which has been queftioned upon this floor.

Mr. Nicholson. The Gentleman from Delaware has afked, if the commiffioners of the finking fund had executed the authority given under the act of 1796, and had made a loan of five millions, or had iffued certificates to that amount, whether that would have been deemed a wife meafure on their part. I have no hefitation in declaring, that if the commiffioners had done fo, when they had either four millions and a half in the treafury, or bank ftock enough in their hands fubject to difpofition, it would have been an unwife ftep. But I have no hefitation in faying, at the fame time, that Congrefs would have been pledged to redeem such a loan to the laft cent; as the law gave the authority to borrow, whichthe neceffity of paying the public debt created.

The refolutuion of the gentleman propofes an enquiry. I think that enquiry has already been ample: we have already confumed the greater part of the day & night in making it. For my own part, I confider the fubject fo clear, that I think no enquiry neceffary, though I am highly gratified at its having been made —I fhall therefore vote againft the refolution.

Mr. N. concluded by requiring the yeas and nays.

Mr. Randolph hoped the houfe would pardon his rifing at that late period of the night; which he fhould notdo but for a belief that he did not trench upon any public bufinefs then before them. This law of 1796 authorifes the borrowing of five millions: For what purpofe? To pay any inftalment of Bank debt due before or during the year 1796. The gentleman from Delaware talks of the expiration of this law; but it has only two limitations; one when a fum fhall have been borrowed to the extent of the authority to borrow five millions; and the other to the difcharge of Bank debts due either before or during the year 1796. The whole queftion of legality, therefore, turns upon thefe two points; whether the commiffioners have exceeded the power to borrow five millions, or have applied the proceeds of the bank fhares to any object not authorized. What is the fact? The power to fell being vefted in the commiffioners, and the fale being a legal execution of that power, the commiffioners have appropriated the proceeds of the bank fhares to the object fpecifically named in the law. Where then is the illegality? If there ever was a plain cafe, this is the plaineft of all poffible plain cafes—Gentlemen, however, fpeak of a limitation not contained in the law; of a public neceffity. But the law does not fay the commiffioners are empowered to borrow, only in cafe the credit of the government is bad, or the bank importunate, or when the government is reduced to the laft peril, and the country to the moft calamitous fituation—The law, on the contrary, gives the power without any fuch limitation.

But of what confequence is it, if by the fale of the bank ftock, a benefit is conferred on the United States equal to a certain number of dollars, whether that benefit flow from the payment here or in Holland? Suppofe the payment did not here produce a fpecific benefit, but produced a benefit abroad growing out of the tranfaction, will gentlemen fay the United States are not benefited by it? If the commiffioners were authorifed to fell, it is perfectly immaterial whether the benefit was from payment being made to the bank, or in Holland.

Mr. Randolph faid it was no part of his bufinefs to enter into the details of the gentleman from Delaware, forther than to obferve that all his information was anonymous. Is it poffible that fuch information can weigh either with this houfe, or with the nation, in oppofition to that derived through the Secretary of the Treafury from the pureft and moft correct fources.

One thing, Mr. R. faid, he muft be permitted to obferve, that no advantageous purchafe of bills here could be put into competition with fuch a contract as that made by Mr. Baring; becaufe he is not to receive the bank fhares until he fhall have made the payments in Holland—The tranfaction was divefted of all rifque.

Mr. Huger rofe barely to make an obfervation relative to the conviction entertained by gentlemen. He felt a different impreffion,totally different from thofe who have expreffed fo great a triumph at the removal of all doubts as to the legality and the expediency of the fale. His doubts, on the contrary, had been increafed by the difcuffion; and he only regretted that the feffion was fo far advanced as not to allow a full inveftigation. He concluded by faying he fhould vote for the refolution.

The queftion was then taken by Yeas and Nays on Mr. Bayard's refolution, as follow: Yeas 25—Nay 40.

YEAS—Meffrs. Bacon, Bayard, Bowie, Brent, Campbell, Cutler, Dana, Davenport, Dawfon, Elmer, Haftings, Hoge, Huger, Hunt, Morris, Read, J. C. Smith, S. Smith, Southard, Tenney, Tillinghaft, Upham, Van Renffelaer, Wadfworth, and Woods.—25.

NAYS—Meffrs. Alfton, Archer, Bailey, Bifhop, Butler, Cabell, Clay, Clopton, Condit, Dickfon, Early, Euftis, Gray, Gregg, J. Heifter, Holmes, Leib, Meriwether, Mitchill, Moore, New, Newton, jun. Nicholfon, Randolph, jun. Smilie, J. Smith of (N. Y.) J. Smith, of (Virg.) Jofiah Smith, Stanford, Stanton, Stewart, Taliaferro, jun. Thomas, Thompfon J. Trigg, Van Cortlandt, Varnum, Van Horne, Wilon, and Wynns.—40.

Mr. Gregg obferved, that though the practice was not ufual, he thought it ought to be inferted that the queftion was taken on this refolution at 9 o'clock at night.

Mr. Gregg waved making fuch a motion.

Mr. S. Smith faid, though the hour was late, he would propofe a refolution to the following effect:—

"*Resolved*, that the commiffioners of the Sicking Fund were authorifed by law, to make fale of the ftock of the Bank of the United States; and the fales made by them, agreeably to their refolution of the feventh day of June laft were expedient, and the refult highly beneficial to the United States."

On this refolution, General Smith faid he fhould make no obfervations. He could only fay, in reply to the gentleman from Delaware, that the purchafe had been of public notoriety. The Cafhiers of the Banks had advertifed it; and it had even been in the Baltimore newfpapers.

Mr. T. Morris moved a poftponement of this refolution until the next feffion of Congrefs. It was utterly impoffible for the conduct of the commiffioners to be fufficiently enquired into at the prefent feffion. He believed the refolution of the gentleman from Delaware did not contemplate an inveftigation this feffion.

Mr. S. Smith faid he would withdraw his motion.

Mr. Taliaferro moved to reconfider the laft decifion of the Houfe on the motion of the gentleman from Delaware, that they might, after agreeing to reconfider, proceed to enquire and decide.

Mr. Nicholson hoped the Houfe would not reconfider their vote. I voted againft it under the impreffion that voting for it would have been to exprefs a doubt of the legality or expediency of the fale. If the refolution fhall be reconfidered and adopted, what will be the confequence? The refolution fays an enquiry ought to be made. When? In one inftant? Are we to inftitute an enquiry, and take a queftion on it in five minutes after? If fo, of what nature will that enquiry be? No, Sir. The enquiry is already made. Mr. N. was proceeding: When,

Mr. Taliaferro withdrew his motion to reconfider.

Mr. S. Smith renewed his motion, as ftated above.

Mr. T. Morris faid he would then make his motion of poftponement till the firft Monday of November.

Mr. Bayard faid he was aftonifhed at this refolution, which was made in the face of the arguments urged againft the refolution which he had fubmitted. When that refolution was laid on the table, which neither approved or condemned, but fimply had for its object enquiry, we were told that it was fo late in the feffion that it was impoffible to develope the fubject; and we heard much complaint that it was not offered at an earlier period. For himfelf he had thought it expedient to make the motion this feffion, and to appoint a committee. But knowing that there was not time to make the inveftigation, he had meant this fimply as a recommendation to the next Congrefs to take up the fubject, when there would be full time. Thofe gentlemen, who then faid there was not time to enquire, now at a later hour fay there is time to approve. It will be truly aftonifhing, if, under thefe circumftances, their refolution be adopted —if, after voting that they will not enquire, they fhall, without enquiry, approve—Gentlemen talk of difcuffing the fubject to-night. But how are we to afcertain facts, on the moft material of which we have differed? Will they then adopt this refolution without enquiry? This is a ftep perfectly novel—going to approve the conduct of high executive officers. Have not gentlemen already gone far enough? By doing what they have done, they have declared themfelves fo fatisfied that they will not look into the conduct of the commiffioners. Is not this enough? Are gentlemen, not content with this, difpofed to confer applaufe? If we adopt fuch a precedent, where are we to ftop? If in this cafe we fay the commiffioners have acted right, will it not follow that in all cafes in which we do not affirm the fame thing as to executive officers, that they have acted wrong—I have always taken it for granted that executive meafures are right,if they are not difapproved —It always belongs to the vigilance of a minority to urge an enquiry in all doubtful cafes. But we are now going to eftablifh the precedent that the executive is entitled to no confidence until clothed with our approbation.

Mr. Varnum faid he had voted againft the refolution of the gentleman from Delaware,not becaufe there was not time to inveftigate, but becaufe that inveftigationhad been fully made in the newfpapers long before Congrefs affembled—And he was perfuaded every gentleman was fatisfied. If the gentleman from Delaware was not fatisfied, it did not follow that others were not. He acknowledged that it would not have been proper to bring forward this laft refolution, but for that previoufly offered. If the Houfe was difpofed to acquit, he trufted they would acquit with honor, and that the poftponement would not obtain.

Mr. Thomas Morris faid members ought not to make up their minds from the information of newfpapers; it was therefore not to be fuppofed that they were fufficiently informed. But I call upon gentlemen, who are difpofed to pafs an encomium on the commiffioners of the finking fund to fay in what fituation they ftand? We afk an enquiry—A majority determines not to enquire, and are immediately for pronouncing an eulogium without enquiry. What is this but faying we have a majority, and can pronounce what we pleafe without examination? What is it but faying tho' we have not time ourfelves to enquire, we will prevent a future Congrefs, who will have time, for enquiry? He confidered fuch procedure perfectly inconfiftent and improper.

Mr. *Bacon* faid they were in an aukward fituation. He gave full credit to the declaration of the gentleman from Delaware, that he had no view of having this fubject inveftigated during the prefent feffion. But contrary to his view we have had the fubftantial part of an inveftigation; and we fhould have been pleafed if he had feen fit to give the difcuffion the external form. He hoped the Houfe would not agree to poftpone. It was true that they had refufed to enquire; and that ftill they proceeded to acquit. This was aukward in form, but folid and regular in fubftance; an ample enquiry has been made. As they had proceeded fo far, and as they had in fact fecured the fubftance, however deficient the form, he fhould vote in favor of the refolution.

Mr. *Goddard* was in favor of a poftponement. What is the amount of the refolution? That the commiffioners have made fale of the bank ftock conformably to law. Do we thereby alter the nature of the law or of the fact? Cannot the U. States inveftigate this fubject as well afterwards as before. Suppofe the refolution calls the commiffioners wife men, does it follow that they are wife? And if it calls them foolifh, it certainly does not follow that they are fo. The refolution cannot have an influence either one way or the other. It would be improper at any time; but peculiarly fo at this time. If the refolution is agreed to at this time, he would afk whether it was not on confidence in men inftead of on enquiry? He would afk if this was not a dangerous precedent? Was this confidence proper in monied tranfactions, and was it proper to carry it fo far as to attempt to preclude future inveftigation. Will fuch a meafure alter the opinion entertained previoufly of the report of the commiffioners? No. It has been infinuated that the refolution offered by the gentleman from Delaware contained an implication of character. No fuch thing. But will not fuch an implication follow from this extraordinary procedure? The thing will carry fufpicion on the face of it. It is well known, that if a man is always declaring that he is not guilty, he feels fome confcioufnefs of guilt. And fuch will be the effect of this refolution.

Mr. *Mott* faid he was againft the origal refolution yefterday from the latenefs of the hour at which it was offered; and he was ftill more againft the prefent refolution, becaufe the hour was later. He was difgufted with the firft, but ftill more difgufted with this—He fhould therefore vote for the poftponement.

The queftion was then taken on poftponement by yeas and nays, and loft—Yeas 19—Nays 46—as follow:

YEAS—Meffrs. Bayard, Boude, Campbell, Cutler, Dana, Davenport, Goddard, Grifwold, Haftings. Huger, Morris, Mott, Read, J. C. Smith, Tenney, Tillinghaft, Upham, Van Renffelaer, Wadfworth.

NAYS—Meffrs. Alfton, Archer, Bacon, Bailey, Bowie, Brent, Butler, Gabell, Clay, Clopton, Condit, Cutts, Dawfon, Dickfon, Early, Elmer, Euftis, Gray, Gregg, Heifter, Hoge, Holmes, Leib, Meriwether, Mitchill, New, Newton, Nicholfon, Randolph, jun. Smilie, J. Smith (of N. Y.) J. Smith (of Virg.) Jofiah Smith, S. Smith, Southard, Stanford, Stanton, Taliaferro, jun. Thompfon, A. Trigg, J. Trigg, Van Cortlandt, Varnum, Van Horne, Winn, and Wynns.

Mr. Bayard then moved to refer the refolution to a felect committee. If it were not fuffered to remain until the next feffion, he hoped it would be permitted to take the ufual courfe. The refolution goes to give a vote of thanks on facts which gentlemen themfelves have ftated. This was a ftrong cafe in which there ought to be enquiry before it was adopted.

This motion was lost without a division.

Mr. Huger faid as the majority had determined to act, and to approve the conduct of the Commiffioners, he felt a difpofition to exprefs this fenfe as ftrong as poffible. He therefore moved to add to the end of the refolution the following words; "*and therefore deserve the thanks of this country.*"

Mr. Huger called for the Yeas and Nays on this amendment; but only feven members rifing to fupport the call, they were not taken.

The question was then taken on the amendment, and lost—Ayes 4.

The queftion recurring on General Smith's motion:

Mr. Griswold hoped it would not be agreed to. It prefuppofes the conduct of the commiffioners to be of a very doubtful character, and its object is to prop up that character by a vote of thanks. It was not proper on the laft day of the feffion, and almoft in their laft moments, to make this attempt. Nor would it produce the effect contemplated. If their conduct is correct it will be vindicated by opinions deliberately formed; and if doubtful, as the refolution fuppofes, it would not be eftablifhed by a vote of the Houfe at this period. If the approbation of the Houfe of Reprefentatives be proper, it ought to be given after the fulleft examination; any thing fhort of this will be an injury to the character of the individuals themfelves.

Mr. Huger fpoke at great length againft the refolution.

Mr. Bayard faid he felt no difpofition to interfere with the vote of the Houfe about to be paffed. Though he fhould not vote for it, he was defirous of putting it in a lefs exceptionable fhape than it at prefent ftood. He hoped he fhould fucceed in a motion which he rofe to propofe, to ftrike out the words, "*and the result highly beneficial to the United States.*" This was either not a fact, or at any rate a fact not known. It was imprudent at this time to make a declaration which experience may demonftrate to be untrue. Mr. Baring has received the dividends; and we do not know that he has complied with his part of the contract. He may prove infolvent; there is no telling the refult. If therefore we undertake to fay that the refult has proved highly beneficial to the United States, we affume the character of prophets, and make a declaration founded on powers not human.

Mr. Randolph. The refult of which we fpeak is at *this time.* Human prudence cannot divine the ultimate effect of any meafure. The credit of the United States has been fupported in Holland by a remittance made on the moft advantageous terms. We have in our own hands ample fecurity againft all lofs. The refult of a meafure for meeting the engagements of the government abroad without any poffibility of lofs, may truly be faid to be beneficial.

Mr. Griswold wifhed to know what the refult actually was. In order to enable us to declare that it is beneficial we ought to know it. Is any gentleman prepared to fay what the refult has been. Certain monies were to have been placed in Holland in the months of January, February and March. But does any body know the fact that they have been fo placed. He had heard no gentleman ftate it. How then can it be faid that this tranfaction is highly beneficial. Agreeing to the refolution in this fhape looks indeed like the tranfaction of a midnight hour, (*Laugh in the House.*) When gentlemen are not prepared to afcertain the meaning of their own words. This declaration is fo abfurd, faid Mr. Grifwold, that when gentlemen fhall revife the tranfactions of this night, they will laugh at themfelves and be afhamed of their own conduct.

The Yeas and Nays were then taken on Mr. Bayard's motion to ftrike out "*and the result highly beneficial to the United States*"; and loft—Yeas 15—Nays 40; as follow:

YEAS—Meffrs. Bayard, Campbell, Cutler, Dana, Davenport, Early, Goddard, Grifwold, Huger, Morris, Read, J. C. Smith, Upham, Van Renffelaer, Wynns.

NAYS—Meffrs. Alfton, Archer, Bacon, Bailey, Bowie, Brent, Butler, Cabell, Clay, Clopton, Condit, Dawfon, Dickfon, Elmer Euftis, Gray, Gregg, Holmes, Meriwether, Mitchill, New, Newton, jun. Nicholfon. Randolph jun. Smilie, J. Smith (of N. York) J. Smith (of Virg.) Jofiah Smith, S. Smith, Southard, Stanford, Stanton, Stewart, Taliaferro, jun. Thompfon, A. Trigg, J. Trigg, Van Cortlandt, Varnum, and Van Horne.

Mr. Bayard rofe only to mention a fact. It was important to attend to names. The name of the Vice-Prefident (Mr. Burr) was affixed to the Report. He could fay that as to the fale of the Bank-ftock, the Vice-Prefident had not been confulted, and had not approved it. Neither had the Chief Juftice, he believed, been ever confulted. Thus it appeared that two important members of the board had not been confulted.

Mr. Nicholson defired an explanation of the obfervation of the gentleman refpecting the Vice-Prefident.

Mr. Bayard replied that he had faid that the Vice-Prefident had not been confulted as to the fale and had not approved it. He did not mean to fay that he had difapproved it.

The queftion was then taken by Yeas and Nays on General S. Smith's motion viz.

Resolved, That the commiffioners of the finking fund were authorized by the "act making provifion for the payment of certain debts of the United States," paffed the thirty-firft of May, 1796, to make fale of the ftock of the bank of the United States;—and the fales made by them, agreeably to their refolution of the feventh day of June laft, were expedient, and the refult highly beneficial to the United States.

And carried—Yeas 42—Nays 12—as follow:

YEAS—Meffrs. Alfton, Archer, Bacon, Bailey, Bowie, Brent, Butler, Cabell, Clay, Clopton, Condit, Cutts, Dawfon, Dickfon, Early, Elmer, Euftis, Gray, Gregg, Holmes, Meriwether, Mitchill, New, Newton, jun. Nicholfon, Randolph, jun. Smilie, J. Smith, (of N. Y.) J. Smith, (of Virg.) Jofiah Smith, S. Smith, Southard, Stanford, Stanton, Stewart, Taliaferro, jun. Thompfon, A. Trigg, J. Trigg, Van Cortlandt, Varnum, and Van Horne.

NAYS—Meffrs. Bayard, Boude, Campbell, Cutler, Dana, Davenport, Goddard, Grifwold, Read, J. C. Smith, Upham, and Van Renffelaer.

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