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THE
SUBSTANCE
OF A
S P E E C H
DELIVERED BY
LORD VISCOUNT CASTLEREAGH,

In the House of Commons,

JULY 15, 1811;

ON THE SECOND READING OF

Carl Stanhope's Bill.

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THE
SUBSTANCE OF A SPEECH,
&c.

MR. SPEAKER,
SIR,

Not having been present when this Bill was discussed on the first reading, and as I may not have it in my power to attend its future stages, I am desirous of taking this opportunity of delivering my sentiments upon a measure, the principle of which may again, at no distant period, occupy the attention of Parliament, not only as applying to Great Britain, but to Ireland.

In arguing this question, I shall endeavour to conform to the suggestion of an Honourable and Learned Member (Mr. Brougham), by confining myself to the immediate subject of the Bill itself, abstaining as much as possible from a renewal of those general discussions on the state of our currency, which have so recently taken place. The view I take of this measure must necessarily be founded on the principles I then endeavoured to maintain, and, in founding myself upon those principles, I cannot expect that I shall work conviction on the minds of those, to whom I have been

hitherto opposed; but as my object is rather to consider, with the House at large, what course it is fitting Parliament should now take, and as I shall have occasion to assume but little in argument, which does not rest upon the collective judgment of the House already expressed, either legislatively, or by its resolutions, I think I shall best consult the convenience of the House by pursuing this course.

I shall begin by drawing the attention of the House to the state of the law as it now stands between debtor and creditor, including the case as between landlord and tenant, for which the present Bill goes to make a special provision. It is quite clear, the standard coin of the realm being the only legal tender, that, whether for rent, or for any other legal demand, the creditor is not bound to accept Bank-notes, in satisfaction of his debt; and that, unless the debtor can procure coin, with the single exception of the protection against arrest by mesne process, afforded by the Act of 1797, the creditor remains in full possession of all his legal remedies against the goods and property of his debtor, and ultimately against his person.

Under these powers it is competent for a landlord to distrain for rent, and to cause the goods of his tenant to be sold. It is also competent for him, in case of non-payment of rent due, to bring an ejectment for the recovery of the possession.

In the case of a simple debtor, although the person of the debtor has obtained a qualified protection against a summary arrest, the process against the property may be proceeded in to execution, and the whole be consigned to the sheriff for sale, if the plaintiff shall not prefer imprisoning the person of the defendant, till the debt is discharged. But here a new difficulty occurs: when the sale takes place, is the sheriff to make sale of the property for coin only, or is he to take Bank-notes, as has been hitherto practised? In the former case, it is obvious, a sale, for any thing like value, in the present scarcity of guineas, is impracticable. To proceed to sell by auction under such circumstances, would be, in truth, to give the property almost for nothing, to the person who accidentally had, at the moment, the means of collecting coin to bid for the goods; in the latter case, the sheriff would be no more capable, after the sale was effected, of satisfying the creditor with the proceeds, thus taken in Bank-notes, than the debtor, the owner of the goods, originally was.

The sheriff, under these circumstances, acting at his peril, and liable to action if he errs, must consider what directions the Court would give on the trial of such an action. A court of common law, I apprehend, as the law now stands, could neither take upon itself to defeat the remedy of

the creditor, to compel payment of his debt in the lawful coin of the realm, by holding a payment in Bank-notes, for goods sold by a sheriff, to be a legal payment: nor could it prevent a sheriff, who should think fit to refuse any other medium of payment than coin, however ruinous to the property of the debtor. Neither could the owner of goods distrained, as I conceive, bring an action for excessive distress taken, if the property sold, whatever might be its value, did not produce more in coin, upon the sale, than the amount of rent actually due; and in the latter case, the sale rests, in the first instance at least, with the person distraining, or his bailiff. What relief a court of equity could give, under all the circumstances, it is not for me to venture to pronounce; but I am sure relief, in such a case, the subject is entitled to receive, and further, that his just claim is to receive relief, not circuitously, and by an expensive or dubious process in Chancery, but that his protection should be clear, decisive, and direct.

In any ordinary case of public difficulty, in its nature constituting a clear impediment to the sale of property for any thing approaching to its true value, to enforce a sale would be inconsistent with justice. In cases of foreclosure of mortgage in time of war, this principle has been already recognised: but the present case does not depend

simply upon general grounds of equity; it arises out of an express provision of law, prohibiting the Bank from fulfilling its engagement with the holders of Bank-notes; and the question is, whether the arm of the law shall be directed against the debtor, to compel him to perform that, which an act of the Legislature, enacted for the wisest purposes, and for the general good, has rendered it impracticable for him to perform.

If such is the law of the case, and that the debtor holds his property, under the impossibility of turning his notes into gold, and even his personal liberty at the mercy of his creditor, I may venture to appeal to those who now countenance Lord King's demand to be paid in coin, whether they believe, that such a system was contemplated when the Suspension Act passed in 1797, as one which could be acquiesced in, if attempted to be enforced. Upon what ground was it that Mr. Pitt resisted the late Sir Francis Baring's suggestion of at once making Bank-notes a legal tender? Upon what grounds did he resist the precise proposition which the present Bill contains, when moved by a worthy Alderman (Combe) and supported by Mr. Fox, but on the ground of both being, as things then stood, unnecessary? That Mr. Pitt's judgment was not very erroneous in so deciding, the uninterrupted experience of fourteen years sufficiently proves; during which

extended period, not a single instance has occurred, in Great Britain, notwithstanding the price of gold has been at times much beyond the Mint price (in 1801 as high as 4*l.* 6*s.*), of any creditor, landlord or other, refusing to accept notes of the Bank of England, at par, in payment of a debt.

It was the policy of Parliament, at that time, to avoid, if possible, any enactment on this delicate point; they trusted that the universal conviction, which pervaded all mankind, of the solidity of the security on which Bank-notes were issued, as well as of the importance, for the interest of all, that their credit should be upheld, would insure their being invariably received at par. It was one of those occasions, on which a conventional acquiescence that they were to be received as cash, seemed to leave nothing for Parliament to do, at least in the first instance. They wisely preferred, on such an occasion, the protective influence of a moral principle to a premature attempt, by enactment of law, to provide for difficulties, which it was hoped never would occur; under the security of such a principle, the country has lived, and prospered since the Bank restriction Act passed. My Lord King has been the first person to emancipate himself from its influence, and to introduce a practice, to say the least, perfectly novel in Great Britain.—It is not for me to impeach the motives of any individual,

availing himself of rights, which the laws of his country furnish him with the means of asserting. I am bound to suppose, from the character and endowments of the Noble Lord, that he acts from an honest conviction, that he is claiming from his tenant, what he thinks not merely lawful, but strictly just. Denying however, as I do, the justice of the claim, and believing that Parliament never did, nor could intend to suffer the law so to stand, except under an expectation, that, during the continuance of the Suspension Act, it would not be put in force, I consider that, in consequence of this exercise of an extreme legal right on his Lordship's part, the duty of rendering their former measure consistent in point of justice with itself, has devolved upon the Legislature; a task, from the performance of which, however painful, and in some respects difficult in the execution, I trust Parliament will not shrink.

But it is said, Will you interfere between my Lord King and his tenant in matter of contract, and by an *ex post facto* law disturb and alter the rights of the parties? I cannot consider the proposed relief as an *ex post facto* law. I consider it rather as declaratory of the true intent and purpose of the Act of 1797; and I deny, in any equitable view of the contract subsisting between

Lord King and his tenant, that it can be enforced in the manner proposed by his Lordship.

I will take the two cases his Lordship puts, of leases granted by him prior, and subsequent to the passing of the Bank Restriction Act in 1797; and I will suppose the usual covenant, binding the tenants to pay the rent reserved in the lawful coin of the realm, to be found in both. I will, on the case thus stated, put it to any fair man to say, notwithstanding the letter of the bond, whether, when the bargain was made, the fair understanding between the parties was not, that payment would be accepted in Bank-notes? It is true, in the former period, Bank-notes were convertible into cash, but it is not the tenant's fault that they have not continued to be so convertible; but in the latter period, it was distinctly foreseen when the lease was signed, that, so long as the restriction on the Bank continued, the Notes of the Bank of England would not be convertible into cash upon demand. Upon this state of facts the parties treated, and the scale of rent was agreed on. Now I deny, that it was any part of the understanding, that the tenant, in the former case, was to pay, or could pay, such a rent in guineas, supposing a case so perfectly new and unforeseen as that which has really occurred; to happen; and still less in the latter case, where the rent was fixed, the prohibition on the Bank being then in existence, and no intimation

given to the tenant of any intended departure from the established practice of accepting Bank-notes in discharge of the rent at par.

If the grounds on which the landlord considers that his interests have been affected, had originated in any Act for which his tenant could be deemed responsible, or if it had grown out of the ordinary course of events, which the parties to the contract might be bound to advert to, in making their bargain, I can understand the claim to compel the tenant to submit to a new mode of payment, so infinitely disadvantageous; but, when the tenant has done nothing, and Parliament every thing (Parliament having acted for the public good, upon which it is the province of Parliament exclusively to decide), I do not see upon what principle of justice, one party can expect to receive his full share in the advantage resulting from a measure of general policy, throwing all the inconveniences of it upon the other party to the contract.

But let us see how far the sense of Parliament has been already declared upon this principle, not merely in the speeches of individuals, but on the face of the Restriction Act itself. That Act expressly provides, that the notes of the Bank of England shall be received as cash in all revenue

payments, thereby constituting them a legal tender in all debts from the subject to the State. It may be said, that, for the State to lend this aid to the credit of Bank paper, might be a very wise expedient, that it operated as an indulgence, which, where the debt was due to the State, the State was competent to confer, and that no contract was violated, or individual right thereby injured; but what was the provision made by law with respect to the dividends payable to the public creditor? It is true no express enactment declared that Bank-notes should constitute a legal tender in such payments, but no exception was made in favour of the public creditor in the prohibition against cash payments, and, in point of fact, he has had no other option since that Bill passed, but to accept Bank-notes at par, or to remain unpaid. Here then was a matter of contract of the most sacred description, between the public and individuals, upon which the law declared, that payment in coin should not be demandable during the continuance of the Bank Restriction Act, Can it be contended that the Legislature meant in matters of contract, that one law should prevail between the public and the individual, and another between private persons? that the public was to receive an indulgence from their creditors in the nature of their payment, which the

individual debtor had no claim to expect from his creditor? I am aware it has been argued, that, supposing an act of national bankruptcy to have already been committed towards the public creditor, that can form no motive or justification for authorizing a similar violation of contract between man and man. I shall hereafter have to deny, that any such failure in the equitable discharge of its engagements can be imputed to the State. I am confident, that the framers of the law did not so interpret its operations; and if, from the necessity of the case, the Legislature felt itself compelled to take from the public creditor the means of receiving coin in satisfaction of his demand, is there any imaginable principle of equity, upon which it could mean to compel individuals to do that, which the State was unable to perform? or, to state the fact more truly, that having, for the general interest, prohibited the Bank from fulfilling the letter of its contract, in respect to cash payments, with the holders of its notes, it should mean to compel the holders of those notes to fulfil the letter of their engagements with respect to cash payments towards their creditors?

The declared ground on which the Legislature passed the Restriction Act was, to protect public and private credit against the calamity of the Bank being obliged to discontinue its functions; in-

volving, as the necessary and immediate consequence of such discontinuance, the ruin of all private banks, and the extinction of the entire circulating medium of the country, so far as it rested on banking credit. Parliament was morally justified in passing that law, first from a conviction, that, whatever the evils of such a temporary interruption to the legitimate money system of the country were, they were upon the whole less than the evils to be apprehended if things were allowed to take their course: and secondly, from there being no reason to presume, that Bank paper, so long as its issues continued to be regulated upon the principles which had hitherto governed the conduct of the Bank of England, would, as a medium of circulation, lose any part of its value, compared with the commodities generally of the country.

I do not mean to renew the argument on depreciation in detail, but I must here re-assert, as my deliberate judgment, trying the fact upon the only sound principles upon which it can be examined, that, at this day, the notes of the Bank of England are not depreciated, under any fair sense which can be affixed to that term. I admit they are not convertible as formerly at pleasure into coin, nor can they purchase, in the market, the same quantity of standard gold; but this, as I con-

ceive, arises solely from causes affecting the value of gold, both in its coined and uncoined state. With the exception of the precious metals, Bank-notes have the same powers of purchasing all other commodities, which they would have had at this day, if no necessity for shutting up the guineas in the Bank, or for sending gold abroad in unusual quantities, had ever occurred. X

Such, at least, is my belief. Such I wish to be understood by the Noble Lord (Folkestone), is the sense, in which I deny that Bank-notes are now depreciated. Upon that conviction my conduct, as a Member of Parliament, must be guided, and under it, I do not consider that any injustice or act of bankruptcy has been committed towards the public creditor, by affording him no other option in payment of his dividends, than Bank-notes at par: and I am further prepared to contend, that any person, who in the present state of things endeavours to avail himself of the letter of his contract, to force payment in cash, adopts a course of conduct altogether inconsistent with its spirit and equity, and assumes to himself not only an undue advantage over his creditor (both being in duty bound to bear their fair share of the inconveniences arising from the contest in which we are engaged), but that he is taking to himself, under the colour of law, an advantage beyond

M. Rose Esq

x Sum of 200 Guineas

what could have accrued to him, had the currency of the country remained undisturbed. ✕

That my Lord King does not mean to submit to his fair share of the inconveniences of the times is obvious, from the principle of his claim being, that his tenant should put him, at whatever expense to himself, precisely in the same situation in which he would have stood, as to the medium of payment, if no Restriction Act had passed, and the tenant had nothing to do but to present his notes at the Bank to have them converted into coin. Now what are the tenant's means at present of procuring guineas to pay his rent? Can he procure them in exchange for the produce of his farm, without selling that produce at an enormous loss? Can he procure them in exchange for Bank-notes, without giving a premium, and violating the law as it has always been understood to stand, till the late judgment in De Yonge's case, and as it will stand hereafter if the present Bill shall receive the sanction of the Legislature? But supposing the purchase of gold at a premium not to be illegal, with so much coin shut up in the Bank, so much in the last ten years melted and exported, to what a price must not guineas rise if all tenants upon lease are compellable to pay in coin? If the local practice of paying rent in gold, a practice in late years confined to the north of Ireland, has had the effect, in the

present scarcity of coin, to raise the premium upon guineas as high as 15 per cent. to what height must it not rise, if the competition for the limited supply of coin now in circulation, were to become general throughout the empire?

But it is said the Noble Lord does not insist upon an actual payment in guineas; such a demand, in the present absence of coin, it is admitted, would be oppressive: he gives his tenants the option of paying in foreign coin, or standard gold, the weight to be the same as if the payment was to be made in guineas; or the rent will be accepted in Bank-notes, the tenant paying the additional sum requisite to purchase the amount of gold at the market price of the day which the guineas would weigh. The first observation which occurs upon this is, that the relief thus held out is wholly arbitrary in its principle, and, as I shall contend, most unjust in the nature of the criterion by which it is measured. It is arbitrary, inasmuch as it is discretionary, whether it shall or shall not be afforded; and I must be permitted to observe, that it is not a very pleasant situation for a tenant to stand in, nor a very seemly one for the law to permit him to be placed in, that it should depend upon the indulgence or forbearance of his landlord, whether he shall be confined in a gaol, or his property be dissipated, to procure guineas, the law having deprived him of his accustomed means of

procuring them from the Bank. Lord King, from liberality to his tenant, from a sense of the oppressive consequences of an unqualified demand of coin, may extend to him this, as I shall hereafter contend, most inequitable species of relief; but what security have we, watching over the interests of all the subjects of the realm, that the process, by which the Noble Lord is enabled to dictate such terms, as he thinks reasonable, to his tenant, may not, in the hands of a less liberal, perhaps of an oppressive, an avaricious or a vindictive landlord, be made the instrument of consigning many honest tenants to a prison, whilst others may have their property sacrificed by improvident sales, or be deprived, by ejectments, of subsisting interests in beneficial leases.

To leave the tenantry of the country under the lash of such a principle of law, if it is the purpose of any individual in the community to call it into activity, I venture to assert, would be wholly inconsistent with the protection which the subject is entitled to claim at our hands. I might doubt, when this Bill was first introduced into the other House of Parliament, whether the necessity for taking any legislative measure upon the subject, was sufficiently made out; but, when the Noble Lord candidly and honourably avowed and justified, in his place in Parliament, his intended en-

forcement of the notice he had given; and when the probability of an example from a quarter so respectable being followed by others, justified as it had been in argument, was weighed, I own I could no longer doubt that it became Parliament, before it separated, if not to supply a complete remedy against every possible misapplication of the law to compel payments of such a nature, to provide some measure, which might at least protect the tenant during the recess, and mark the disposition of Parliament, if the principle should hereafter be persevered in, to meet it with corresponding correctives: the equitable claim of the tenant and all other debtors being, in my judgment, distinctly this, that so long as the law shall continue to prevent the Bank of England from paying their notes in cash, so long ought the Legislature, by special enactment, to interpose and stay process, either against the person or property of debtors, who shall tender Bank-notes to their creditors in satisfaction of their demands.

But to return to the injustice of the arrangement itself: I will assume, for the sake of argument with Lord King, that, in a lease granted before the year 1797, the landlord's interest has been disturbed by late events to his prejudice, and to the advantage of his tenant, and that he is equitably entitled to some indemnity (the reality of which case I beg I may not

be understood however to admit), I still must contend, that the principle upon which my Lord King has laid claim to measure the extent of the indemnity, is an unjust one. His Lordship assumes its equity, as it is no more than requiring a specific performance of the covenant, with certain voluntary relaxations of it on his part, for the accommodation of the tenant; but I contend, that the equity of enforcing the specific performance of such a covenant ceased with the first enactment of the Restriction Act, and that the conditions on which it is now proposed to be relaxed, subject the tenant to an increase of rent, not to be regulated upon any fairly ascertained change of value in the Bank paper of the country, for which alone the farmer sells his produce, but which is to be governed, either by the price of guineas, which must rise in proportion to their scarcity, were even the purchase of them permitted by law; or by the price of gold, which has been raised 20 per cent. by the disturbed state of our intercourse with the Continent, and may be indefinitely raised. If such a criterion is to be admitted to regulate the additional payment to be made in notes, what tenant can foresee what rent he may not be called on to pay? All he knows is, that it is not a fixed and determinate amount of the prevailing currency of the country, but that it depends on the extent of

our expenditure abroad, the balance of commercial payments, and the state of the exchanges, which must always govern the price of gold, whether the additional amount of rent, which he is subject to (if he is indulged with the permission to pay in Bank notes at all), shall be 20, 30, 50, or 100 per cent. beyond the rent specified in his lease; for who can say, in the present obstructed state of our intercourse with the Continent, when freedom of circulation is at an end, to what extent the price of that article may not rise, namely gold, which is the only commodity, which when it has evaded the vigilance of the enemy, and reached the Continent, can expect, as an article of property, effectually to secrete itself, and to escape being either confiscated or burnt.

Can it be contended for a moment, that it should depend on the caprice or power of the enemy, or upon the extent of military expenditure, which his own government may think fit to carry on abroad, whether a tenant, holding lands upon lease, shall pay more or less rent? yet such must be the result, if the principle contended for by Lord King is admitted. I would put the issue of the whole argument upon this simple question, and allow the Noble Lord to answer it himself, whether, if his tenant had been apprized, previously to his signing the lease, that

such a state of things would have arisen, within the period of the contract; that it might continue for an indefinite length of time; that, in such case, Bank-notes would not be accepted in discharge of the rent agreed upon; but that he must either find guineas, when the Bank was prohibited from issuing coin; or pay an increased rent in notes equivalent to whatever increased price gold might rise to, under the operation of the Berlin and Milan decrees, and the expense of the war in the Peninsula; whether, upon such a statement, the tenant would have signed the lease at the rent then agreed on, making his person and property liable for the fulfilment of so indefinite, and perhaps so ruinous a bargain.

But I contend for it, if Lord King's rent were paid in gold, as he proposes, or in notes with the additional sum calculated according to the market price of gold, that he would obtain an undue advantage, proportioned to the excessive price which gold now bears. He may say, that the rent agreed on was a rent in gold; nominally it was, but not in practice, as understood between the parties; but even as a rent in gold, it was a rent in coin not saleable nor exportable, instead of a rent in Portugal gold coin, or standard gold, as proposed by his Lordship's notice, both of which are ex-

portable, and sell in the market at four shillings an ounce higher than the gold, which cannot be sworn off for exportation; so that, even in this light, the demand is unreasonable; the augmentation of rent thus imposed may not be beyond the power of the tenant to pay, his bargain having become a profitable one, from the lapse of his term: but this progressive benefit the landlord can have no pretence to share; we must presume it was purchased in the original terms agreed on. The tenant's bargain cannot be proved to be a better one now, regard being had to the prices obtained for produce, than it was in the year 1808; yet then there was nothing in the state of the exchanges, nor price of gold, which enabled my Lord King to assume, that Bank-notes were depreciated, or to demand, upon the principle of his notice, an increased rent if paid in notes. Is it then reasonable, if no peculiar profit has accrued to the tenant in the last two years, that he should be liable, holding under a lease, to an increase of 20 per cent. on his rent, with a chance of being still further raised, merely because an adverse exchange, arising from commerce obstructed and an immense foreign expenditure on the part of Government, has thrown up the price of gold in the market of Great Britain to an unusual height.

from which the farmer, having none to dispose of, receives not the smallest advantage?

But it is represented, in justification of the arrangement prescribed in Lord King's notice, taking the average of wheat between 1786 and 1797, that it then required 18 quarters of wheat to pay a rent equal in value to a pound weight of gold, which, at the price of the day, viz. the Mint price, amounted to $44\frac{1}{2}$ guineas; that on a similar average, between 1782 and 1806, $14\frac{1}{2}$ quarters would pay the same rent, at the then medium price of gold, viz. 4*l.* 2*s.* per ounce; but that, during the last five years, according to the average price of wheat taken at 85*s.*, and gold at 4*l.* 7*s.* per ounce, the same rent might have been paid by something less than 14 quarters.

The first observation which occurs upon this statement is, that Lord King's bargain with his tenant was for a money, and not a corn rent—a distinction highly material to be taken, as the former throws all the effects of increased expense of cultivation upon the landlord, the latter upon the tenant; a given sum of money, receivable annually in rent, will purchase less of other articles, in proportion as their price is raised by additional taxes, and other expenses affecting their reproduction; whereas a given quantity of corn ought to sell for what will cover all the new ex-

penses attending its growth in rent, tithe, taxes, &c. in addition to its former price. Now if the additional charge under which wheat is grown in Great Britain, since the commencement of the period referred to, viz. from 1786, including the improved mode of living adopted by our farmers, an incident which must influence price, is considered, it will pretty sufficiently account for the increased value of wheat, without imputing it to a depreciation in Bank-notes. Indeed, the case disproves itself; for all the facts upon which the reasoning is founded, existed in full force in the year 1809, when gold was only 4*l.* per ounce, and when, according to the new theory, Bank paper was not depreciated, being at par, or nearly so, with gold, as measured by the Mint price. Besides, it may deserve notice, that during the period of comparison, not only the scale at which foreign corn is importable, has twice been raised, but the grain imported in the two later periods of comparison, viz. from 1802 to the present time, has been imported, under all the accumulated charges of war-freights, and consequently has not had the same influence in keeping down the prices of grain in Great Britain, as the foreign corn imported between 1786 and 1797 had, when we were either at peace generally, or in amity with those States, from whence our supply of grain is usually drawn.

There is only one other view of this subject I am desirous of taking, before I dismiss this branch of the argument. Lord King seems to think his own case a hard one, and he charges his misfortunes against the Restriction Act; but let us see in what situation his Lordship and his tenant would have stood reciprocally, if that Act had never passed, and matters had been allowed to take their course. It must be in some measure matter of opinion, what would have happened had the Legislature not interposed in 1797. Lord King may see it in a different light, but my conviction is, that public and private credit would have been, for the time at least, destroyed by the Bank of England, and consequently all private banks, being obliged to discontinue their functions. I do not therefore infer, that we should have been left without a circulating medium; I have no doubt we should have had one, and that our currency would have been composed of the precious metals almost exclusively; but we should have been reduced very much to the predicament in which France now is, possessing, it is true, a metallic currency, but destitute of those means of active circulation, growing out of individual and public confidence, which can alone sustain with effect the industry

and exertions of a great, commercial, manufacturing, and warlike nation.

In such a state of things what would have happened to my Lord King and his tenant? Supposing the rent agreed upon previous to the events which led to the passing of the Restriction Law to have been a rack-rent, a rent upon full value, which upon a tenure of such an extent, in justice to the landlord it ought to have been, is it possible to suppose, that such a bargain could have stood, if the banking system of the country had been broken down? The immediate consequences of such a convulsion, had it been suffered to realize itself, must have been, that Lord King, for his own sake, would have lowered his rent, perhaps one half; what then would have been the situation of his tenant? he would have found himself cultivating at a reduced rent; and although, in common with every other member of the community, he must have suffered from the general distress, he would at least have found no difficulty in preserving his lease, by paying his rent in the standard coin of the realm, as coin would then have been the medium in circulation, and consequently the currency receivable at market in payment for produce. Obligated to accept a reduced rent, I cannot persuade myself, that Lord King would have stood

*We should have had Peace
and Lord King might not
have been subjected to the same*

he never
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in a better situation at this day, than he now does, whatever his tenant might, should he be obliged to submit to this new mode of payment; by which the Noble Lord appears to claim the advantage of both systems, of the one which would have destroyed, and of the other which has preserved the Bank; whilst he expects his tenant to abide by the inconveniences of both; that is, to pay an amount of rent, with reference to the latter state of things, in a description of currency, only to be found in general circulation in the former.

I have been induced thus to dwell upon the principle of Lord King's notice, because in truth the Bill originates in that document. It is impossible to argue the question, as affecting the public, without bringing forward the Noble Lord's name, and discussing the demand made as his measure. I have done so, I trust, without personal disrespect. My object has been, without reflecting on the Noble Lord's intentions, to argue fairly, whilst I protest strongly, against the course his Lordship has pursued in the instance before us.

With respect to the enactments of the Bill, they are principally open to objection, as an imperfect remedy to the case to be provided for; they protect the tenant against summary distress,

but they leave him exposed to all the other legal remedies, with which the law arms a creditor against the person and property of his debtor; but I look upon the Bill as a legislative declaration on the principle of the question, the import of which cannot be mistaken, and it has my approbation as such. I trust it may be unnecessary to go further; but if it should, Parliament, I hope, will not hesitate in performing the duty, which may in that case be cast upon it.

With respect to the other provisions of the Bill, namely, those which render it a misdemeanor to receive more for a guinea, or less for a Bank-note, than their standard and accustomed value, I consider them as of very subordinate importance to the clause we have been hitherto considering. So far as the clause prohibiting Bank-notes from being received at less than the sum for which they were issued, may render it illegal to claim, or accept them in discharge of a debt to a greater amount, that is, at a value inferior to their nominal value, it meets precisely the case to be provided for, and it puts the creditor in the situation I wish to see him placed in, that is, that he shall be obliged to accept the notes of the Bank of England at par, or not at all, whilst the Bank Restriction Act lasts. The other prohibition against pur-

chasing the coin of the realm at more than its legal value, is of less consequence, but may be of some use, as tending to discourage a traffic in guineas, a practice novel at least in this part of the empire, not requisite if creditors are protected from the species of demand, against which I have been contending, and which is principally carried on by persons, who make a trade of melting, and exporting our standard coin, a practice which law cannot prevent, but which it may be expedient, as far as possible, by penalty, to check and counteract.

The object of the Bill is not by law to attempt to give to a guinea, or a Bank-note, a compulsory value; no law could have this effect; and it would be unjust, if it were possible that it should. In all prospective bargains, where the parties know what is to be the medium of payment, whether guineas or Bank-notes, no law can, or ought to restrain them from framing the price of the commodity sold, with reference to their opinion of the real value of the currency to be received, whether it be a value depending upon credit, or the intrinsic value of the medium itself. The intention is to deprive creditors, during the interval of cash-payments being suspended at the Bank, of the power legally to compel debtors to pay them Bank-notes, at less than they are actually worth. If

the process of the law, which was framed to compel payments in standard coin, when coin could be procured, is now to be used, as an instrument to impose arbitrary conditions of payment, when coin cannot be procured, Bank-notes may become depreciated in public estimation. If they pass, as in justice they ought to do, in the eye of the law, at par between man and man, they are not likely to stand depreciated in the daily transactions of life. Every man in the community ought to have a common interest in upholding their credit, which will not be the case, if creditors are allowed to dictate the rate at which they alone will consent to receive them. With these views, I am disposed to support these clauses, as regulations salutary in themselves, in aid of the main object, which, I must again repeat, is, that the paper of the Bank of England shall not be exacted, under colour of law, as a depreciated medium in payment of debts; being myself convinced, that it is of a value which entitles it, both in equity and in justice, to be accepted at par.

I shall not detain the House by combating the assertions brought forward, that the present system must lead to a *maximum*, and that the fact of depreciation is confirmed by the existence already of two prices, a gold and a paper price. It is enough to remark, that the measure of a *maxi-*

num can never be a rational relief, even in the most undisguised and extravagant state of depreciation to which paper-currencies (wholly dissimilar, be it remembered, to ours) have ever been reduced. No human tyranny could render a law of *maximum* other than an expedient to starve a community, and to aggravate both public and private distress. It would be a waste of time to contend against the applicability of such a system to a currency such as we possess, the solidity of which no man doubts, and which preserves its value, at this moment, compared with all other commodities except bullion, as steadily as it did in the year 1800, when the present excessive price of gold took its rise; and as to the question of two prices, if the fact of such a practice prevailing was proved, still I should deny, that this necessarily established the fact of depreciation: on the contrary, I should contend, that this must happen, whenever a difference of value takes place for any length of time between bullion and Bank paper, as the price of bullion will sooner or later, through fraudulent operations on the coin, affect, to a degree, the value of guineas; but, as I maintain, that this disparity of value may as well arise from the value of guineas being raised, either from the cause I have now referred to, or from their scarcity, as from the value of Bank paper being depressed; and as every test at this

moment conspires to prove, that gold has greatly risen, and none, when fairly examined, except the comparison with gold itself, suggests that Bank-notes have fallen; were even two prices as universal here, as they have been in the North of Ireland for years, I should still say, that the depreciation of Bank-notes, in the practical or ordinary sense of that expression, was by no means the necessary consequence; and that depreciation could not be truly imputed to the paper of the Bank of England at the present moment.

Having argued against the mode of payment insisted on by my Lord King, and, as I trust, established its injustice, it may be asked how it comes that a system, which is unjust in Great Britain, should be tolerated in Ireland, and why, when Parliament is legislating upon this subject, Ireland should be specially excepted out of the Bill? The question is a fair one, and I shall endeavour to assign satisfactory reasons, for not at present extending the measure to Ireland, more especially at this late period of the Session, and in the absence of the Members from that part of the United Kingdom.

When it is stated, that the practice, which it is intended by this Bill to prohibit in Great Britain, has long prevailed in Ireland, it is material to distinguish between the practice of Ireland generally,

and of a few of the northern counties, perhaps not more than four or five in number. In all other parts of Ireland, the rents have been invariably paid in Bank-notes, and I have never heard an instance of any landlord refusing to receive them at par. The practice in the northern counties, where the rents are paid in coin, is very distinguishable from Lord King's case. In those counties, no other medium than coin has ever been taken for rent. Guineas have been uniformly the medium of payment between landlord and tenant, both before and since the Bank Restriction Act; and guineas have, at all times, borne a premium in the North of Ireland. The only new feature in the Irish case is the increased amount of the premium requisite to procure guineas. In November last, when I left Ireland, it did not exceed from 2 to 3 per cent. It has since risen as high as 15 per cent., but has latterly fallen considerably; whereas, in Great Britain, the uniform practice has been, to pay rents not in coin, but in Bank paper; and no instance has occurred, till the present, of its being refused to be accepted at par.

The Irish landlords appear then to have a much stronger claim in equity, to adhere to a practice long established between them and their tenantry, and which has been therefore no surprise upon the

latter, than my Lord King has to introduce, at this moment, a novel mode of payment, under a dormant stipulation in a lease; and it is not a little remarkable, that the same set of circumstances which have determined Lord King to adopt, for the first time, the Irish practice, should have induced the landlords in Ireland, if not to abandon, at least materially to relax theirs; for they not only have very generally, for the accommodation of their tenantry, consented to accept their rents in Bank-notes; but they have accepted them on terms much more favourable to their tenantry, than a rate calculated on the premium of the day for guineas. A premium, it is true, has generally been required, seldom however higher than from $2\frac{1}{2}$ to 5 per cent.; but nothing approaching to the scale of Lord King's demand has been adopted as a general practice in any part of Ireland.

Whilst I contend that the practice at this moment in the North of Ireland, between landlord and tenant, is one of much greater indulgence to the tenantry, than the rule Lord King is inclined to lay down; and whilst I consider that the state of things in that portion of the United Kingdom, growing out of a long-established usage, which has of late been accommodating itself to the convenience of the parties, rather than taking any

novel shape of disadvantage to the tenants, do not constitute a case of such pressing inconvenience, as should induce Parliament, in the absence of the Irish Members, to enter upon the consideration of a question of so local a nature; I am at the same time free to confess, that, if the practice in the North of Ireland should not take some more settled shape, before the next Session of Parliament; and if the difficulty of procuring coin should continue to be as great as it has latterly been, it may become necessary to apply a legislative corrective to the evil; for an evil it must be admitted to be of the greatest magnitude, that between the landlords and tenantry of a country, no fixed rate of payment should prevail; but that it should be at the discretion of each particular landlord to decide, whether his tenant is to pay him, as an inducement to accept Bank-notes, the full premium at which guineas are bought and sold, which has been as high as 15 per cent. and may be still higher; or whether he is to pay at an inferior rate, and what; for however cash payments, in those particular counties, may rest upon ancient and uninterrupted usage, yet it must be admitted, that it has become a very new question in practice between the parties; and it is impossible not to foresee, that great public inconvenience and discontent is likely to be produced,

by the unequal measure of indulgence different landlords may think fit to deal out to their tenantry under such circumstances.

I have before observed that a premium on guineas has always prevailed in the North of Ireland, even before the Bank Restriction Act took place. There being at that time no private banks issuing notes in that part of the kingdom, whose business led them to hold cash at the requisition of the holders of their paper, the usual mode by which dealers, who came from a distance to purchase linens, or other commodities with Bank-notes, or credits upon Dublin, obtained any considerable supply of guineas, was by applying to the agents of men of property, who supplied them with what they required at a premium, varying according to the supply and demand in different parts of the country. The same practice prevailed, under the authority of Government, in the payment of the army. The paymasters of regiments procured gold, by similar means, to issue the subsistence to the troops; and were directed to charge the premium paid for guineas in their contingent accounts with Government. So established was this practice, that I recollect when Mr. Pelham (now Earl of Chichester) was chief Secretary in Ireland, for the purpose of introducing greater economy into the charge of converting Bank-

notes into the guineas requisite for the army, that district paymasters were appointed to superintend this branch of the public service.

It may be said, why then prohibit by law a practice in England, which has so long prevailed without inconvenience in Ireland? and the Honourable and Learned Member (Mr. Brougham) has recommended, that coin, like all other commodities, should be suffered to find its own level, and he has argued, that this would operate advantageously in bringing back coin, and in keeping it in circulation. Perhaps no serious inconvenience would arise from such a practice prevailing, so far as ready-money dealings are concerned; but when the question is, what the law can in justice enforce in satisfaction of a debt, the practical objection to the Honourable Member's suggestion shows itself; it by no means follows, that a system which may have prevailed in a corner of the empire for a length of time, without any serious inconvenience, may not, if suddenly extended to the whole empire, be productive both of mischief and calamity: but it is not true to suppose, that no inconvenience has been experienced with respect to a circulating medium regulated upon such principles, even in the limited portion of Ireland where it has prevailed. From the scarcity of guineas, and their consequent

high price (coin being the only medium in which transactions were conducted), the inconvenience became so great, that, by general consent, Bank-notes became the prevailing currency in ordinary dealings, and it is only in discharge of rents, that payment in guineas has been latterly required. Even on this reduced scale of demand for guineas, considerable difficulty has occurred in procuring the necessary supply, and the premium has at times become excessively high; how great then must be the difficulty, and the premium, if the demand for coin as a medium indispensable to the payment of rent, should be extended over the whole empire; and what an unjust scale would such a competition for guineas afford for regulating an increased payment of rent in notes! nothing could be more accidental, fluctuating, and oppressive, than such a standard; unless it was the price of gold itself, when the continental exchanges are under the control of the enemy, and when all freedom of circulation is at an end.

I admit the principle contended for by the Learned Member, that such a premium has a tendency to preserve guineas in circulation, and to counteract the profit which leads to their being melted and exported; but, for the reasons already stated, it never can be recognised as a just mea-

sure to regulate the rate or value, at which another currency shall be received in liquidation of a debt. As a new regulation in this country, I am not aware of any benefit which could result from it, possessing, as we do, a currency adequate to all our internal wants, and, in my judgment, neither depreciated, nor liable to depreciation, so long as its issue is regulated upon those principles which have hitherto governed the conduct of the Bank of England.



In Ireland I can conceive such a practice may have had salutary effects. It has tended to preserve, to a considerable degree, a metallic currency in circulation, in a country whose national Bank did not possess the same proportionable capital as the Bank of England; and in which private capital does not yet much abound for the establishment of private banks. It was, under such circumstances, advantageous, that the transition to a circulation, in which Bank-notes were to preponderate, should be gradual; that the efforts of credit to supply the demand for currency should be made with circumspection, both on the side of the issuers and receivers of notes; and above all, it required time to reconcile and to accustom a population, habituated exclusively to coin, to the use of notes, to judge of their reality, of their preservation, and of the steps they were

to take when the notes were worn out to have them renewed. That transition has been silently taking place, and, I am induced to believe, is so far matured, that no shock to credit or industry need now be apprehended in Ireland, from any regulations which Parliament in its wisdom may deem necessary to adopt for the administration of justice between man and man.

The House will, I am sure, excuse my having detained them so long on the question as applied to Ireland. The exclusion of that country from the provisions of the Act appeared to me to require to be examined; and I was the more desirous of offering some general remarks on the peculiar state of the currency in that part of the United Kingdom, from the misconception which has prevailed with respect to it, more especially observable in the Report of the Committee in 1804 on the Exchange between Great Britain and Ireland.

With respect to the extent of the Bank issues, and particularly whether some limit to their amount ought not to make a part of the present Bill, as a security against depreciation arising from excessive issues, I certainly am one of those who admit that mischief might arise from a disposition in the Bank improvidently to extend their circulation of notes; at the same time, I must say, that the facility of committing such an abuse, as

well as the temptation to do so, so far as the motive of personal interest can be supposed to influence the conduct of the Bank Directors, has been most unreasonably exaggerated in argument. I am also ready to admit, that, in proportion as the system founded on the Bank Restriction Act is protracted in point of time, and fortified by provisions, such as the present Bill contains, it becomes more strongly, not only the right, but the duty of Parliament, to impose such restraints upon the Bank as may appear calculated to protect the community at large against any improper employment of the discretion, which is now exercised by the Bank. It is not therefore under any doubt of what the right, as well as the duty of the House is, nor yet of the principle, that a due caution on the part of the Bank is necessary to be observed, with respect to the amount of their notes in circulation, that induces me more than to doubt the expediency of such a regulation. I am conscious much depends on a sound exercise of that discretion, but I know of no better security for its due exercise, than that it should remain under the superintending eye of Parliament, in the hands which have hitherto administered it, with so much fidelity and advantage to the Public. I see great objection in principle to any absolutely fixed limit. To name as the extreme amount a larger sum than that now in circulation, might

seem to countenance an issue to that precise extent. To confine them within their present amount, incurs the risk, that, if the demand for circulating medium should increase with the growing prosperity of the country, the supply will be thrown into other and less safe channels; and if there is no precise limit which Parliament can fix and adhere to, and that there can be none is obvious from the very nature of a circulating medium, which ought to fluctuate in amount with the extent of transactions to which it is applied, of all courses let us not expose ourselves to be called on to sit in judgment, from time to time, upon the quantum of issue required, which must be the case if this limitation is to be relaxed, from time to time, upon a case to be made out before Parliament, by the Bank, of its necessity.

It is not surprising that a considerable degree of jealousy should prevail with respect to the exercise of such a power in any hands: I am inclined to believe, that much of the feeling excited on what is called the Bullion Question, has originated in a disinclination, not the most enlightened, which mankind have in general to observe a corporate body, such as the Bank of England, amassing unusual gains, even though growing out of an exercise of their credit, which contributes to the accommodation of every individual in the

community. But what I can least understand, is, that any man should condescend so far in controversy, as to attempt to draw a parallel between the assignats of France, and the notes of the Bank of England; between a paper issued by a bankrupt government, upon no other alleged security at the time than the national domains of France, which standing on a revolutionary title, sold almost for nothing: between a paper forcibly issued to pay debts, and to carry on the current services of a state, and one issued by a private corporation with a view to their own immediate profit, and on what they deem solid and indisputable security: between a paper forced upon its subjects by a government which has no other means of payment; and a paper never issued, except at the instance of persons, ready to deposit value, and consenting to pay 5 per cent. for the temporary use of it. To infer that a paper circulation, founded on such principles, must follow the course of French assignats, and the other forced currencies we have witnessed in modern times, does appear to me such a substitution of clamour and assertion in the place of sober sense, as hardly to deserve notice. X

At the same time I cannot wonder, that men of reflecting minds should hesitate, upon the practicability of a currency resting for any length of time with undiminished credit, upon any other

x See L^o Abouley *Spetch*
case of Gregory and Baker
Si Youngs legal 741

than a metallic basis, which shall afford to every man the facility of possessing coin whenever he prefers it to Bank paper. I admit the present is the first instance in the history of the world of such a system being realized; and I know of no other country in which it could have been attempted with any prospect of success; but happily the principles of private and public integrity are so deeply rooted in all our money transactions, and the discretion with which the Bank conducts its affairs, and its unparalleled wealth, are both so universally known and confided in, as to render inferences drawn from other countries inapplicable to this. I must therefore protest against an assumption of impracticability drawn from such premises. The experience of fourteen years is a tolerably decisive proof the other way; and I think it is quite impossible to point out, in our present situation, any thing which indicates that the credit of the country, administered upon this system, is not, at this day, as high at home and abroad, and as effective, to all the purposes of national industry, and of national exertion, as it was at any former period; and I would counsel those, who are disposed to set limits to the operations of credit, to reflect, that many of the principles upon which they argue against the existing system, might prove as fatal to a mixed circulation, as to the one which

now, as a temporary expedient, prevails; both exist only by public confidence; and it is a question only of degree; how long either shall survive such doctrines of distrust, if unhappily they could be implanted in the public mind.

But it is denied, that this system does answer the same end, even for purposes of internal circulation, as our mixed currency did; and it is said, Look at the situation of annuitants and persons with fixed incomes of all descriptions, how reduced relatively in situation! What my Lord King says is, Put me back into the situation I stood in before the Restriction Act passed in 1797, and let me have a currency, which will produce to me, what that for which I bargained then did. Now let us separate this question into the two propositions of which it consists. I cannot undertake to relieve Lord King, nor is it just he should be relieved from the mortgage on his property, which has taken place since 1797, the result of fourteen years of progressive taxation. The taxes have been nearly trebled in amount during that period. These taxes were intended to attach both directly and indirectly upon fixed incomes; and it is obvious, supposing even the currency had remained unchanged, that the power of purchasing with a certain amount of income must be very dissimilar at the present day. If then

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much of this alleged grievance arises from increased taxation, and other increased charges affecting the price of commodities, better proofs must be furnished to me, than any I have yet heard, before I can allow that any part of the evil can be fairly charged upon the particular species of currency in use at the present moment. That fixed incomes are deteriorated in value since the year 1797, is admitted; but what remains to be proved is, that a fixed income would have gone further at this day, if the necessity for the Restriction Act had never occurred, and if the Bank had continued uninterruptedly to pay their notes on demand in cash.

As throwing some light on this question, we know distinctly that internal prices have not been sensibly advanced since the beginning of 1809, when the present excessive rise upon gold, and fall of the foreign exchanges, took place; and antecedent to which appearances, it could not be alleged that Bank-notes were in any sense depreciated. We have then conclusive evidence, that fixed incomes suffered to the extent they are now impaired, when Bank-notes and bullion were at par with each other, and that they have not been further affected since Bank-notes have ceased to bear their accustomed relation with the precious metals. We further know, that in France, where coin alone circulates (with the exception of the small quan-

tity of notes issued by the Bank at Paris), a corresponding rise in the price of commodities has taken place, very probably from the same cause, the pressure of taxation, which is very heavy in France at the present moment. The French Government, in an official document, viz. the speech of Mr. Daru, "Intendant de l'Empereur," in January 1810, when proposing to the Legislative Body to annex certain national domains to the Crown, stated, that the real value of money had fallen since the year 1791, in France, to such a degree, that the same income did not then represent more than two thirds of what it had been worth at the period referred to. This is further corroborated by a report of the Agricultural Society at Paris in 1805. Where then is the proof, that the deterioration of fixed incomes is a hardship peculiar to Great Britain, or to the particular nature of our currency? Annuitants and all possessors of fixed incomes may repine, when they compare their lot in society with the proprietors of land, and others deriving their subsistence from their industry, who can indemnify themselves by an advance of price upon their land or labour; but this is no grievance, it is in the nature of things it should be so; and when capital is invested, the original cost of the land or annuity is regulated accordingly. That the active member of the so-

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ciety should preserve his station better than the inactive, is no hardship. It is open to every man who possesses a fixed income, to be active if he thinks fit. The lot of women and children, dependent on small annuities, may be more severe, so far as it is their misfortune, and not their fault, that they are inactive. Such persons are much to be commiserated; but this is an evil incident to human society, and establishes nothing against the currency.

Upon the whole of this case, I am for the Bill. The only solid argument I have heard against it is, that it does not go far enough: this is a defect which can be cured in another Session, if it should be found necessary; it goes at least a certain length to counteract an existing danger, which, though circumscribed as yet in its operation, had, I think, assumed a shape and character which would have made it unsafe for Parliament to separate without evincing a determination to provide against its extension.

Upon the question itself, however strongly my mind is impressed with the injustice of the principle upon which his demand rests, Lord King no doubt is influenced by a conviction not less sincere, that the course he has pursued is perfectly defensible; and under that conviction, as an individual, his Lordship is morally justified towards

his tenant in what he has done; but giving his Lordship full credit for the purity of his motives, I cannot applaud the discretion which, in the midst of war, when no man, whatever his view of the original policy of the Bank Restriction Act might be, can now see his way to the early resumption of cash payments, has induced his Lordship, as a Peer of Parliament, and a considerable landed proprietor, to hazard a measure, which, if generally acted upon, must have inflicted so severe a wound upon the public credit of the country. As the question has arisen, Parliament sitting, I feel no uneasiness on the subject. The discussion which has taken place will dissipate alarm; and as nothing in this empire can long survive, which will not bear the test of free, or even adverse inquiry, I have no doubt the credit of the paper of the Bank of England, so far from being impaired by any thing which has passed, in the late severe ordeal of controversy, to which it has been submitted, will, on the contrary, the more the principles upon which it is issued are developed, stand the higher in the public estimation; and the period I trust is not remote, when the transient apprehensions of patriotism at home will be quieted upon this point, and when the enemy will be made to feel, in the unabated energy of our exertions in carrying on the war, the mighty difference which exists between a currency, such as

we possess, and those forced currencies with which he has ignorantly been led to compare it.

In the mean time, let us take care that the law shall not be made an instrument of personal injustice, which it would be, if, when the tenantry of the country, having sold the produce of their farms for Bank of England notes, and having contracts equally binding with the Bank as with their landlords relative to cash payments, the law should interpose, and say to persons so circumstanced, The Bank *shall not* fulfil its contract with you, but you *shall* fulfil your contract with your landlord. The law cannot countenance so obvious an injustice; it must dispose of these kindred engagements upon one and the same principle, and refuse, during the continuance of the Bank Restriction Act, to compel persons, tendering Bank notes, to make their payments in a currency which, under the authority of law, and for the public good, has ceased for a time to be the prevailing currency of the realm.

THE END.