VOL. VII. NO. 50.

Cambridge Chronicle.

BY G. W. CALLAHAN. CAMBRIDGE, Md.---SATURDAY, JUNE 7, 1834. WHOLE NO. 519.

TERMS:

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UNITED STATES BANK.

REPORT of the Committee of the House of Representatives, appointed to investigate the affairs of the Bank of the United States.

[CONCLUDED.]

The committee of the Board in that communication, express the opinion, that the inquiry can only be rightfully extended to alleged violations of the charter, and deny virtually the right of the House of Representatives to authorise the inquiries required in the resolution.

They also required of the Committee of Investigation, "when they asked for books and papers, to state specifically in writing, the purposes for which they are proposed to be inspected; and if it be to establish a violation of the charter, then to state specifically in writing, what are the alledged or supposed violations of charter, to which the evidence is alledged to be applicable."

To this extraordinary requirement, made on the supposition that your committee were charged with the duty of crimination, or prosecution for criminal offence, and implying a right on the part of the Directors to determine for what purposes the inspection should be made, and what books or papers should be submitted to inspection, your committee replied, that they were not charged with the duty of criminating the Bank, its Directors, or others; but simply to inquire, amongst other things whether any prosecution in legal form, should be instituted, and from the nature of their duties, and the instructions of the House of Representatives, they were not bound to state specifically in writing any charges against the Bank, or any special purpose for which they required the production of the books and papers for inspection.

A specific answer was requested to the calls which had been made.

The committee of the Board, after deliberation made a communication to your committee in writing, in which they announced their purpose to adhere to their resolution, and refused to submit the books and papers of the Bank, required by your committee to be procured for their inspection.

These calls were made in the Bank, and in the presence of the committee of the Board, and then and there a compliance with them was refused. Not feeling authorised to regard this unexpected and unequivocal refusal as the act of the Board of Directors, your committee submitted the proceedings of their committee to the Board, and they were by the Board "fully approved and sanctioned."

In this act of refusal, which nothing that had occurred had prepared them to anticipate, your committee are of opinion, that the charter of the Bank was violated, and a contempt of the authority of the House of Representatives committed.

Your committee, acting under the instructions of the House of Representatives, without power to modify or enlarge them, charged to inquire, and not authorised to accuse or to arraign, except in their report to the House itself; armed with but the limited authority of a committee, unauthorized to punish, were necessarily compelled to the conclusion, that, in the face of the obstructions already detailed they could not efficiently prosecute the inquiries with which they were charged, without the aid of the power of the House of Representatives.

Anxious, however, to perform their duty without complaint to the House, and in conformity with the proceedings of the committee of Investigation of 1819 and 1832, your committee called on the Bank, in a series of resolutions, to furnish statements, and certain extracts and copies from their books and papers, which, in the opinion of your committee, were all intimately connected with their duties, and many of them indispensable to afford to the House of Representatives the information which they had directed your committee to obtain.

The first of these was responded to by the Committee of Directors, and the information furnished. Though useful, it was comparatively unimportant.

The Board of Directors, after deliberation, refused to comply with the other calls, for reasons which will be found in their resolution in the Appendix, and which reasons deserve examination, as manifesting the deliberate purpose of the Directors to resist all attempts to examine into the proceedings of the corporation in the latitude required by your resolution.

They say, that the Board of Directors do not feel themselves at liberty to comply with the requirement of the Committee of Investigation, because "part" of the copies called for "relate to matters over which the Board have no control."

This reason, it is plain, cannot have had much weight in producing the decision of the Board. If only a part of the information desired was beyond the control of the Board, that fact could have been stated, and this committee would have cheerfully received the residue.

2d. The Board say, they cannot comply because it would be impossible for them to do so "within any reasonable time, having ascertained, by a careful examination, that the copies and statements called for by the resolutions of the 19th ultimo alone, would require the uninterrupted labor of two clerks for at least ten months."

This reason, it is also fair to presume, could not have materially influenced the decision of the Board. If, in truth, an entire compliance with all the resolutions would require great labor, still that did not justify the refusal to comply with any one of them. Besides, the whole objection could have been obviated by the employment of more clerks than two, the compensation to whom, if paid either by the Bank or this committee would have been well expended in gratifying the requirement of the House of Representatives.

3d. The Board say they cannot "comply, inasmuch as in respect to a part of the papers called for, the effect would be the same as the surrender of their books and papers to a secret and *ex parte* examination.

Who can read this last reason for refusing, given by the Directors, and fail to perceive that this committee is justified in declaring, that without the aid of *compulsory process*, they cannot obey the directions of the House. If extracts from their own books, made by their own clerks, will not be furnished, because they *might* be used to conduct an *ex parte* examination, what benefit could this committee expect to derive by access to the books themselves?

Permission to take extracts for themselves could, and probably would, be denied for the same reasons; and a committee of the House, without power to compel obedience to its demands, would have power to make no use of the books, which was not approved by the Directors themselves. And the House will be at no loss to determine what latitude they would be willing to give their inquiries. And without authentic extracts, such as were unhesitatingly furnished by the Bank to both the former Committees of investigation, your committee could very imperfectly convey to the House the grounds of their conclusion, or the result of their inspection and examination.

In what condition, then, is your committee placed? The House have commanded them to inquire what corruptions and abuses have existed in the management of the Bank," whether it had used "its corporate power, or money, to interfere in politics, or influence elections."

To do this, they have attempted to use the only means that can, by possibilty, enable them to fulfil this duty; and they are refused by the directors access to those means which are in their custody, and which, by their charter, they are bound to furnish.

Because, say they, the inquiry this committee has been charged to make, "can only be rightfully extended to alleged violations of the charter." And even these violations of charter are not to be inquired of until the Board is furnished with "a specification of all the charges proposed to be inquired into." Should supposed violations of charter be specifically charged, then the Directors are to decide whether the facts, if true, as stated, would amount to technical violations of charter, and then, and not till then, will your committee be permitted to proceed with them in order as stated." It must be said, that these pretences, by which the Bank would justify its bold disregard of the provisions of its charter, are, in themselves, derogatory to the dignity, and contemptuous to the authority of the House, to which it in fact owes its being.

The Committee believe, that these proceedings of the Bank Directors, denying vital and essential powers to the two Houses of Congress, and asserting, in effect, a paramount and controlling authority over both in executing a power, devised as a check upon the Bank itself, would justify a more extended comment. But confiding in the disposition of the House to maintain its own rights and dignity, and to sustain your committee in the faithful discharge of their duty, they present as a part of this report the various resolutions adopted by your committee, with those received from the agents of the Bank, as an appendix, declaratory of the powers believed to be possessed, and the purposes of your committee.

They believe that these resolutions will of themselves vindicate their conduct and proceedings from all those imputations which are to be found in the various communications of the Directors, and their committee, and will serve to show that they have afforded no justification whatever for the extraordinary position ultimately taken by the Committee of Directors and the Board. But that their determination not to permit any conduct of theirs not involving breach of charter, to be investigated, must have been entertained long before it was made known to your committee—and that it was not communicated until every other means of preventing the examination had proved unavailing. But for this conduct, which your committee cannot regard as distinguished by frankness and candor, the absence of your committee, from their duties in the House would have been of much shorter continuance.

Believing they had now exhausted in their efforts to execute the duty devolved upon them, all reasonable means depending solely upon the provisions of the Bank charter, to obtain the inspection of the books of this corporation, your Committee were at last reluctantly compelled to resort to the subpœnas which had been furnished to them under the seal of this House, and attested by its Clerk. They thereby, on the 9th inst., directed the Marshal of the Eastern District of Pennsylvania to summon Nicholas Biddle, President, and thirteen other persons, Directors of the Bank, to attend at their Committee-room, on the next-day, at 12 o'clock, at noon, to testify concerning the matters of which your Committee were authorized to inquire, and to bring with them certain books therein named for inspection. The Marshal served the summons in the due form of law, and at the time appointed, the persons therein named appeared before the Committee, and presented a written communication signed by each of them, as the answer of each to the requirements of the subpœna, (which is in the appendix of this report.) In this paper they declare "that they do not produce the books required, because they are not in the custody of either of us, but as has been heretofore stated, of the Board," and add, "considering that as corporators and Directors, we are parties to the proceeding—we do not consider ourselves bound to testify, and therefore respectfully decline to do so."

Your committee will not dwell long to answer these technical excuses for this contempt of the lawful mandate of the House. They are to be found at large in the written document above referred to. Most of them, it is believed, have been already satisfactorily answered. The two novel excuses herein set forth, cannot but be condemned as insufficient. The first is founded on a very refined distinction between the power of the Directors as persons and as corporators. The same persons have and have not power to submit the books. As corporators, the custody of the books is in them; but as individuals, although collectively assembled, the same books are not under their control. Thus, by an attenuated technicality, the lawful authority of the House is to be defied. If, in one room of the Bank they must be esteemed as "individual citizens," who may lawfully disregard a subpœna duces tecum, because they have not the book demanded—if, in another room of the same house, by a transmigration not known to Heathen philosophy, their identity is gone; they have become mere ideal creatures, on which not even a subpœna ad testificandum can be served. To make this excuse still more extraordinary, let it be remembered that seven of the gentlemen by whom it is offered, had been appointed by the Board of Directors to exhibit the books of the Bank for inspection, and of course must have had the right to that exclusive possession for that purpose.

The reason assigned for the refusal to be sworn is parallel with that which has just been considered: that, as corporators and Directors, they are parties to the proceedings of the House, and therefore not bound to give testimony. It is a humane rule to be found in the criminal law, which declares that no man shall be compelled to criminate himself, and one which this committee would be unwilling, under any circumstances, to deny; but your committee are not aware of any principle of evidence which will excuse a person for refusing to give testimony, simply because it may subject him to a civil action.

There are provisions in the Bank charter, making the Directors liable to a civil suit if proved to have participated in certain transactions therein mentioned. But it ought not to be supposed that any thing can be found on the books of the Bank that would subject the Directors to a criminal prosecution. Even if the latter supposition be not entirely without foundation, still it is insisted that a witness called on to testify must do so, unless the Court or other tribunals before which he appears, shall adjudge that he is interested. That question the witness cannot be permitted to decide for himself, otherwise evidence might be withheld without good cause. As to the supposition that the Directors, or the corporation under their control are to be considered parties to the inquest this committee was directed to institute, it has already been answered in this report, and needs no further reply. If the inquest had been prosecuted, and had satisfied Congress or the President that a scire facias ought to issue, then, and not till then, could the Bank Directors become parties to the proceeding, and under that principle, attempt to conceal transactions known only to themselves; and even then their books might be used as evidence against them. Justice requires us to add, that the Directors, while they protested against our right to examine them, declared they had no knowledge, which, if a necessary regard to their duty and the rights of others permitted, they would not willingly expose without reserve.

Under such circumstances, it is to be regretted that they have not imitated the course of the Directors of 1819 and 1832, by waiving their supposed technical right, and inviting an unrestrained examination of their proceedings. Such conduct could not but have gained public approbation; and it is humbly conceived, could not have been reasonably objected to by any persons having business with the institution. If such had been the course of the Directors, the Committee hope to be pardoned for saying it was their purpose to have endeavored to have performed the duties which had been enjoined thoroughly, impartially, and with a rigid adherence to the immutable principles of truth and justice.

Thus, your committee conclude, the just power and authority of the House of Representatives have been set at naught, defied and contemned.

Thus, the charter of the Bank of the United States has been deliberately violated, by repeated refusals of the Directors of that corporation to submit their books and papers to the inspection of this committee.

Thus have the just expectations of the House and of their constituents been disappointed, and all means of obtaining the best and most accurate information concerning the operations of a controlling moneyed institution, been cut off and denied.

It remains for the House and the country to decide how far this conduct of that directory has been dictated by their solemn duty, as declared, to protect the interests of others committed specially to their protection. How far it conforms to those principles of action which are based on conscious integrity and uprightness of purpose, which defies scrutiny and invites investigation; and how far it shall be received as a plea of guilty to the high misdemeanors which they insist have been charged against the corporation of which they have the management and control.

These grave questions, with others growing out of the transactions and proceedings, are left to be decided by the House of Representatives.

To elicit those opinions, the following resolutions are most respectfully submitted:

1. *Resolved*, That, by the charter of the Bank of the United States, the right was expressly reserved to either House of Congress, by the appointment of a committee to inspect the books, and to examine into the proceedings of the said Bank, as well as to ascertain if at any time it had violated its charter.

2. *Resolved*, That the resolution of the House of Representatives, passed on the 4th of April, 1834, for the appointment of a committee, with full powers to make the investigation embraced in said resolution, was in accordance with the provisions of the charter of said Bank and the power of this House.

3. *Resolved*, That the President and Board of Directors of the Bank of the United States, by refusing to submit for inspection, the books and papers of the Bank, as called for by the committee of the House of Representatives, have contemned the legitimate authority of the House, asserting for themselves powers and privileges not contemplated by the framers of their charter, nor in fairness deducible from any of the terms or provisions of that instrument.

4. *Resolved*, That either House of Congress has the right to *compel* the production of any such books or papers as have been called for by their committee, and also to *compel* said President and Directors to testify to such interrogatories as were necessary to a full and perfect understanding of the proceedings of the Bank at any period within the term of its existence.

5. *Resolved*, That the Speaker of this House do issue his warrant to the Sergeant-at-Arms, to arrest Nicholas Biddle, President, Manuel Eyre, Lawrence Lewis, Ambrose White, Daniel W. Cox, John Holmes, Charles Chauncey, John Goddard, John R. Neff, William Platt, Matthew Newkirk, James C. Fisher, John S. Henry, and John Sergeant, Directors of the Bank of the United States, and bring them to the Bar of this House, to answer for their contempt of its lawful authority.

UNITED STATES BANK.

REPORT OF THE MINORITY OF THE COMMITTEE.

Mr. EVERETT, from the minority of the Committee appointed to investigate the affairs of the Bank of the United States, submitted the following Report:

The undersigned, members of the Committee for investigating the affairs of the Bank of the United States, having differed from their colleagues as to the extent of the powers of the committee, and the mode of pursuing the investigation, beg leave to submit the grounds of this difference, and their reasons for not concurring in the report of the majority of the committee.

The twenty-third section of the law, approved on the 10th of April, 1816, (commonly called the Bank Charter,) makes the following provision: "It shall at all times be lawful for a committee of either House of Congress, appointed for that purpose, to inspect the books and to examine into the proceedings of the corporation hereby created, and to report whether the provisions of this charter have been, by the same, violated or not." This provision is, in terms, an express grant of power to either House of Congress; and, consequently, but for this grant, neither House of Congress would have possessed the power. To suppose that either House of Congress would have possessed the power, although the charter had been silent on the subject, is to suppose that so much of the twenty-third section of the charter as gives the power, is mere surplusage—an unauthorized and inadmissible supposition.

If the power reserved in the 23d section had been already posssesed by either House of Congress, it must have been in virtue of its general authority to institute inquiries, and to send for persons and papers. But had the Congress who granted the charter understood that this authority to send for persons and papers extended to the inspection of the books of the Bank, they could not have deemed it necessary to provide that it should be lawful, at any time, for either House of Congress to appoint a committee for such inspection.

The resolution passed on the 4th of April last, under which the Committee of Investigation was appointed, is expressed in the following terms:

[The resolution will be found at the commencement of the majority's report.]

The committee, thus appointed, is clothed with the power granted to either House of Congress, by the 23d section of the charter, the same being given to it by the express words of the resolution, which autherizes it to "inspect the books, and examine into the proceedings of the said Bank," and "report whether the provisions of the charter have been violated or not."

Had the resolution stopped here, its interpretation would have been easy. It would have been (and would so have necessarily been understood) a resolution creating a committee under the power granted by the 23d section of the charter, and for the precise objects, and no other, therein provided for. But the resolution of the House goes much further. It purports to authorize the committee to engage in a much wider range of inquiry than the violation of the charter. It declares the objects of investigation to be three-fold, viz: 1st, the causes of the commercial embarrassment and distress alleged to exist; 2d, violations of the charter; 3d, corruptions and abuses in the management of the Bank, of which several are alluded to in very general and comprehensive terms, as will be perceived by recurrence to the resolution just quoted. Of these three objects, the second only is the one on which a committee, raised in pursuance of the twenty-third section of the charter, is authorized to report.

As the resolution of the House enumerates objects of inquiry not named in the charter, so it specifies means of attaining information not provided for in that law. It authorizes the committee "to send for persons and papers, and to summon and examine witnesses on oath, and to examine into the affairs of the said Bank and branches."

The point of chief question in this matter has been, what extension of the powers possessed by the committee, in virtue of the 23d section of the law, is effected by this additional detail of the objects to be investigated, and of the means for attaining knowledge concerning them.

The subscribers understand their colleagues, the majority of the committee, to claim, under the terms of the resolution, an unlimited power of inquiry after all the conceivable corruptions and malpractices of the Bank, and of sending for the persons of its officers and directors, and for any and all of its books and papers, in order to ascertain whether any such corruptions and malpractices exist. The subscribers believe that no such power of general search is given to the committee by the resolution: and that it was not competent for either House of Congress to give it. In their difference of opinion from their brethren of the majority on this head, will be found the chief source of their dissent from most of the important measure proposed by the committee.

Before explaining their views more distinctly, they would observe, to avoid all misconception, that it is no part of their purpose to maintain that the power of the committee is confined to an inquiry, whether the charter of the Bank has been violated. The undersigned believe it is competent for the House to inquire into any alleged abuse or corruption whatsoever, to the utmost latitude required by the public good, and authorized by the principles of justice and law. They believe that the committee, of which they are members, was authorized to make such inquiries. They believed, however, that these inquiries were to be conducted according to the charter; that is, according to law; and according to those general principles of equity and constitutional right which cannot be transcended, in virtue of any resolution of either House of Congress; and which the undersigned are unwilling to believe that either House of Congress could attempt or wish to transcend.

The undersigned have already, as they think, shown that the provision in the charter is a grant of power, which would not otherwise have been possessed by either House. So far, therefore, is the general power of sending for persons and papers from enlarging the charter power, that this latter is an addition to the power of sending for persons and papers. The power, therefore, possessed by the committee under the charter, and recited in the resolution, is not, and cannot be, extended or enlarged by any thing else in that resolution. No limitation imposed by the charter upon the inquiry which the committee is thereby authorized to make, or the mode of making it, can be removed by the general parliamentary power of the House to institute investigations, and send for persons and papers. It would be an absurdity to make a charter provision for extending the general powers of the House, and then seek to enlarge the powers conveyed in that provision, by the addition of something else supposed to belong to the general authority of the House.

In addition to this, it must be recollected that the charter is a contract proposed by the Government, to the stockholders, and voluntarily entered into by them. This power of visitation, and of subjecting the books to inspection, is one of the conditions of the contract, onerous to the stockholders. To attempt to enlarge it by construction, is to attempt, contrary to the faith of the country, to interpolate new and oppressive conditions into the contract. The undersigned, therefore maintain that a resolution of one House of Congress passed in virtue of its general power of inquisition cannot enlage the specific provisions of the law. But they do not, therefore hold that this committee could not, under the authority of the resolutions of the House inquire into any other matters than breaches of the charter. They maintain only that this is a power to be exercised agreeably to law and justice; that it is not an absolute inquisitorial power, that it does not authorize a committee of either House to prosecute a secret inquiry of indefinite character, after any and every abuse, probable or possible. It does not extend the right of inspecting the books, granted for one purpose alone, so as to authorize their inspection for purposes totally different. It does not put it in the power of a committee to issue warrants of general search, and compel the appearance of citizens, and the production of papers, not in proof or disproof of charges against third persons, by evidence of which they are the legal depositories, but in order to enable such a committee to find out by these papers, whether those who bring them are not themselves guilty of misdemeanors. Such a power as this, the undersigned wholly reject as abhorent to reason and justice; unknown to the constitution of this country; at war with its spirit and with its letter; and utterly repugnant to the public sentiment of the people. To claim such a power, is to claim for either House of Congress the right, in virtue of a resolution, of sending to the remotest corners of the Union for any number of persons, compelling them to attend a committee, with all their papers, to submit to be examined on oath; to exhibit those papers for inspection; and thus to enable such committee to find matter of fixing on such individuals the charge of gross but previously unspecified misdemeanors and corruptions.

It is not necessary for the undersigned to endeavor to define what are the limits of the powers of inquiry possessed by the Houses of Congress. It is sufficient for their present purposes to have shown, (and the proposition is proved in its enunciation,) what they are not and cannot be. It cannot be within the competence of a committee of the House to institute a general search, and compel the citizens on oath to purge themselves if innocent, and criminate themselves if guilty; and bring with them their papers, to be ransacked in a roving hunt for unspecified crimes. The Constitution reserves to the people the right (a right inviolable without the reservation) "to secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." Of all