

passed a law to call out of circulation the bills of credit emitted in 1766 on the credit of the bank stock, before the first of June 1780, or for ever thereafter to be irredeemable, and gave the possessors of the bills their option, to bring them in and take bills of exchange on the trustees, or certificates, with annual interest, on the faith of the new government. In pursuance of this law, bills of exchange were drawn on the trustees to the amount of £. 1825 12 3 sterling, which they protested in August 1780, by the advice of the attorney and solicitor-general of the crown of Great-Britain. At June session 1780, a law passed to authorise the drawing bills of exchange on the said trustees, and if they protested the bills, having the bank stock in their hands, to secure the drawees, the law pledged to them the property of the trustees; and it was provided in the said law, that if the trustees had delivered the stock, (to the persons appointed to receive it in virtue of the act of November 1779) or if they paid the bills drawn in virtue of the above act of June 1780, the value of so much of their property as they should pay, should not be confiscated for any cause. At the time of passing the act of June 1780, the trustees had not protested the bills drawn in virtue of the act of November 1779; they took the opinions of the attorney and solicitor-general in July 1780, and enclosed them in their letter of 6th of September to his excellency Benjamin Franklin, who sent them in his letter of the 18th of September to the governor of this state, where they arrived in December, six months after the passing the law. By the act of June 1780, if bills of exchange were not drawn, an emission of bills of credit was directed, and for their redemption the stock, if to be had, if not, so much of the property of any British subject, as might be necessary, was pledged. No bills of exchange were drawn; but the emission was made. In February 1781, for a great number of reasons suggested, and among others, "that the trustees, on the advice of the officers of the crown of Great-Britain, had refused to pay the money belonging to this state in the bank of England," a law passed to seize and confiscate all property, debts only excepted, within the state, belonging to British subjects, indiscriminately, to the use of this state. This act recited, that the trustees had refused to pay the bills of exchange drawn on them in pursuance of the act of November 1779, and as a special fund to redeem the emission made in pursuance of the act of June 1780, the general assembly pledged the real and personal property belonging to James Russell and company, whom the law declared to be British subjects within the act. In May and November 1781, two laws passed, directing the sale of as much of the property of Russell and company as was necessary to redeem the emission of June 1780, and the residue to redeem another emission in the same month and year; which was accordingly done. The property of Mr. Russell was confiscated by the law for the general confiscation of the property of all British subjects, and not as trustee, or for any misconduct as trustee. All his property being previously confiscated under the indiscriminate confiscation, the property he held in company with other British subjects was appropriated, and sold, to redeem two emissions of bills of credit by the new government. The conduct of the trustees, in refusing to transfer the stock to trustees appointed by the act of November 1779, was assigned as one cause, among many others, to justify the confiscation of the property of all British subjects without any discrimination. By the treaty of peace between Great-Britain and the United States, it was provided, that there should be no lawful impediment to the recovery of debts; and by the same treaty it was agreed, that congress should recommend it to the legislatures of the several states to make restitution of the confiscated property of real British subjects. The first is positive and obligatory on both sides; the latter is only recommendatory, discretionary, and optional, with the several states. The one cannot be refused without a breach of the treaty and national honour; the other is at the pleasure of the several states, and they may reject the stipulated recommendation, without any the least intraction of the treaty. Under these circumstances, the act of April 1783, to appoint the agent, passed. The legislature foresaw, that great difficulties and embarrassments would necessarily occur from the nature and object of the agency. It was not to be expected, that Mr. Russell, whose property to a considerable amount had been confiscated and sold, would raise no objections or difficulties, or make any efforts to retain the bank stock to indemnify himself, and that on demand he would transfer the stock to the agent, and sing himself on the generosity of the state. Such an opinion could not be entertained by the legislature from their knowledge of mankind. The validity and effect of the act of confiscation; and the provisions and observance of the treaty, were involved in the claim by the state to the bank stock; questions that required great legal and political knowledge and abilities, and far beyond those of your memorialist. The house of delegates proposed to allow the agent two and a half per cent. commission, if the stock was obtained, and to indemnify his expences, if not obtained. The senate objected to the contingent indemnification, and proposed a commission of four per cent. in full for all expences, to which the house of delegates acceded. On the first appointment of trustees of the bank stock (who lived in London) their commission, for purchasing the stock and receiving and investing the dividends, was two per cent. The trustees, appointed by the act in 1780, were allowed, for receiving and selling the stock and paying bills of exchange, (the same services as required of your memorialist) two and one half per cent.

Your memorialist further represents; that it was not in the contemplation of the general assembly, at the time of passing the act of April 1783, to submit the right of the state to the bank stock to the decision of any court in Great-Britain. The powers committed to the agent by the law created him only a mere trustee, without any kind of property, or interest, in the bank stock. There is not one expression in the act to authorise the agent, in the name of the state, or in his own name; to prosecute (or defend) suits respecting the bank stock. The stipulated commission could