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Congress of the United States.

HOUSE OF REPRESENTATIVES.

THURSDAY, March 3, 1803.

DEBATE on Mr. BAYARD's Resolution respecting the sale of the BANK STOCK—CONTINUED.

Mr. Bayard—Before the question is taken upon the resolution which I had the honor this morning to lay upon the table, the House will indulge me in a short reply to the observations of gentlemen who are opposed to the resolution. The late hour of the evening forbids my trespassing long on the patience of the House, and I should certainly not have risen a second time on the subject, had I not found myself greatly misunderstood or misrepresented in the arguments of my adversaries. It is not a little surprising, after the explanations which have been given, that an impression should remain on the mind of a single gentleman that any design was entertained in calling up the subject at a late period of the session to preclude a full discussion of it, or to secure any advantage from the circumstance of the friends of the administration being surprised by unexpected objections to a measure, which sufficient time would have enabled them satisfactorily to have answered. The design of proposing the resolution was no secret. It was disclosed to gentlemen who it was known would resist it, & who it was reasonable to suppose would communicate it to their friends. I understand full well why the time is complained of at which the subject is brought up. It supplies the defects of inconclusive arguments in support of a measure which no preparation would have enabled its friends better to have defended.

I consider it as no very favorable symptom that some gentlemen have discovered so much irritation in the debate. Do they mean to tell us that there is any measure of the administration which at any time in this House ought to be exempt from scrutiny? Sir, in my opinion, instead of complaining of our conduct, they ought to thank us for the step which we have taken. The sale of the bank stock has been strongly impeached in the public prints, and has excited much jealousy in the minds of many people. We now afford the administration a fair opportunity of shewing the authority under which they made the sale, and of explaining the expediency of the measure. It is not to be presumed that they acted unadvisedly, and they have only to state the grounds upon which they proceeded. I hope it will be remembered that the resolution simply proposes an enquiry. It imputes nothing to the transaction; and it would seem to me that those gentlemen who have most faith in the correctness of the measure, should be most fond of having it deliberately investigated.

The act of the commissioners in the course of the argument has been impeached upon two grounds: First, that they had no authority to sell the stock, Second, that there was no occasion for the sale, and that it was made upon terms injudicious and prejudicial to the interest of the United States. I have no intention of going through the whole subject, or of repeating the remarks submitted in opening the discussion. I shall confine myself to a reply to what has been urged upon the other side of the House. I do not know that I should have imposed the trouble even of this task upon myself, had not admissions been attributed to me which I pointedly deny, and which comprehend positions which I have considered as wholly untenable. It was stated that I admitted that the power given to sell the bank stock by the act of 1796, was in existence at the date of the late sale, and that the only question on the subject was as to the necessity of making the sale.

I may have admitted that the law of 1796 was repealed, and therefore sub modo in existence. The power given by the law was not absolute, but contingent. The power was delegated by the legislature in contemplation of a certain state of things. If the state of affairs had been different it would not have been granted. To exercise the power therefore, when events had removed the whole ground upon which it was given, can never be justified as long as it plainly appears that the exercise was not conformable to the view of the legislature. The measure was originally adopted as the sole alternative, to preserve the credit of the government. Necessity gave it birth, and its existence was made to depend upon the same necessity. The government was called upon to discharge the loans which had been made by the bank, which had been prolonged by courtesy beyond the original terms of the loan, but remained payable on demand. There was no money in the treasury—none to be borrowed, none to be raised without an enormous sacrifice by the sale of six per cent stock. Under these circumstances the law authorized the sale of Bank stock.

We are now told when none of these circumstances exist, when the government had money enough in its hands to pay the whole debt due to the Bank, that still it was warranted to suffer the public money to remain unemployed in the Treasury, and to sell the Bank stock, which was a productive fund. I have nothing to say as to the motives of the Bank in pressing their call for the money—nor as to the character of the transaction; as it respects the subject under consideration it is enough that they insisted upon the payment, and the government were obliged to comply.

I have no objections to joining in the congratulations of the gentleman from Virginia, that the treasury is fuller to day than it was in the year 1796. Not that I mean to allow that that gentleman or his friends deserve any credit for the prosperous state of our finances. They are now reaping the fruits of the wisdom and industry of others, and beside the retrenchments which they have made, the principal part of which any administration under the same circumstances would have rejoiced in the opportunity of making, the Treasury owes not a dollar to any fiscal improvement they have introduced. The public wealth is attributable solely to our commercial prosperity. For there remains no source of revenue worth naming, but the duties on imports and tonnage.

But Mr. Speaker, it is of no importance in this argument through whose means the money come into the Treasury.—It is sufficient that it was there. We contend that there was no power to sell the Bank stock while the government had money at its disposal, equal to the demands against it. The mistake of the gentlemen upon the other side is in considering the power given by the act of 1796, to sell the stock as absolute when it is plainly conditional. They lay hold of the power and discard every circumstance connected with the grant of it. They treat a power to exist only on a contingency in the same manner as if there were no contingency at all. The legislature grant an authority to the commissioners of the Sinking Fund, to sell the stock in case the payment of a certain debt be exacted, and there be no money in the Treasury to satisfy it; this is construed as a power to sell the stock, tho' the debt be not demanded, and altho' there is more money in the Treasury than sufficient to discharge the debt.

If such a construction be justifiable, there is an end of our argument, and there can exist hereafter no such thing as an eventual power. A similar construction would have given the President a power to raise an army under the law authorising the raising of a provisional army, without the occurrence of the events by which the power was limited. Give me leave to tell gentlemen, that the public mind will hardly be satisfied unless their ingenuity supplies a better defence of the power which has been exercised.

We have been congratulated by the gentleman from Virginia (Mr. Randolph) upon that state of our affairs, which instead of raising questions and exciting declamation in this house as to the mode of borrowing, produces controversy only as to the mode of paying our debts.

I rejoice that the gentleman is warranted in making this statement. I pray to God that the same condition of our affairs may long continue, though much I fear, without an extraordinary act of Providence, the prospect will soon be changed. The prosperity of the country was not produced by a system of measures like that at present pursued. The operations of a government require time to produce their effect. The result of the positive measures of the present administration, has not yet been felt by the nation, and is discernable only in a distant and dark prospective.

I am not one of those who will ever quarrel with the administration for paying off the public debt. I feel the same interest for myself and my posterity that any other gentleman can do in liberating the community from the burthen. I rejoice that we have the means to do it, and that the government have manifested a disposition to do it. But, sir, all this will not justify the doing of a good thing in an improper manner. I do not complain that the debt to the bank was in part discharged, but I complain that the bank stock, a fruitful and valuable source of revenue, was sacrificed to make a payment of 1,287,600 dollars, when there were 4,500,000 dollars lying idle and unprofitable in the treasury. Why was not the whole debt paid to the bank? Why are we still left in arrears more than 1,000,000 dolls. when we have money to pay them? Is not the administration afraid that they will again take advantage of our necessities, and again embarrass us with their claims when any emergency occurs? It is plain that this payment to the bank was a mere pretence, and a secondary object. The true motives were its facilitating the discharge of the instalment of the Dutch debt, payable in Holland, and the advantage it gave to the administration of boasting of the debt which they had paid off, and of the monies, notwithstanding which, they had on hand.

A gentleman from Maryland (Mr. Nicholson) to shew that the power given to sell the stock by the law of 1796 still exists, has referred to two provisoes in a law of the last session, and at the same time has expressed his surprise that I have not had recourse to them in support of my argument. Sir, I had not forgot the discussion upon the principles of those provisoes, one of which was introduced upon my own motion. The first provided that nothing in the act of the 29th April, 1802, should be construed to repeal the powers given by the 10th sect. of the act of 1796. The second provided that the same act should not be construed to revive powers upon the same subject, which being granted under any former act, had expired.—These provisoes were considered at the time as neutralizing each other, and leaving the act of 1796 to a construction upon its own principles.

I confess Sir, that I considered the first proviso as designed indirectly to revive powers which had expired, and failing in a motion to strike it out, I contented myself with introducing the second, which I apprehended would destroy its effect. That end I believe was accomplished, and therefore I consider the law of 1802, as furnishing no support to either side of the present argument.

We are told by the gentleman from Maryland to whom I last referred, that if the law of 1796 has expired, and there was no authority to sell the bank shares, then the sale is void and the property still remains in the United States. I feel no difficulty in comprehending the extent of this position but I am at a loss to discover how it is to be employed in opposition to the resolution on the table. If because there was no authority to sell the stock, the sale was void and the property still belongs to the United States, it seems to me that a better reason could not be urged for the immediate institution of the enquiry, as in consequence of the sale the United States have lost the possession and profits of the stock. As things now rest, it is of little consequence that the property belongs to us, if the fruits of it are always hereafter to belong to others. I beg however not to be understood as adopting this position of the gentleman from Maryland. The stock has been transferred under the sanction of the executive, the contract has been in part performed by the purchasers, and however irregular the procedure, it would but little comport with the credit of the nation, to attempt to violate a contract attended with all the solemnities with which the powers of a government could clothe it. But tho' the property cannot be recalled, yet the conduct of those through whose management it has been lost, ought to be enquired into, and if the measure be found unjustifiable, they ought to be made to answer for it. I have but one more observation to make relative to the power to sell the stock. It has already been stated that a power was given by the act of 1796 to raise the money which the exigency of the moment required in three different ways. By the constitution of 6 per cents, by borrowing, and by the sale of the bank stock. If one of those powers survived the occasion they were created to answer, they all now remain in existence, and yet would it be possible to contend, that the design of the law would warrant the commissioners to borrow a sum of money equal to the debt due to the bank, while a greater sum remained unappropriated to any other object, in the Treasury. An honorable gentleman from Maryland (Mr. S. Smith) upon this point, has perhaps adopted the wisest course. Without troubling himself with an enquiry into the authority of the commissioners to sell the stock, he reposes with implicit faith on the conduct of men whom he supposes incapable of error. In this course he probably will be followed by many others. It is the shortest and avoids every difficulty. I know sir, that the Attorney General, the great law officer of the government, and the Secretary of state are members of the board of commissioners. I am not deficient in respect for those high officers; but if we are to be imposed upon by the names of men or of officers you renounce one of the most valuable and important privileges of this house—that of general superintendance and enquiry relative to the conduct of every department of the government. If I knew nothing about the subject I might have the same faith with the gentleman from Maryland; but being convinced from an investigation of it that the commissioners have done wrong I can discover nothing in their names or their offices, to induce a belief that they are infallible.

Before I sit down, the House will suffer me to make a few remarks in reply to the observations of gentlemen upon the other side, as to the terms upon which the sale of the stock was made.

Supposing the commissioners had a power to sell the stock, it was certainly their duty to dispose of it to the greatest advantage for the United States. The question whether they have done so, depends in a great degree upon facts which are not easily settled by any evidence we have at present before us, and therefore ought to be made the subjects of enquiry. The current price of bank stock in the United States and London, and the rate of exchange between the U. States & London, & London & Amsterdam are facts necessary to be ascertaind before a judgment can be formed as to the profit or loss resulting from the sale. The statements of the gentleman from Maryland (Mr. S. Smith) are entitled to much respect—He is an intelligent merchant, and must have been conversant with the facts alluded to. But his information is limited. The price of stocks and the rate of exchange may not have been the same in other parts of the U. States, as in Baltimore. I have great reason to believe they were not—My information differs from that of the gentleman—It is drawn from sources on which I rely—It cannot be expected that in my place, I should mention private names. The gentleman from Virginia (Mr. Randolph) has characterised the information I have communicated in a manner entitling it to the confidence of the House. He has described it as the knowledge of a stock broker. On the subject before us the knowledge of stock brokers is precisely what we want. I pretend to no knowledge upon the subject, of my own. But on this and upon all other subjects, on which I have no knowledge of my own, but want information, I have recourse to those people, whose business in life gives them the knowledge which is required. This conduct is prescribed by a wise old proverb, that every one is to be believed in their own art.

If I wished to be instructed as to the manner of making a pair of shoes, I should certainly prefer the instructions of a shoemaker, to any knowledge on the subject, which I could gain from the gentleman from Virginia.

The same principle has governed me on this occasion. Recourse has been had at different places to these persons whose business called them constantly into the commercial markets, and who of consequence acquired an accurate knowledge of the current prices of bills and stocks. But Sir, if we differ as to these facts, can there be a stronger reason for enquiry? If our information be incorrect the enquiry will terminate in the justification of the commissioners—But if thro' negligence or from any other cause the public interest has been sacrificed, can gentlemen wish to cover the transaction with the veil of secrecy and oblivion—That the interest of the United States has not been understood or not attended to, we have at present reason not only to think is probable, but to believe is certain.

The commissioners have sold 2,220 shares of stock at 45 per cent. advance, when it is admitted they might have got 50—This is a loss of 44,400 dollars—They have allowed the purchaser to receive two dividends on the stock before he was obliged to pay a cent—This is an additional loss of 75,480 dollars—and makes an aggregate loss of 119,880 dollars.

A gentleman from Maryland (Mr. Nicholson) contends, that the second dividend upon the stock ought not to be taken into the account of loss, because part of the debt being paid to the bank, the United States were exonerated from an interest upon that debt equal to the amount of the dividend. But, sir, it is to be remembered that the debt due to the bank was paid out of money in the treasury, and had no other connection with the contract relative to the stock, than to furnish a pretence for the sale. The proceeds of the stock were applied to the debt in Holland, and the two dividends were received before a dollar was to be applied to the payment of that debt. In estimating the profit or loss of this contract, we are only to consider what the government parted with, and what they received in return. The saving of interest on the bank debt was not a consequence of this sale.—Without the sale there was money enough in the treasury to extinguish the debt, and in fact it was so extinguished without any aid from the sale. It is clear then that the commissioners gave to the purchaser a certain profit of dolls. 119,880, and the only question which remains is, what advantage was stipulated for the United States to compensate this loss. It is said that the purchaser has undertaken to pay in Holland dolls. 1,287,600, at 41 cents the guilder; in consequence of which the government saves two cents upon every guilder, as the remittance could not otherwise have been made for less than 43 cents the guilder.

Now sir, this is a fact which I do not believe, and I have reason to think that the remittance could have been made at par, after allowing the usual commission to agents in London for doing the business. If this were the case, the pretended benefit of the contract vanishes, and an additional loss appears in its place of a cent upon 3,140,487 guilders, amounting to the sum of dollars 31,404 87-100. But why was not the offer of the Manhattan Bank accepted? They proposed remitting the whole instalment of the Dutch debt at 43 cents the guilder. The two cents they asked more than Mr. Baring, amount only to the sum of dollars 64,380, and yet the government gave to Mr Baring, in the sale of the stock, a certain profit of dollars 119,880, and of consequence made a plain sacrifice of dollars 55,500.

Some gentlemen have been driven to strange shifts in order to shew the benefits of this contract. A gentleman from Maryland (Mr. S. Smith) includes in his amount of profit, a saving in a probable advance of exchange in the remittance of that part of the Dutch instalment, which was remitted by the purchase of bills in the market. This item is founded upon the mere supposition, that if the government had been obliged to purchase additional bills to the amount of Mr. Baring's payment, the rate of exchange must have risen according to the gentleman's estimate. It is not pretended that the calculation is founded upon fact, but merely upon conjecture.

From the report of the commissioners I think it is evident that pains were not taken to explore the markets of the United States in which bills were selling, and in obtaining the information necessary to enable the commissioners to distinguish the terms most to the interest of the United States—Scarcely an attempt was made to excite a competition for the contract.

The bank of the United States and the Manhattan bank alone were applied to, and the final arrangement made with Mr. Baring, while his proposals were a secret to all our merchants.

The banks were not the proper instruments for such an operation, and it cannot be affirmed, considering the great annual remittances made from this country to England, and as the experiment was not tried, that a sum equal to the Dutch instalment could not have been purchased in our markets without materially affecting the rate of exchange—I have only further to remark that the object of the resolution is simply to institute an enquiry into the transaction. Even gentlemen who are persuaded that it is not liable to the objections which have been made to it, ought to be in favor of an investigation—To refuse an enquiry, is to betray distrust; for if it can be shewn that the measure was warranted by law, and beneficial in its result, an enquiry must terminate to the credit of the administration.

I therefore trust that the members of this House will consider it due to their own characters, and to the character of the government to suffer the enquiry to take place, and that they will not, by their votes draw a veil over a transaction, the legality and fairness of