

BANK OF THE U. STATES.
Report of the Committee of the House of Representatives, appointed to investigate the affairs of the Bank of the United States.
[PRESENTED May 22, 1834.]

The Committee appointed in pursuance of a resolution of the House of Representatives, passed on the 4th day of April, by which it was

Resolved, That for the purpose of ascertaining, as far as practicable, the cause of the commercial embarrassment and distress complained of by numerous citizens of the United States, in sundry memorials, which have been presented to Congress at the present session, and of inquiring whether the charter of the Bank of the United States has been violated, and also what corruptions and abuses have existed in its management; whether it has used its corporate power, or money, to control the press, to interfere in politics, or influence elections; and whether it has had any agency, through its management or money, in producing the existing pressure,

a Select Committee be appointed to inspect the books, and examine into the proceedings of the said Bank, who shall report whether the provisions of the charter have been violated or not; and, also, what abuses, corruption, or mal-practices, have existed in the management of said Bank; and that the said Committee be authorized to send for persons & papers, and to summon and examine witnesses on oath, and to examine into the affairs of the said Bank and branches. And they are further authorized to visit the principal Bank, or any of its branches, for the purpose of inspecting the books, correspondence, accounts, and other papers connected with its management or business; and that the said committee be required to report the result of such investigation, together with the evidence they may take, at as early a day as practicable—

Respectfully submit the following Report, in part of their proceedings, so far as they have found it practicable to discharge the duties devolved on them.

Charged, particularly, to examine into the conduct and condition of the Bank of the United States, they have endeavored most anxiously to ascertain the true character of that highly responsible and delicate trust.

To judge rightly of the proceedings of the House of Representatives, and of its committee towards the Bank, it must be borne constantly in mind, that that corporation differs essentially from an ordinary banking company, incorporated for private benefit. The Bank of the United States was chartered for great public purposes, as an agent, deemed necessary to the Federal Government, in the efficient exercise of its high prerogative, to fix the value of money, and thereby secure the benefits of a sound circulating medium to the confederacy.

It was designed to aid the Treasury Department to collect conveniently and disburse the national revenue—of its stock the United States held seven millions of dollars. And its notes are by law made receivable, at par value, in payment of all dues to the Government. Concede, as we must, that the Bank was established for great public ends, and that the House of Representatives is the grand inquest of the Union, and as such, has power to visit and inspect all Departments of the Federal Government, to correct their abuses, reform their errors, and confine the exercise of their powers within the limits prescribed by law to each, and it follows that the House has power to appoint a committee to make a minute and full inquiry into all the multifarious operations of this powerful corporation.

But that there might be no doubt of the existence of the power here contended for, it has been expressly reserved in the 23d section of the charter of the Bank, which provides, "That it shall be at all times lawful for a committee of either House of Congress appointed for that purpose, to inspect the books and examine into the proceedings of the corporation hereby created, and to report whether the provisions of its charter have been violated or not."

The language in which this authority of the House is described, is plain and so full, that an attempt to illustrate it appears to be supererogatory. The committee to be appointed are to "inspect the books and examine into the proceedings of the corporation" without exception. The section contains no reserved power to the Bank to designate the place where, or the persons in whose presence the examination shall be made. These modes of exercising the main power are necessarily, as its incidents, dependent on the discretion of the sovereign with whom it is lodged. A contrary construction would make either or both Houses of Congress dependent on the agents whose conduct is to be the subject of inspection.

If the Bank can attach any conditions to its exercise, not found in the charter, then it could render nugatory the power, by which it was intended it should be checked and controlled. That the great conservative purposes for which such Committees of Investigation were to be appointed might not be thus defeated, the extent and character of their inquiries are rightly made to depend on the wisdom, patriotism, and justice, of either House of Congress.

The only restriction to be found, in that clause of the Bank charter which we are considering, is that which relates to the committee, and not to the House; and has reference, not the extent of the examination, but to the character of the report to be made. The committee is directed to report, among other things, "whether the provisions of this charter have been violated or not." The object of this specific requirement is to be found in another clause of the same section of the charter, which provides, "whenever any committee as aforesaid, shall find and report, or the President of the United States shall have reason to believe, that the charter has been violated, it may be lawful for Congress to direct, or the President to order a *scire facias* to be issued out of the Circuit Court of the district of Pennsylvania, in the name of the U. States, calling on the said corporation to show cause wherefore the charter hereby granted, shall not be declared forfeited."

But if there ever had been a well-founded doubt as to the true and fair construction of this reserved power of the House, the committee did suppose it had been long since yielded.

In 1818, Mr. Spencer, of New York, offered to the House of Representatives a resolution providing for the appointment of a committee to inspect the books, and examine into the proceedings of the Bank.

In the debate to which that resolution gave rise, the opinions now entertained by your committee, were well expressed by many distinguished gentlemen. For presenting short extracts from one of the speeches there made, no apology, it is supposed, will be needed. Mr. Lowndes said, he had no "apprehension of a defect of power in the House to prosecute the inquiry in the terms proposed. He had no doubt of the power of the House, if the public interest required it, to direct a committee to make such a report. The nation, said he, has a deep interest in the conduct and management of the Bank; our duty to the people whom we represent, the nation's interest, as owners of a large portion of the stock, its interest in the revenues being wholly payable in the notes of the Bank, will justify a constant and vigilant attention to its proceedings. If there had been a doubt whether the conduct of the Bank had been

proper or not, the House was fully justified in investigating into the facts, and inquiring whether abuses had been committed or not. He would vote for any inquiry, in its broadest shape."

The resolution of Mr. Spencer was adopted, and a committee appointed, who visited the principal Bank at Philadelphia, and some of its branches. They had free and unrestrained access to the books and papers of the Bank. They were furnished by the officers with such extracts and copies from the

books and papers as they called for. They summoned before them the Directors and officers of the Bank, and examined them on oath, touching their conduct and proceedings. And the Committee made to the House, on the 16th January, 1819, an elaborate report, from which we learn that their inquiries had been chiefly directed "to the general management of the Bank and the conduct of its officers." The transactions of private citizens with the Bank were then freely and fully examined. Individual transactions of the President and Directors of the Bank, in the purchase of its stock, were fully investigated, and those officers sworn and required to testify before the Committee. Though deeply affected, personally and officially, by these developments, they never hesitated or objected to obey the process or to give their testimony.

The names of the borrowers from the Bank were published without scruple, with the amount of money due from each, whenever, and not otherwise, such a publication was deemed necessary to illustrate the improper conduct or mal-administration of its officers.

This precedent, to which the Committee of 1819 strictly conformed, is entitled to high respect from the eminent character of those by whom it was established, and who have justly enjoyed high reputation for purity of purpose and distinguished attainments.

If any additional reason for deference to this contemporaneous construction of the 23d section of the charter be necessary, it may be found in the fact that the Directors of the Bank in 1819 themselves consented to it. They conceded to the Committee of the House the right to inspect all their books and papers in such manner as that Committee thought just and proper.

Besides, those who now have the management of the Bank, in 1832, without question of right, without hesitation, without protest, produced for the inspection of the Committee of the House, all their books, papers, correspondence and accounts, and appeared when summoned, and testified on oath touching the transactions of the institution under their control. With these preliminary observations for which it is believed ample apology, if any be required, will be found in the subsequent portion of this report, the Committee will proceed with a brief analysis of their proceedings in the execution of the duties devolved on them, showing the unexpected obstacles interposed by the managers of the Bank, to the progress of the examination, and their repeated refusals, in violation of their charter, and in contempt of the authority of the laws and of the House of representatives, to permit their books or papers to be inspected or their proceedings to be examined.

The purposes for which your committee were appointed, are stated so distinctly in the resolution of the House, that they have experienced no embarrassments in deciding on the character of the duties imposed. They are required 1st, to ascertain, if practicable, the cause of the commercial embarrassments and distress complained of by numerous citizens of the United States, in sundry memorials which have been presented to Congress at the present session, and whether the Bank has had any agency through its management, or money, in producing the existing pressure.

2d. To inquire whether the charter of the Bank of the United States has been violated, and what corruptions and abuses have existed in its management.

3d. To examine whether the Bank has used its corporate power or money to control the press—to interfere in politics, or influence elections.

The powers designed to be conferred on the committee, if they could have been exercised are adequate to the performance of the duties enjoined; they were authorized to send for persons and papers; to summon and examine witnesses on oath—to visit if necessary the principle Bank and its branches—and to inspect the books, correspondence, accounts and other papers connected with its management. Such are the duties and the powers of your committee conferred on them by the House with extraordinary unanimity, and which your committee felt bound to regard as consistent with the chartered rights of the corporators and their debtors.

Under a deep sense of respectful obedience to the decision of the House of Representatives thus solemnly expressed, and feeling that they had no right to question its justice or its propriety, your committee proceeded to Philadelphia on the 22d April, to commence the performance of their duties.

On the 23d of April, their Chairman addressed to the President of the Bank, a communication, enclosing a copy of the resolution of the House of Representatives, and notifying him of the readiness of the committee to visit the Bank on the ensuing day, at any hour agreeable to him. In reply, the President informed the committee that the papers thus received should be submitted to the Board of Directors, at a special meeting to be called for that purpose. It appears, in the journal of the proceedings of the committee, herewith presented to the House, that this was done, and that the Directors appointed a committee of seven of their board, to receive the Committee of the House of Representatives, and to offer for their inspection such books and papers of the Bank, as may be necessary to exhibit the proceedings of the corporation, according to the requirement of the charter. In the letter of John Sargent, Esq., as Chairman of the Committee of Directors, communicating the proceedings of the Board, he says that he was directed to inform the chairman of this committee, that the Committee of the Directors "will immediately direct the necessary arrangements to be made for the accommodation of the Committee of the House of Representatives," and would attend at the bank to receive them the next day, at 11 o'clock. Your committee attended, and were received by the Committee of Directors.

Up to this period, nothing had occurred to justify the belief that a disposition was felt, on the part of the managers of the Bank, to embarrass the proceedings of the Committee, or have them conducted differently from those of the two preceding Committees of Investigation. On assembling, however, the next morning, at the Bank, they found the room which had been offered for their accommodation, pre-occupied by the Committee of the Board, with the President of the Bank, as an *ex officio* member, claiming the right to be present at the investigations and examinations of this committee. This proceeding of the Committee were not prepared to expect. When the appointment of the Committee of seven was first made, it was supposed that that measure, however designed, was not well calculated to facilitate the examination.

The officers of the Bank were believed to be the most appropriate agents of the Board of Directors to exhibit their books and papers. By them the entries in the books are made, and by them such entries are most readily explained. It is their duty too, to be daily at the Banking house, and on that account they could assist in the examination more readily than the Committee of directors.

These objections to the special agents of the Board were felt and expressed, but they were waived, and no disposition has been manifested or felt by your committee, to conduct the examination in any manner not entirely acceptable to the board.

Under these circumstances, your committee did think that a decent respect for their rights and pri-

ileges, and much more for the dignity of that body from which all their powers were derived, might have induced the Committee of Directors to forbear to make them feel an entire want of control over their own room. With a previous determination to be present when their books were to be inspected, they could have waited to avow it until these books were called for, and the attempt made to inspect them in their absence. These circumstances are now reviewed, because they then excited an apprehension, which the sequel formed into conviction, that this Committee of Directors had been appointed to supervise the acts and doings of your committee, and to limit and restrain their proceedings, not according to the directions contained in the resolution of the House, but the will and judgment of the Board of Directors. Your committee have chosen to ascribe this claim of the Committee of Directors, to sit conjointly with them, to the desire to prevent them from making use of the books and papers, for some of the purposes pointed out by the resolution of the House. They are sensible that this claim to be present at all examinations, avowed pronaturally, and subsequently persisted in with peculiar pertinacity, could be attributed to very different motives; but respect for themselves, and respect for the gentlemen who composed the Committee of Directors, utterly forbids the ascription to them of a feeling which would merit compassion and contempt much more than resentment.

This novel position, voluntarily and deliberately taken by the Committee of Directors, predicated on an idea of equality of rights with your committee, under your resolution, rendered it probable, and in some measure necessary, that your committee should express its opinions of the relative rights of the corporation and the House of Representatives.

To avoid all misunderstanding and future misrepresentations, it was desirable that each question should be decided separately. Contemplating

an extended investigation, but unwilling that an apprehension should exist of improper disclosures being made of the transactions of the Bank and its customers, your committee, following the example of the Committee of 1819, adopted a resolution declaring that their proceedings should be confidential, until otherwise ordered by the committee, and also a resolution that the committee conduct its investigations "without the presence of any person not required or invited to attend." A copy of these resolutions was furnished to the Committee of Directors, in the hope that the exclusive control of a room at the Bank, during its hours of business, would thereafter be conceded to your committee, while the claim of the Committee of Directors to be present when their books were submitted for inspection, should be postponed for decision, when the books were called for and produced by them.

On the 25th ult. this committee assembled at the banking house, and again found the room they expected to find set apart for their use, pre-occupied by the Committee of Directors, and others, officers of the Bank. And instead of such assurances as they had a right to expect, they received copies of two resolutions adopted by the Board of Directors, in which they were given to understand that their continued occupation of the room must be considered a favor, and not a matter of right; and in which the Board indulged in unjust commentaries on the House of Representatives; and intimate an apprehension that your committee design to make their examinations secret, partial, unjust, oppressive and contrary to common right.

When this communication had been read, your committee adjourned to meet at their own chamber, at the North American Hotel. Notwithstanding all that occurred, the correspondence with the committee of directors was continued. If in so doing an error was committed, let it be imputed to the belief that great forbearance well became the Committee of the immediate Representatives of the People.

While it was thus doubtful whether a room could be obtained in the Banking house, without conditions being attached derogatory to the rights and dignity of the House, and a concession in advance of a claim set up by the Bank, which might seriously inconvenience your committee in their business, they determined to execute your resolution, if practicable, without intruding on the Directors of the Bank; they therefore, required of the President and Directors, in writing, to submit for the inspection of the committee, at their committee room, on the 3d day of May, certain books and papers of the Bank, which might have been thus produced without interruption to the ordinary business of the Bank. The requisition, in terms implied the presence of the directors or their committee.

On the day named, the Board addressed a written communication to the committee, declaring, "that they cannot comply with that part of the resolution of the committee of investigation which requires that certain books of the Bank be sent to the North American Hotel, this day, at 11 o'clock."

Your committee are of opinion that this refusal of the board of directors to submit the books of the Bank to the inspection of your committee, is a violation of the Bank charter, and a contempt of the laws and authority of the House of Representatives.

The reasons for this opinion need not be here repeated or enlarged.

It has been maintained, and is insisted, that the right to inspect the books of the Bank, carries with it the power to perform that office out of the banking house, if it cannot be done conveniently and effectually therein, and your committee cannot perceive that just ground of complaint exists against a claim of power, in a committee of either House of Representatives, and of the dignity of the House, and of the rights of the people.

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 books called for relate to the subcommittee 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 29th 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

a contempt against the authority of the House committed.

They are of opinion, that your committee were under no obligation of right to recognize any agent of the Bank other than those generally known as such, and make their duty and right to inspect the books depend on the convenience or caprice of such deputation.

If such be the fact, then the examinations of the Bank will, in all cases depend on the disposition of the Directors to have their proceedings examined.

Having been thus denied, by the officers of the Bank, and having been informed by the Directors, that they were not aware of having declined to furnish a room for the exclusive use of the committee, sincerely desirous to meet the wishes and directions of the House, believed it to be their duty to seek another interview with the committee of Directors, and by arrangement, met the committee of the Board, at the Bank, on the 7th day of May, at an hour fixed by themselves.

Your committee then and there, in writing, required of the Committee of the Board, to produce to your committee, for inspection, certain books and papers of the Bank, to enable your committee to inquire into the truth of the representations made by the Government directors to the President of the United States and to Congress; and to ascertain whether the Board of Directors had violated the charter of the Bank, by authorizing the exercise of illegal powers by their committees or officers, and whether the Bank had any agency, through its management or money, in producing the present pressure, or has used its corporate power or money, to control the press, to interfere in politics, or influence elections.

Without giving a specific answer to these calls for books and papers, the committee of Directors presented a written communication, which was said to be "indicative of the mode of proceeding deemed right by the Bank."

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 authorize 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 alleged or supposed violations of charter, to which the evidence is alleged to be applicable."

To this extraordinary requirement, made on the supposition that your committee were charged with the duty of examination, 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 examining 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 produced 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 authorized 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 authorized 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 books called for relate to the subcommittee 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