

Judge Clayton's Speech on the Bank Report.

Mr. Clayton said, on presenting the report of the Bank Committee, I expected the course of proceeding which is usual on such occasions, but it seems that every thing relating to this question is to be treated differently from other subjects which generally fall under the notice of this House. I have always understood that, when the minority of a committee were dissatisfied with a report, made by the majority, they possessed the privilege to present a counter report, but never before, and I shall be safe in asserting the fact that it is unprecedented, has it been known that a member of the committee was permitted to answer a report by commenting upon its facts or reasoning, before it is read to the House, or even those facts or reasonings is known to a single member. If this be the usage of the House, and if these remarks are intended to break the force of the report when it comes to be known, then I have the right to claim, and do claim, of every member who has heard these remarks, to suspend his opinion until he obtains a full knowledge of the report. I feel as if I ask nothing unreasonable, and sure I am there is nothing in the request which liberality, disinterestedness, and a highminded sense of honor of this House will not readily accord. I would much rather the gentleman should have taken time to have made his counter report. This I expected, but the course pursued, I must say, is not only unheard of before, but is unfair.— If, in future, reports are to be answered by discussions of their merits by the minority, before they are known to the House, then, is it perfectly idle for committees to make those reports. Who does not perceive the obvious futility of such a course on the part of the majority. This discussion I expected to meet when the question came fairly before the House, and when it should be fully possessed of all the facts of the report.

I am, therefore, driven to the necessity of answering the gentleman's exceptions. I owe it not less to the committee of which I have been the chairman, than to this House, to explain all the points to which objections has been made, promising, that, in my opinion, it will require all the ingenuity of the gentleman, as well as that of the friends of the bank, to relieve it from the stubbornness of the facts which will soon come to light from the document just submitted.

The first objection to the report is, that it has been submitted for inquiry, whether the selling of American coin, by the bank, is a violation of the charter, the 9th fundamental rule of which forbidding it to deal in any thing "except bills of exchange, gold and silver bullion, or the sale of goods really and truly pledged for money lent, or goods the proceeds of its lands." The gentleman says that the bank obtained the advice of counsel, who gave it as their opinion that foreign coin was bullion, and therefore the subject of traffic. And he infers that, as foreign coin is bullion, in which they can lawfully trade, he sees no reason why they may not trade in American coin in this way, viz. as the government has attempted to fix the value of gold at fifteen times that of silver, when in truth it is 16 to 17, the bank may fairly buy and sell under this latter estimate.

The subject was brought to the consideration of the committee by the following circumstance: They ascertained that the bank had made the General Government pay two per cent. upon 10,000 Spanish dollars, though it had millions on deposit, which it wanted for the use of the navy on a cruise to South America. They asked the President why this was done? He answered, because Spanish dollars were considered bullion, and the bank could trade in bullion; that they were only compelled to pay in legalized coin, American coin, thereby virtually acknowledging that American coin was not bullion, and if not bullion, the bank, under the rule just quoted, had no right to traffic in that article. Nothing can be plainer; and, Mr. Speaker, who does not perceive the most dangerous consequences that must result from such a practice. Is it to be put in the power of the bank to alter the value of the coin established by law? When the Government has said, for purposes best suited to the wants and condition of the country, that the coin shall be worth so much, the bank shall say we will defeat that regulation and give another value to it? Shall it be said that the metallic currency of the country, established for the express purpose of giving certain and fixed value to property, may be changed by the speculations of a monied corporation? Shall it be considered that there is a Government within this Government whose power extends to the alteration of the value of the lawful coin of the country? A Government, the more powerful because its whole energy consists in the use of its money, and which wields annually more than three hundred millions of money! What monstrous consequences must flow from such a power! How unsettled and fluctuating must be the value of property, if a monied institution shall be allowed to raise and depress the established coin of the government at pleasure? And this they can do at their pleasure by means of its vast influence over the currency of the country.

I put it to the House to consider well this matter. If a former committee, investigating the affairs of this same bank, reported to Congress that the buying and selling of the bills of State banks was in spirit if not in terms a violation of the 9th fundamental rule before mentioned, how much more so must it be to barter in the legal coin of the country? Let me ask what use is there for that provision of the Constitution which gives to Congress the right to regulate the coin of the Government, and the value of foreign coin, if such its regulation depends upon the mere will of a corporation? Why does Congress so expose its

weakness by legislating on this subject, if that legislation is not regarded, and may be controlled by a great monied institution? There is such an absurdity in the very idea of this inefficiency of the Government, to give a fixed value to its coin, that it would seem barely enough to mention the fact to have it most universally reprehended. Then it is a fact, as one of the statements will show, appended to the report on your table, that the bank has sold \$84,000 of American gold coin at different times, and for different premiums.

The second objection to the report, is, that it complains of the banks having sold Government stock, and it is asserted that such privilege belongs to that institution. The committee have not affirmed that this is a violation of the charter, but they believe it a subject well worthy of the consideration of the House, and the case is this: In the years 1821 and '24, the Government obtained two loans from the Bank, one of \$4,000,000 at five per cent., and the other at \$5,000,000, called the Florida loan, at 4 1-2 per cent. When these loans were proposed by the Government, there were other bidders for them besides the bank, who offered the Government a premium for them, but the Government preferred letting the bank take them at par, upon the alleged ground, that inasmuch as it was a holder of stock in the bank, to the amount of one-fifth of its capital, it would be more to its advantage to participate as a partner in the profits of the loans, by which it would be partly enabled to pay the interest of the stock, than it would be by letting individuals have it at a premium. Upon this condition, then, and upon the distinct understanding, that the bank had the means of taking it and holding it, as will be seen by a letter on your table, it was preferred, and other bidders rejected. The bank had no sooner obtained the stock, than it commenced selling it. Now who does not perceive the violation of good faith in this transaction? The bank, and certain individuals present themselves as bidders for the stock, the latter offering a premium, the former urges its claim to the Government to be preferred, because, of the interest which the Government holds in the bank; it succeeds in its competition, and then turns round and sells the stock to the very persons who had been contending with her, and pockets the premium which had just been offered to the Government. Such a proceeding cannot be sanctioned by any principle of common honesty. The charter has prohibited the bank from dealing in stocks, unless positively permitted by law. In the charter, it is true, a part of its capital was authorised to be subscribed for in the funded debt of the Government, which, by that same law, they were allowed again to dispose of; but not so, with regard to the stock I have before described, and ought not to be so for the reasons I have before mentioned. It would destroy all competition for the Government loans, and place it completely in the power of the bank, to speculate upon its necessities in times of difficulty.

The third ground of objection to the report is, that it complains of the bank's having made large donations towards promoting internal improvements. Here the gentleman has the candor to admit that it has no right to make such donations, but he supposes, for there is no proof of the fact, that it has been done to increase the value of some large real estate in the neighborhood of the improvements belonging to the bank. Can it be possible that one who contends for strict construction of powers—one who believes that constitutions, or written authorities, by which given agents are to act must be strictly pursued—can admit that such agents may derive powers not granted on the score of either convenience, interest, or even necessity itself? Such a person has no longer a right to complain of the tariff or any other exercise of power drawn from the Constitution by virtue of the construction that it promotes the general welfare. The charter gives no such power to the bank, nothing like it can be found in that instrument, and if that is the grant of its powers, beyond which it is not to act, it has as clearly violated its charter as if it had made donations for internal improvements where it was not interested, which the gentleman virtually admits would be the case.

It appears by a statement on your table, that the bank has made two appropriations of \$1,500 each to turnpike roads; one in Kentucky and one in Ohio. And, Sir, this was after the General Government had refused to grant such aids to similar objects. Who does not perceive the purpose of such generosity? The President had put his veto upon such appropriations for many reasons, but especially because he could find no authority for it in the Constitution of his country. He chose to act strictly up to the charter of the Government. This doubtless produced considerable feeling in that quarter of the country where the aid was sought, and the bank profiting by this excitement, with a view to make friends for itself and enemies to its political adversaries, put forth its liberality under all the advantages of strong contrast, and designed it to speak a language like this, the President has disappointed you, but we will come to your relief. Sir, even if the bank could give away the money of the other stock holders, what right has it to appropriate the money of the Government to such objects, when the Government itself will not do it, nay, dare not do it, if it regards its written Constitution? The bank has been established, and holds its charter under the express admission that it is a part of the Government, that it is connected with the Treasury Department for the purpose of collecting and disbursing the public moneys. That but for its necessity for carrying into effect certain expressed powers of the Constitution, it could not legally exist. Now, Sir, if this be true, how dare this subordinate branch of the Government to take from the public the money of the people, and apply it to objects which their immediate representatives have positively refused.

Mr. Speaker, who does not perceive the dan-

gar of such a power? What! a great moneyed institution dealing in untold millions, and controlling the whole currency of this vast country from one end of it to the other, so as to be able to change even the value of the regulated coin of the Government, shall take the subject of internal improvement under its direction! What city, or even country, is safe where it shall choose to exercise this powerful influence? Between contending commercial towns and rival cities, for the trade of the country, is it not plain to every one that wherever it throws its weight, the antagonist interest must immediately fall? Nay, Sir, whole States could not withstand its power; and they may be robbed of their lawful and natural trade for some more favorite state, by the intervention of this irresistible and all-commanding influence.

These were the objections to the report relative to the violations of the charter. There are three others in that document, against which, I presume nothing can be said. The gentleman then proceeds to mention other objections to certain charges of mismanagement, and the first is in reference to what is said concerning the branches of the bank.— Upon this point, I will refer to the report itself, and patiently wait until it can be read and rely confidently upon such examination for a refutation of the argument just advanced. The second objection is, that the report has drawn a comparison between the situation of the bank now and in the year 1819, when it nearly failed, calculated, as he thinks, to do great mischief to the bank.

This, I cannot help, and if the comparison be true, and like causes produce like effects, it is time for the Government and the country to take care of the consequences and to be prepared for any event. The bank, like all other commercial establishments, is subject to *direct demands* that cannot be postponed, and it must have *immediate means* to meet these demands. The first, the direct demands, are its circulation, by which is meant its bills afloat—the deposits which the gentleman forgot to mention in his calculation and its debts in Europe. The last—its immediate means, are its specie, the bills of other banks and its funded debt. The report will show, that in 1819, its circulation, deposits, and debt, amounted to 14 millions, and its specie, State bank bills, and funded debt amounted to 10; the proportion being only as 10 to 14; and yet, under this difference, it produced a panic in the country which will be long recollected.

At the present time, its immediate means are \$6,800,000 in specie—about \$700,000 in State bills, and funded debt none! making an aggregate of \$9,500,000, to meet—what? \$23,000,000 of circulation, 17,000,000 of deposits, and 2,000,000 of foreign debt, making, in round numbers, an aggregate of 42,000,000! I forbear to make any comment upon a condition like this. There is a terrible suspension of discounts and a sudden withdrawal of accommodation now going on throughout the whole country, to the great distress of the community, which is wholly a sufficient commentary for me. The gentleman says, I ought to place within the list of the immediate means of the bank, its domestic bills of exchange, running at 90 days, differing, he says, from notes discounted. This, I might safely do, and then leave a disproportion between the demands and the means greatly beyond that of 1819. But I contend, Sir, that such paper cannot pay off demands, it must be *money* or that which represents *money*, to meet *momentary* demands, such as cannot wait an hour, without involving the consequences of bankruptcy. But, Sir, if I were to admit, for the sake of argument, that this 20 millions of domestic bills should represent money, I presume the gentleman would let me go back and include the same item in the statement made for the year 1819; and if he does, there will remain the same corresponding difference between its condition then and now. Sir, this picture cannot be turned aside; look upon it we must, and the operations now going on in the commercial community, are enough to make us tremble for the consequences.

Under the objection, the gentleman mentioned a fact which, he said, he would take occasion to explain. He says, a charge was made by me, when this question was first agitated, that the bank had employed brokers to job in stocks; and when the matter came to be investigated, it turned out that the bank was employed by the Government to purchase up, secretly, the 3 per cents; and some secret informer had communicated the fact to me. Now, Sir, nothing could so well have justified the charge which I made, and which so provoked the gentleman's surprise at the time, as the very transaction which he says has been triumphantly refuted. The Government, in a confidential manner, authorizes the bank to purchase its own stocks; the bank keeps the secret, and employs a broker to do it; this is going on unknown to the surrounding community; and because, forsooth, they talk of it, and want to know by what authority the bank jobs in stocks, it is considered as an improper prying into the affairs of the bank. For myself, Sir, when it was explained, I felt rejoiced that I had so good a ground for the accusation.

The gentleman objects, further, to the report's noticing that branch of business which it has lately pursued, in selling bills to go circuitously, as it is called. This subject has been presented to the House and the commercial community, not so much as a complaint against the bank, but as a proper matter for grave inquiry, whether there is not something delusive in it, and whether it "economises" the specie of the country, as stated by the Bank. The practice is this: when a person who wishes to trade to China, or India, is without immediate funds, he goes to the bank and purchases a bill of exchange. What does he give for it? Not cash, as usual; but gives a bond to pay for it in twelve months; and agrees, if he uses it, to pay 2 1-2 per cent.

for it, and, also, the rate of exchange between this country and London, upon which it is drawn, when it falls due; and if he returns it, he pays one per cent. This bill is drawn payable six months after sight; and by the terms of the bond is not to go direct to the place of payment, but to go round the Cape of Good Hope, and through the Indies to London. Instead therefore, of the specie, which was usually carried by the merchant to the Indies, going to that quarter, its destination is changed to England, and the bank becomes the shipper of it, to meet its bills by the time they get from China. There is not a dollar less carried away than before; but there is every probability that there is much more; for this credit plan will enable more persons to engage in this trade than if they had to carry the specie themselves; and they will obtain credit to a larger amount than any amount of specie which they could possibly command. This is dealing without capital, and leads inevitably to overtrading—the curse of any country—and under which it is now experiencing very heavy sufferings. They depend upon the success of the voyage for the means of paying for their bills, and is, therefore, a gambling species of trade, resembling respondentia bonds, the most pernicious of all commercial speculations.

The last objection to the report is its noticing the indulgence which the bank has lately obtained from the Government in reference to the three per cent. stocks. This, sir, is considered one of the most important subjects in that report, because it is a painful omen of the dangerous stress which now presses upon the bank, and which bears so heavy that it is gradually crushing its helpless customers to death. Sir, the President of the bank says he sought no indulgence from the Government, he asked none; he was ready to pay off its debt, and yet, Sir, the bank has agreed to pay the interest on this stock rather than part with the Government's deposits at this time; and says it does this to favor the commercial community. What credulity is ready to swallow such an idea? What! a bank borrowing money and paying an interest for it to favor individuals? A bank running the risk of having its own credit suspected—its president leaving Philadelphia at a critical moment, when its affairs were just about to be examined, and comes off to this city—a bank that had by a previous resolution on its minutes authorized a committee to pay the stockholders any amount of interest they might ask, rather than part with the Government money at this time. A bank borrowing 7,000,000 from the Government at an interest of three per cent., and all merely for the sake of the commercial community—name it not in Gath—such a bank would be a *prodigy*, and all creation would flock to see it. Sir, this is the story of the bank, let us hear from the Government. One story is good till another is told. Can it be possible that the Government has no merit in this unusual benevolence? That it has thrust its money, unasked, unsought for, upon the bank, to enable them to perform this wonderful feat of generosity, while the creditors of the Government, under these hard times, when money is worth from 12 to 16 per cent., are compelled to take but three per cent. Is it an act of good faith, seeing how long the Government has had the use of this money at three per cent., when all its other stocks, some of which were created long since, have been paid off, because they bore a higher interest, now to postpone the payment of its righteous debts merely to enable the bank, *unsolicited* too, to perform an act of liberality? If it be true, I hope the Government has the credit for the act. From the Government I would expect such generosity, because it is not a heartless speculating institution, and doubtless feels, and feels deeply, for the situation of its distressed citizens, brought about by the operations of the bank itself. Mr. Speaker, nothing but a most urgent case of necessity could justify the Government, with ample means in its power, to withhold from its long-waiting creditors the payment of this debt. Sir, I will mention a fact which exhibits the crying injustice of such a delay. The State of Maryland hold against the Government \$330,000 worth of this stock, for which it only receives 3 per cent., and has been compelled to borrow, to carry on her works of internal improvement, two hundred thousand dollars from this very same bank, at an interest of six per cent., the consequence of which is the bank is holding her very means of paying to it the debt which she owes at 3 per cent., while it demands of Maryland six per cent. for the same money. This cannot be just, and nothing, as I said before, but the necessity of saving the bank and the community from general ruin, could possibly justify it. Sir, it is subjects like these that have produced such a consternation in the minority of the committee, and all I ask is for this House to suspend its opinion until they read the report.