L. D. Teakle

Cambridge Chronicle.

VOL. VIII. NO. 3.

BY G. W. CALLAHAN. CAMBRIDGE, Md.---SATURDAY, JUNE 21, 1834. WHOLE NO. 521.

TERMS:

The CAMBRIDGE CHRONICLE is published every Saturday morning, at Two Dollars and Fifty Cents per annum, payable half-yearly, in advance. Subscriptions will not be taken for less than six months: No paper will be discontinued until all arrears are paid, unless at the option of the editor; and the failure to order a discontinuance previously to the expiration of the time already subscribed for, will be considered as a new engagement.

☞ Advertisements not exceeding a square will be published three times for one dollar; and twenty-five cents for each subsequent insertion. Larger ones in proportion.

In cases where the number of insertions is not limited, advertisements will be continued until direction to omit them is received, and charged accordingly.

UNITED STATES BANK.

REPORT OF THE MINORITY OF THE COMMITTEE.

[CONCLUDED.]

One of the resolutions alluded to, is in the following terms:

Resolved, That the President and Directors of the Bank be requested to furnish the committee with copies of all correspondence between the President of the Bank or any of its officers and members of Congress, *or of unanswered letters* received from any one of them since the 1st day of July, 1832, touching the renewal of the charter of the Bank, the removal or restoration of the public deposites, or touching the business transactions of such members with said Bank."

Another of the resolutions alluded to is in the following terms:

"*Resolved*, That the President and Directors of the Bank be requested to furnish this committee with a detailed statement of all loans made since the 1st of January, 1829, to individuals, who then were, who have been since, and who now are, members of Congress, stating the amount of each loan, when the same was made, for what term the security was given, and the time when the security was received: and also the security which the Bank now holds, and the amount now owing by any and each of such borrowers, or other persons for the benefit of such borrowers, at the Bank, or either of the branches; and stating, also, the particulars of any such loans, which have been protested, or which are now under protest, and the names of the parties to any such debts; also the names, if any, of any such persons, whose notes have been renewed after the same had become due and not protested or renewed, with the names of individuals, parties to said renewals, whose notes were under protest at the time such renewals were made; and, also, whether such loans in each case were made by the directors otherwise, and by what authority."

The undersigned suppose it impossible to mistake the general purport of calls like these. From their minuteness of specification, they may be supposed to aim at particular individuals. Of any such reference, the undersigned are without accurate knowledge; and nothing is further from their design than to impute to their respective colleagues the pursuit of any unparliamentary or improper object. They cheerfully concede to them what they claim for themselves, to have acted with a single eye to public duty, in their apprehension of it. But the undersigned are free to confess, that they regard the undeniable purport of resolutions like those repeated, as highly objectionable. They seem to them to convey a general insinuation out of place, above the region of the partizan press. The charge suggested is that of bribery and corruption, so common as to authorize a general search. This is a crime, unquestionably, which may, if sufficient grounds exist, be rightfully charged on any Director of the Bank, or member of Congress; but which the undersigned regard as far too serious to be thus charged without such strong grounds of presumption. It is true, that it might seem gratuitous, in the undersigned, to be over forward in repelling such a charge. In the existing division of parties, they and their political friends are not found on that side of the House which it was necessary for the Bank to buy or bribe. The honorable and highminded men who composed the majority in the House, politically attached to the Administration, and opposed to the Bank, do not need the aid of the undersigned to show the injustice of a general imputation upon their characters. But something unquestionably is due to the general reputation of the two Houses of Congress. If individuals are on clear grounds, suspected of being thus corrupted; if the Bank, on reasonable grounds, is suspected of this highest breach of privilege, let the individuals criminated be named; the charge be stated in form; the culprit be brought to the bar of the House; and the guilty punished. But let not the whole body of both Houses be involved in one indiscriminate and odious, because vague and anonymous, delation.

As for the call for correspondence of all members of Congress with the Bank for the last two years, and particularly for copies of all unanswered letters, the undersigned could not but regard it with painful feelings. Public life, already sufficiently discredited by the fierceness of party warfare, will cease to be a pursuit for those who have not lost all taste for the social charities, if the sanctuary of private intercourse and private correspondence is to be invaded at pleasure, and every letter, answered or unanswered, which may have been written by an individual who has the misfortune to be a member of Congress, (for a great misfortune, under such circumstances, it would be,) is subject to be brought up by the drag-net of a general search. It was declared by Mr. Dunning, in the famous case of Money and others against Leach, that "to ransack private studies, in order to search for evidence, and even without a previous charge on oath, is contrary to natural justice, as well as to the liberty of the subject. To search a man's private papers, *ad libitum*, and even without accusation, is an infringement of the natural rights of mankind." (3 Bur. 1762.) It was not the least detestable of the cruel violations of justice and law which brought Sidney to the block, that he perished in consequence of the discovery of a manuscript political treatise, brought to light by a general search among the papers in his cabinet.

The undersigned perceive no more right in a Committee of this House to call for the letters which may have been written by a member of Congress to an officer of the Bank, on the subject of a renewal of the charter, than to call for his letters to any other person on any other subject. Undoubtedly, it is conceivable that such a letter might become legal evidence, in a process of attachment, for breach of privilege, and in that case might be called for and used. So might any letter in any criminal cause. It is conceivable that a man's letter to his wife or child might become legal evidence in a legal trial; and in that case, if it were in the possession of a third person, the court would compel its production. But the undersigned are of opinion that a general warrant to compel the production of all the letters which may have been written by a class of individuals for two years, in order to a search of the same, with a view to the institution of a criminal prosecution against the writers, or receivers, is now for the first time attempted to be made, in virtue of the authority of a parliamentary body.

It is one of the infirmities of our nature, that, in the ardent pursuit of ends, which, as individuals or members of a party, we think justifiable, we sometimes go far beyond the line of justice, as we should understand it in our own case. To those who, in the ardor of a protracted controversy, have become wrought up to the belief that the Bank and all its officers are one great engine of corruption, and those who have defended its chartered rights and maintained its usefulness, in and out of Congress, a band of mercenary stipendiaries, it may seem a very just and proper demand that the confidence of their private intercourse should be violated, their business transactions stigmatised with corruption before the world, and their private correspondence spread on the journals of a Committee of the House, and, at their discretion, sent to the newspapers. But, if, pausing a moment in the career of party, they will make the case their own; suppose themselves at the mercy of those now in the minority, wielding against them the entire authority of the House, sending its committees to unlock their closets and requiring the production of every letter they may have written on public affairs for years, they will probably form a new conception of the light in which the calls now under consideration are regarded by those against whom they were aimed, if any such there be.

The undersigned would make a reflection somewhat similar, in reference to the call for the amount of fees paid to counsel for legal advice given to the Bank, and the accommodations received at the Bank by editors and publishers of newspapers and periodical works. It will not be denied that there is an imputation of corruption in calls like these, for it cannot be pretended that, merely as a part of the business transactions of the Bank, the sums which would fall under these heads, in any estimate, however extravagant, of their amount, could be of any interest to Congress. Why, then, are they singled out? There is, of course, in collecting the vast amount of debts constantly falling due to the Bank, and in carrying on its large concerns, continual need of legal advice and professional service. Is it disreputable to seek this advice and service, and, having received them, to pay for them? Is the profession of the law fairly obnoxious to the stigma, which the resolution implies, on those of its members who transact the business of the Bank? Are mere partisan insinuations, fabricated with all the levity and cruelty of an unscrupulous press, sufficient ground for the virtual denunciation and proscription of a whole profession? The undersigned forbear to insist on the protection which the law gives to the intercourse of lawyer and client, and which, they believe, would protect the Bank from this search into the relations which exist between it and counsel employed in transacting its business.

Nor do the undersigned think the profession of editors and publishsrs, of right, more obnoxious to the imputation of corruption, on the ground of business transactions with the Bank. The nature of their business requires Bank accommodation as much as any other. The undersigned do not perceive that they are more likely than any other class of citizens to be corruptly influenced by the accommodations they receive. If they were, it is doubtful, as matter of fact, whether, with an exclusive eye to the accommodations afforded by all the banks in the country, and to the influences under which they are dispensed, it would be a better calculation at the present day, to defend or to attack the Bank of the United States. One thing is certain, that the editor who defends the Bank of the United States may be considered free from the suspicion of having an eye to political patronage, a source of corruption, when abused, as powerful, to say the least, as the favor of a mere moneyed institution.

7. But the undersigned hasten to express their views on the last step which was taken by the committee towards the discharge of their duty; in many respects, the most important of all. On the 9th day of May, a copy of a process, somewhat of the character of a *subpœna duces tecum*, and which may be seen in the appendix, No. 47, addressed to B. S. Bonsall, Marshal of the eastern district of Pennsylvania, was served upon Nicholas Biddle, President, Emanuel (Manuel) Eyre, Matthew Newkirk, John Sergeant, Charles Chauncey, John S. Henry, John R. Neff, Ambrose White, Daniel W. Coke, John Goddard, James C. Fisher, Lawrence Lewis, John Holmes, and William Platt, Directors of the Bank of the United States, commanding the said Bonsall to summon them to be and appear before the Committee of the House of Representatives of the United States, appointed on the 4th of April, 1834, in their chamber in the North American Hotel, in the city of Philadelphia, and to bring with them the credit books of said Bank, on the 10th day of May, instant, at the hour of 12, M., then and there to testify, touching the matters enumerated in the said resolution, and to submit said books to said committee for inspection.

The undersigned entertained, and still entertain, great doubts of the legality of this process. The inquiry alluded to in the process is, among other things, into "the abuses, corruptions and mal-practices of the Bank;" that is, the crimes and misdemeanors of its officers and directors, and the process just recited is intended to be a summons to a majority of the directors, and the chief officers of the Bank to appear and testify, as individuals, to the matters of that inquiry; that is, to their own crimes and misdemeanors, with a view, as the resolution of the committee expressed it, of inquiring "whether such prosecution (viz a criminal prosecution) should be instituted." The undersigned have already argued at length, and attempted to show, that the power reserved in the Charter, of sending a committee to inspect the books and examine the proceedings of the bank, and report whether its charter had been violated, conferred no right of compelling the production of the books out of the Bank, and the appearance of the directors, to submit to an examination on oath as to their innocence or guilt, of the unspecified crimes and misdemeanors laid to their charge. In like manner the undersigned have expressed their decided conviction that the general power of inquiry possessed by the House can have no rightful extension to a case like this. It follows by necessary consequence, that no process, having for its object to compel the directors to appear before the committee, and bring with them the books of the Bank to be inspected, and to testify touching the matters of such an inquiry, could be legal. The object of the process was authorized by law.

Incident to this fatal objection to the process, is another not less so. A *subpœna duces tecum* is a process, not issuing to the party criminated or implicated in the trial, or interested in the suit, but to a third person, to appear and bring with him any paper in his possession, which may be lawfully used as evidence in the trial or suit, without prejudice to the person summoned, or his title. The process of the committee was intended to be addressed to those whose abuses, corruptions, and mal-practices were the subjects of inquiry; and the books they were ordered to bring with them, were to be used in their own crimination.

The form of the process, and its mode of service, are believed by the undersigned to be not less objectionable than its object, and equally fatal to its legal character; but on this topic they omit to dwell.

Notwithstanding the strong objections to its legality, the persons to whom it was addressed, individuals unsurpassed for probity, intelligence, and weight of character in the community, treating it with the respect due to the House Representatives, obeyed its call, and appeared before the committee, at their chamber in the North American Hotel.—Their answer to the summons was communicated in writing, and appears among the documents as paper No. 48. They state therein, that they do not produce the books of the Bank, because they are not in the custody of either of them, but in that of the Board of Directors. By the Board, it will be recollected, the books had been confided to a committee of their number, to be by them submitted to the Committee of Investigation. If it were the purpose of the Committee of the House to address their process to the party having the actual possession of the books, it would seem that the Committee of the Directors was that party delegated by the Board, and recognised throughout the transaction as their agent, by the Committee of the House. If, on the other hand, it were intended to address it to the party to whom the books ultimately belonged, it would seem that it should have gone to the Corporation.

The written answer of the Directors (after stating their ignorance, whether they should be called on to testify,) expressed a purpose not to testify to the matters of the inquiry, in consideration of the character of the inquiry, and their own relation to it, as corporators and directors. But as none of the persons summoned were required by the committee to testify, no actual refusal to testify took place, and consequently no contempt (supposing an actual refusal would have been such contempt, which the undersigned do not admit) was committed by the Directors against the authority of the House.

The undersigned are aware that, supposing the process valid in its object, substance, form, and service, it was a matter of indifference, as far as the question of right is concerned, what book or books the Directors were required by it to produce. But they cannot but express the opinion, that a demand for the credit books of the Bank, showing the accounts of every individual with the institution, was the last which, in a tender regard to the rights and feelings of third persons, it would have been expedient to make.

So sacred is the confidence of individuals dealing with the Bank, that the charter exempts the state of their accounts from the weekly inspection which the Secretary of the Treasury is authorised to make; and the by-laws, which have been in force from the foundation of the institution, forbid a director, without special authority, to inspect the cash account of individuals. To require the Directors to take from the banking-house, convey through the public street, and open for inspection in the chamber of a hotel, the book containing the account of every individual with the Bank, would seem to indicate the purpose of putting to the severest test the power of the House, the obedience of the Bank, and the patience of innocent third parties, whose vital intarests might be jeoparded in this procedure.

The previous demands of the committee, having assumed the form of requests, could only be objected to in their spirit and tendency. There is nothing which a committee authorized to inquire, may not be refused. The law knows nothing of requests; their refusal puts no one in contempt. But the process now under consideration assumes the form of a legal and compulsory instrument, authenticated by the seal of the House, and the signature of the Clerk. Obedience to such an instrument, (if it is lawfully issued) can be compelled against all obstacles and opponents, and those who maintain its legality must maintain the power of enforcing it. How shall it be enforced, in case it be disobeyed and resisted? Shall the Sergeant-at-Arms be sent to attach the Directors? Shall they be brought prisoners to the seat of Government, and the bar of the House, attached for refusing to produce and bring their books to the North American Hotel, and for avowing a purpose (which was not put to the test) not to submit to an examination on oath, touching their own crimes and misdemeanors? A satisfactory answer, consonant to reason and justice, and grounded on the Constitution and laws of the United States, must be found to this question, by all persons who maintain the validity of the process issued by the committee. That such a process is no *subpœna duces tecum*, is obvious, from the fact that it is addressed to the parties implicated. It is no process in chancery requiring a party to produce his books and papers; for its avowed object is to inquire whether "a criminal prosecution shall be instituted;" an object for which the Chancellor will require no man to produce his papers. Unlike any of the processes known to the humane jurisdiction of the present day, it is in their most odious features, identical with the dark ages of English liberty, and the writs of assistance which first killed the spirit of resistance in the American Colonies. It is a compulsory process to compel the good people of the United States to produce their books and papers, and submit them to general search in proof of crimes, not charged but suspected; to be enforced by attachment, imprisonment, and infinite distress;—a search of books, a search of papers, a search of accounts, a search of letters, and an examination on oath of the persons implicated, touching the matters whereof they are suspected.

In what does such a warrant differ from those which were issued under the first Charles and the second James, for which, among other things, Scroggs was impeached; and which the House of Commons, in 1763, after full argument, solemnly resolved to be illegal? Illegal for a Court of King's Bench in 1684, illegal in the judgment of the House of Commons in 1763, the undersigned are slow to believe that an American House of Representatives, in 1834, will be found to assert, or an American citizen to admit, their legality.

In conclusion, the undersigned would observe, that neither of them gave his voice for the resolution creating the committee, nor deemed the inquiry, in many of its objects, necessary or proper. They hope it is not improper to add the expression of the opinion, that, had the attention of the House been particularly drawn in debate to the terms of the resolution, it would have received some modification; and that it is owing to its passage under the operation of the Previous Question, and without any examination of its details, that it received, in its present form, the sanction of the House. Being, however, placed on the committee, the undersigned were desirous of discharging their duty as members of it, under the order of the House, to the best of their ability, and according to their understanding of the rights of the corporation visited—the powers of the House and the principles of justice. They were desirous of taking up the various matters of inquiry enumerated in the resolution, viz: the causes of the distress, the alleged violations of the charter, and the imputed corruptions of the Bank, one by one; of considering them in the order in which they are arranged by the House; of investigating each according to its nature; of inspecting the books and examining the proceedings of the Bank according to the charter, that is, in reference to all objects which, by the charter, are properly subjects of such inspection and examination; or in regard to which the Directors might voluntarily submit them for inspection; and of inquiring into the other matters referred to them, as far as, on consideration, they should deem the committee competent to do so.

Of all these objects, the undersigned confess that they regarded that which stands foremost in the resolution as vastly the most important; an inquiry into the causes of the present distress. It was their firm persuasion that the country demanded this inquiry of Congress. A number of memorials and of subscribers to them, greater by far than have at any former period come before Congress, invoked the aid of the National Legislature to relieve them from a state of unexampled distress. An embarrassment unusually extensive and severe, and not yet extensively alleviated, demanded an inquiry into its causes. It was alleged, on the one hand, to be wantonly produced by the Bank; and, on the other, to be the unavoidable consequence of the financial policy pursued by the Executive. The undersigned wished to make this the first, as it was infinitely the most important object of their investigations; to receive the testimony of enlightened merchants and men of business, in the intelligent community to which they were sent, (who might be willing to appear before them,) as to the extent and causes of the distress; to receive from the Bank those statements of its affairs, which they are well persuaded it would most cheerfully have afforded, and which would have illustrated its whole course in the difficult and trying position into which it has been thrown; and from all other persons, on whom the committee would have had a right to call, their testimony as to the manner in which this measure of the Executive has been taken up and carried on. Such an examination, the undersigned believe, would have been useful to Congress, satisfactory to the people, and powerfully efficient in leading to the removal of the heavy burdens now lying on them. This object first accomplished, as it was the first in the precept of the House, the undersigned would have proceeded to consider the violations of the charter; and, as the resolution of the House does not confine the inquiry to those violations with which the Bank has been charged, they would have deemed themselves authorized to extend their researches to those of which the Bank complains, particularly to the removal of the deposites for reasons not deemed satisfactory by Congress, as now appears of record on the journal of one of the Houses of Congress. If, after these inquiries had been gone through, it had still appeared, on considering the other matters comprehended in the resolution, that they required or admitted further investigation, the undersigned would cheerfully have co-operated in the work, resorting to every source of information, legally available, as far as the same could, by the charter, be required from the Bank, or legally received or compelled from any other quarter. If, in the progress of such an investigation, so conducted, disclosures had been made of matter requiring or authorizing any further procedure on the part of the House, the undersigned would not have been behind the most zealous of their associates, in denouncing it to the House and the country. A different view of this duty was, however, taken by their colleagues, resulting in a series of measures, from which the undersigned unfortunately found themselves obliged to dissent.

But while there was a form, in which the undersigned were prepared to meet every part of the resolution under which the committee was raised—the form most consonant to the wants and wishes of the country, (to which all other matters of party crimination are insignificant, compared with the great question of the causes, the just responsibility, and the remedies of the present sore distress) —the form unquestionably in which the resolution was viewed by one considerate class of those who voted for it in the House—the undersigned freely admit, that, in the range and character proposed to be given to the inquiry by their colleagues, the majority of the committee, the purpose of the majority of the House was mistaken. They think that no candid person, contemplating all the circumstances of the case, from the first demonstrations of a policy on the part of the Executive hostile to the Bank, down to the recent measures in support of that policy in the House of Representatives, will deny that its object was the overthrow of the institution, and the impeachment of its directors before the bar of public opinion, if not before that of the judicial tribunals of the land, of gross malpractices, corruptions and frauds; and that the inquiry to be conducted by the committee, of which the undersigned composed the minority, was proposed to be one of the measures to promote that end. So far from this being denied, the undersigned understand it to be not only admitted, but claimed as a merit, on the part of the friends of the present Administration of the National Government.

How was it natural that such an inquiry should be met by the Bank, or rather by those who have been entrusted by the stockholders with its direction? The Bank is a legal abstraction. To charge the Bank with bribery and corruption, is to use words which have no accurate meaning, true or false. The party implicated is the directory and officers; men of character; men known to the community as some of the most useful members and brightest ornaments; men of probity, unimpeached in private life. Some of them are merchants, whose words, in the most important transactions, would be deemed as good as their bond; and others are professional characters, who adorn the highest tribunals of the country. These are the party implicated—charged with the most cruel and perfidious design to bring universal distress upon the country, for the sake of paltry selfish ends; and, to promote these ends, further charged with corrupting the conductors of the press, corrupting the people in the exercise of their elective franchise, and corrupting the members of Congress. Are honest and honorable men, charged with these odious misdemeanors, to submit to the charge without a murmur; to acknowledge the reasonableness of making it; the expediency of investigating it, all vague and unspecified as it is; the reality of a *prima facia* case against them? Does conscious innocence require them to admit that there is ground of suspicion? Does the strong and indignant feeling that their characters are outraged, while their rights are invaded, call upon them voluntarily to take the culprit's place, and endure the ignominy of what they deem an uncalled-for and a vexatious inquisition? Or is it not rather the natural dictate of proud and conscious innocence to place themselves upon their rights, beneath the ægis of the law? If I go to my neighbor, as honest a man as myself, and say "You are a swindler and a knave," shall he meekly ask me to enter his house, lay open his leger and his letter book, and invite me to collect the materials out of which I may prejudice the public against him? The directors of the Bank are citizens, as honest and as virtuous as any of those, in office or out of it, high or low, who charge them with corruption. A good name is as dear to them as to their accusers. Their stake in the welfare of the country is as great. The success with which they have conducted the affairs of the great institution entrusted to their care, is not matter of opinion; it is notorious to all the world. At this moment, notwithstanding the fearful warfare waged against them by almost every branch of the Government of their own country, their credit is as good at London or Paris, as that of the Bank of England or France. At this moment, in the remotest East, in the markets of China, where the silver coin of the country, from the public mint, is undervalued, the paper of the Bank of the United States is an acceptable currency. In the midst of its career of usefulness, it has been, unfortunately for the country, drawn into the field of political controversy; its directors and officers vilified by name; their most laudable measures misrepresented; their most innocent acts calumniated; and their slightest errors of judgment tortured into corruptions and crimes: above all, the severe distress