, as in the first attempt they were also unsuccessful, some of the States deeming it contrary to their interest to adopt the same.

In the year 1787, the subject was again resumed by Congress; by passing an ordinance establishing a new board of commissioners with powers, to make a final adjustment of all the accounts agreeable to such quotas as Congress should thereafter determine. If, Sir, Congress meant by this ordinance to fix the ratio of expence, agreeable to the 8th article, and to empower the commissioners to make a final adjustment of all the accounts subsisting between the United States, and the several members thereof upon that principle, it was in my opinion correct; but if they intended thereby to declare their power of establishing the ratio upon any other principle, then I must be permitted to say, that the ordinance is in direct violation of the terms of the confederation, and therefore void—for I hold it to be a sound principle, that the old Congress had no power but what were expressly given by the then federal compact, and whenever they exceeded the limits by that instrument prescribed to them, their acts are intirely invalid—Having shewn, as I humbly conceive to the satisfaction of every reasonable gentleman, that the former Congress had no power to settle those accounts upon any principles, other than those under which they were contracted, I will omit further remarks on that point, and proceed to shew, that the Congress under the federal constitution, are equally as destitute of such powers.

Sir, after the most deliberate examination I have not been able to discover any thing in that instrument that either expressly or implicitly gives to them that power; but, on the contrary, I find the sixth article positively declaring that all debts contracted, and engagements entered into before the adoption of that constitution, should be as valid against the United States under the constitution, as under the confederation.

Will any gentleman pretend to say that when the expenses of the war are apportioned among the States according to numbers, that the balances would be precisely the same that they would be when apportioned according to the value of the surveyed or granted land and improvements? I trust that no one will hazard that opinion.

It follows then of course, that if the balances due any of the States upon the settlement of those accounts according to the principles fixed by the act, are less than what they would have been had the settlement been made according to the principles contained in the confederation, those balances being debts due from the United States are so far as they are reduced not as valid as they were under the confederation; therefore the act that fixes the standard by which they are reduced is contrary to the constitution and of course void.

By the 7th section of the first article of the same instrument, Congress has the power to lay and collect taxes, duties, imposts and excises, not to add to or diminish, but to pay the debts of the United States.

(See last page.)