

It is contended, on the part of the plaintiffs in error, that the bond is void.

It is void, they say, at common law, because the United States of America, not being a natural but an artificial being, is incapable, at common law, of becoming a party to a contract.

The United States of America will be admitted to be a corporation. But it is incidental to a corporation to sue and to be sued, to convey and to take property. Proper organs for conveying must certainly be provided before this power can be executed; but if it be incidental to this ideal being to receive, then a conveyance to it, or an obligation to it by its proper name, would be valid, unless there be no person to whom it can be delivered. A claim to the obligation, by the officer authorised by law to assert that claim, would seem to be sufficient evidence of assent to the contract, and if there be any person appointed to transact the particular business, a delivery to him would be a good delivery.

The instances given to illustrate the position taken by the plaintiffs in error, are those of a corporation which has acted, not by its corporate name, or of a corporation that has expired, neither of which is supposed to be the fact in this case. A bond given to the people of the United States would, undoubtedly, be void at common law, and perhaps a bank whose charter had expired might no longer be capable of sustaining an action; but "The United States of America" is the true name of that grand corporation which the American people have formed, and the charter will, I trust, long remain in full force and vigour.

The bond, it is said, is also void at common law, because it is made in restraint of trade, in restraint of common right.

Had there been no act of congress prohibiting foreign trade, there would have been much force in this objection. But the rule relied on is founded on the principle, that the obligation is hostile to the policy of the law, that it surrenders legal rights, the exercise of which are conducive to the general interest. If the case be not within this principle, it is not within the rule to which the principle has given existence. If, at the time, the