



The Tarborough Press,

BY GEORGE HOWARD,

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Congress.

Independent Treasury Bill.

SPEECH OF MR. BROWN,
OF NORTH CAROLINA.

In Senate, Feb. 23, 1838.—Upon the bill to "impose additional duties, as depositaries, upon certain public officers, to appoint Receivers General of public money, and to regulate the safe-keeping, transfer and disbursement, of the public moneys of the United States."

Mr. BROWN said, when the important measure, which was then before them, had, on a former occasion, been presented for their consideration, he had then availed himself of the indulgence of the Senate, to submit the reasons, which influenced his course, in regard to it. The debate, on the occasion that he referred to, had been distinguished, as well by the decorum and dignity, with which it had been conducted, as by that exhibition of high intellectual powers, which it had called forth, on both sides of the question. In rising, to address them again, he was very sensible of his inadequacy to do justice to a subject so weighty in its consequences, and of such vast extent, that it more and more expanded on the "mind's eye," as we progressed in its investigation. A subject, involving, in his opinion, an issue of no less importance, than the continuance of the right of the people of this country to self-government, and the maintenance of our republican institutions. With this solemn conviction on his mind, feeble as he deemed his own abilities, he was emboldened to enter the lists of debate, to grapple with the strong, and to do battle, under a banner consecrated by the principles of free government, with what skill he might, and with what power he could.

He should do injustice to his own feelings, if he omitted to express the satisfaction, which he had derived, from listening to the able and eloquent address of the Senator from Ohio, [Mr. Allen,] in support of the measure before them. It was a noble defence of a noble cause, and one which reflected not less honor on the ancient State of North Carolina, which gave him birth, than the young, powerful, and vigorous Commonwealth, which he now so honorably represents, in this body. I tender him, for it, the homage of my sincere thanks; and feel confident, if the citizens of his native State could have heard his able defence of their long-cherished principles, that it would have met from the great body of them, a warm and hearty response.

If, said Mr. B. the present administration, and its friends, had loved *place* more, and Rome less; if they had looked more to considerations of a character, merely selfish, and less to the high and honorable dictates of elevated public duty; if they had bowed down in abject homage to the banking interests of the country, and had consented to acknowledge their mastery over the Government, and the public will itself, then, most probably, many denunciations, that had been heard against them, would have been spared, and their path would have been less beset with difficulties, than at present. In great emergencies, the path which patriotism and public duty point to, is often difficult and rugged to tread, while that of a contrary character is more inviting, from its smooth and more alluring track. Those who were now acting as the public agents, in administering the Government, had chosen, in this great crisis, the more stern and rugged, but the more honorable, path of patriotism and official duty. They were endeavoring to raise the standard of patriotism and love of country, above the mere mercenary considerations of banks and banking interests. Their measures tended to reinstate that ancient and noble spirit of liberty, which, when its principles were endangered, scorned to calculate consequences by the sordid rule of dollars and cents. He honored sentiments such as these. He would stand by those who supported them, and was ready to share the same political fate with them, whatever it

might be. The country would stand by them, unless the period had arrived when liberty had fallen from her "high estate," and the more sordid considerations of gain had triumphed over the more noble principles of our nature.

Two great political parties, said Mr. B.—one of them, occasionally, assuming different names—had divided the people of this country, from the period when the convention which framed the present Federal Constitution had assembled. Some of the leading members of that convention, who were subsequently called Federalists, entertained strong doubts of the capacity of men to govern themselves, and were in favor of conferring powers on the Federal Government, entirely at variance with a popular form, and which would have made it essentially a monarchy.

Ever distrusting either the honesty or intelligence of the people, or both, they believed that they could be governed either by fraud or force alone. The Republican party, which constituted the other great division, believed in the entire competency of men to govern themselves. They believed that the great majority of the people possessed a native sense of justice, which made them honest, and that they had intelligence enough to carry out into practice its virtuous impulses, in the management of public affairs. These leading characteristics, then, existing between the two great parties, and separating them by a line plain and broad, had been perceptible on all the important public questions which had, from that time to this, agitated the country. On the other hand, doubts and distrust of the people; on the other, confidence and an entire belief that they not only wished to do right, but had intelligence enough to know and pursue what was right.

No sooner had the Federal Constitution gone into operation, than the leading members of the Federal party, with that tact, address, and activity, which had ever distinguished it in all its mutations, & under every variety of name, sought to gain for the Government, in its practical administration, all that power which they had failed to impart to it in its written Constitution. In support of what he had said, as to the views and designs entertained by the leading members of that party, he begged permission to read a passage from the memoirs of Mr. Jefferson, in which he comments on the tendency and effect of the financial system proposed by Gen. Hamilton in seventeen hundred and ninety-one, who was then Secretary of the Treasury. He says on that subject:

"I know well, and so must be understood, that nothing like a majority in Congress had yielded to this corruption. Far from it; but a division, not very unequal, had already taken place in the honest part of that body, between the parties styled Republican and Federal. The latter, being monarchists in principle, adhered to Hamilton, of course, as their leader in that principle; and this mercenary phalanx added to them, insured him always a majority in both houses; so that the whole action of the Legislature was now under the direction of the Treasury. Still the machine was not complete. The effect of the funding system and of the assumption would be temporary, it would be lost, with the loss of the individual members whom it had enriched, and some engine of influence more permanent must be contrived, while these myrmidons were yet in place, to carry it through all opposition. This engine was the Bank of the United States. All that history is known, so I shall say nothing about it. While the Government remained at Philadelphia, a selection of members of both Houses were constantly kept as directors, who, on every question interesting to that institution, or to the views of the Federal head, voted at the will of that head, and together with the stockholding members, could always make the Federal vote the majority. By this combination, legislative expositions were given to the Constitution, and all the administrative laws were shaped to the model of England, and so passed. And from this influence we were not relieved until the removal from the precincts of the bank to Washington."

Here, said Mr. B. we have sketched, with a pencil of light, the motives and causes which gave rise to that first fatal departure of our Government from the principles and theory of its written Constitution, and which, so far as the machinery of the entire paper system could influence its action, had been verging nearer and nearer the British model spoken of ever since its origin, unless when checked in its tendency by the resistance of Republican administrations. The liberties of the country, and its free institutions, were now literally groaning beneath the accumulated weight of banking monopolies. The

prediction, so exultingly uttered by the younger Pitt, many years ago, that the funding and paper system would prove fatal to our Republic, seems to be on the point of being realized. The measure proposed by the friends of the Administration, is the only one which can reclaim our original constitutional rights, stay the march of this mighty inundation of bank power and influence, and save the free institutions of the country from being overwhelmed, in its rapid and almost resistless progress. The main objection, which had been urged by those opposed to it, partook of that distinctive character, jealousy and distrust of the people, which he had shown as belonging to one of the political parties in this country, in its origin, and in all its subsequent changes. It was an objection, which, by denying the existence of sufficient honesty and intelligence to the citizens of this country to execute its financial affairs, without the intervention of banking corporations, went to the competency of the people to govern themselves. The great argument on which the capacity of the people to govern themselves rests, is their supposed honesty and intelligence. If public officers cannot be selected from the great mass of our citizens, who are both faithful & capable, then it would seem to follow, as a necessary consequence, from this argument, mainly relied on by gentlemen in opposition, that the country was destitute of those virtues, and of that intelligence, indispensable to enable its citizens to govern themselves. It could not fail, therefore, to attract our attention, that this main objection had its origin in the earliest division of parties in this country, founded on a distrust of the people, and had, on all the great leading questions of policy and construction of the Constitution, been the point at which the two parties had almost uniformly separated.

Is is an objection, not only at variance with the foundation principles of our Government, which, in its theory, supposes that its citizens are sufficiently honest and capable to carry out, in official trusts, all the powers & duties with which it is charged, but it is a direct insult to the moral sense of the country, by declaring, in effect, that the standard of individual honor, and honesty, is below that of banking corporations, whose course of action is mainly influenced by motives of cupidity and self-interest.

Mr. B. had heard, with no little surprise, the measure, contemplated in the bill, denounced as fraught with more danger than any which had been, at any time, proposed under our Government, and as being more odious than the alien and sedition law. This kind of assault had become too common to produce much impression, at this time of day. It had been the fate of almost every great measure, no matter how much recommended by considerations of public good, to encounter the same harsh language; and many of those very measures which had then been met, by much the same style of denunciation, stood now as enduring monuments of the public safety, and the public good. Nothing was easier than the use of epithets; but the proof that they are justly applied, is often more difficult.

The measure thus denounced was, said Mr. B. the system of the Constitution itself. Whatever difference of opinion may now exist, as to its policy, yet, in justice to the Constitution under which we live, in justice to its patriotic framers, it would be more becoming to be less liberal in such abuse, as it is, in effect, but a denunciation of the Constitution, and arraignment of the wisdom of those who framed it.

The bill, now under consideration, for the collecting, safe-keeping, and disbursing of the public revenue, was, in substance, but a re-enactment of the principles of the first law, passed on this subject, in seventeen hundred and eighty-nine, and immediately after the Constitution had gone into operation, and differed only in the circumstance, that the present bill is one more in detail, and more specific, in its provisions. In fact, a law, similar to this in principle, was among the first and earliest fruits put forth by the Federal Constitution. How, and under what auspices, the Government then just put into operation had afterwards taken, a new departure, with the British form of Government as its model, and the paper system, as the great auxiliary to effect the designs of those who admired it, he had already abundantly attempted to show.

It could not, remarked Mr. B. be believed, for a single moment, either from any thing on the face of the Constitution, or from any thing said or written, in the debates and essays which preceded its adoption, that the agency of banking corporations, in managing the financial affairs of the Government, ever was intended, or thought of, by its framers, for a moment. In the Constitution, not a word is said

about corporations of this kind, nor is the most remote allusion, either expressly or by implication, made to them. How utterly absurd is it now to say, that a power, the most tremendous in its effects—as great in its consequences, as that to make peace and war, which has shown itself endowed with strength, not only sufficient to shake the frame of society, and throw the times sadly out of joint, but to cause the Government itself to totter to its base—is given by implication, in some clause of the Constitution, which those who claim it are unable to agree on, among themselves? Is it not an impeachment of the intelligence of those who framed that instrument, if banking corporations are so indispensably necessary and vital, to the management of the fiscal affairs of Government, as we are now daily and hourly told, is the case, that to power to create and employ them for that purpose, was not expressly given in some of its provisions?

The collecting, safe-keeping, and disbursing the public money, is, in each and all of its successive grades, from beginning to end, the performance of an official act and duty, under the authority of the Constitution of the United States. The kind of public agents who evidently were intended, by the framers of the Constitution, and who are expressly designated in its provisions, to execute the several kinds of official trusts, are "officers of the United States," in the language of the Constitution. Unless we adopt the solecism, that a banking corporation means an "officer," in the sense in which it is there used, it may be well doubted, whether the Government has authority to employ them as fiscal agents, because it is clearly the exercise of an official power, which the Constitution limits, according to every sound and fair rule of construction, to be executed through the agency of its own "officers."

The appointing power is clearly an Executive function, under the limitations and restrictions imposed on it by the Constitution. The second section of that instrument is the source, and only source, from which the authority of the President, to make official appointments, is derived, to that branch of the Government, and is as follows:

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint, ambassadors, other ministers, and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments."

Here, then, we have the extent and breadth of the Executive authority to make appointments, and, under it, "officers" constitute the only class of public agents he is authorized to appoint, to execute public trusts. If that sound and universally admitted rule of construction be correct, in expounding the Constitution, that when a power is, in express terms, conferred in that instrument, it is, in effect, a negative of all other power not given, then it follows that the provision of the Constitution, which he had cited, by designating "officers" as the official agents to be appointed by the President, to carry into effect the laws, necessarily excludes from the range of his selection banking corporations to perform official duties, because, *ex vi termini*, they cannot, in the sense of the Constitution be considered as "officers." The receiving, safe-keeping, and disbursing the public money, is clearly the performance of an official duty, by whatsoever agency performed. To the Executive branch of the Government belongs, and alone belongs, under certain restrictions, the power of appointing official agents, to perform public trusts. Can he, therefore, appoint any other than that class of public agents recognised by the Constitution?

That the framers of the Constitution never once thought of banking corporations for such agency, and intended for their revenue and finance laws to be executed by any other class of agents, except through the officers of the Government, he believed, was not only most apparent from that instrument itself, but that opinion was strongly fortified by the doctrines expressed in the able and orthodox numbers written in defence of that instrument by Madison, Hamilton, and Jay. In those, of the numbers referred to, which treat of the taxing and financial powers conferred on the Government, by the Constitution, no other description of agents is mentioned or alluded to, who were to carry into effect those trusts, but officers. Such was not only then the construction of the Constitution, by its friends, but its opponents also, who were ever on the alert to find objections, and to magnify its powers, for the purpose of preventing its adoption, and, on no oc-

casional, so far as the essays and debates of those times inform us, conjectured that banking corporations were to be employed as a part of the fiscal machinery of the Government. If it had, for a moment, been suspected, by that great master-spirit, in the Virginia convention, of those who opposed its adoption, that the Government was to possess the power thus to enlist in its aid powerful moneyed corporations, either of its own creation, or those created under State authority, his stirring and eloquent denunciations of the dangers which it threatened to the public liberty, would, in all probability, have effected its rejection, and we should not, perhaps, have now been deliberating here under its sanction. Mr. B. was aware that the great principles which he now touched, on this subject, had not been much in fashion for many years past, and that much of the practice, under the Government, since it had gone into operation, was in opposition to them. He considered them as the foundation principles of our Government, which had, for years, been partially obscured from public observation, under the rubbish and antiquated abuses of the British paper machinery, that had been introduced in this country, at a very early period, after the Government had gone into operation. The more that the obscurity which surrounds them is removed, by discussion and investigation, the more bright and valuable these great principles become. Like a rich and inexhaustible mine, the more it is explored, the more its valuable treasures reward the researches of the laborer.

Another consideration, not less entitled to weight, in a constitutional point of view, against depositing the public money with the banks, is, that, when done, it is with the perfect understanding, on the part of the Government, that the money deposited is to form a fund, to make discounts to individuals on. Such, unquestionably, has heretofore been one among the leading inducements of those who have favored this policy, in addition to the other objects, of keeping and disbursing the public revenue, contemplated by it. Equally certain was it, that the banks themselves, who received it, did it with the perfect understanding, on their part, that they were at liberty so to make use of it, and which was, doubtless, the strongest, if not the only motive, inducing them to take it. Now he could not see any authority in the Constitution, granting to Congress power to lend the public money, or to authorize others to lend it. If Congress could authorize the banks to make loans of the public money, they could, in virtue of the same power, authorize the Secretary of the Treasury to open a loan office with the public funds, and thus enable an officer, who chose to use them for corrupt purposes, to lend them out among favorites, or those who might proffer the greatest political subservience. The Constitution gives to Congress the power to raise money, to effect certain specified purposes, which are enumerated in that instrument. The power to raise money, for the purpose of lending it, is no where given, and, consequently, is not one of the legitimate purposes to which it may be applied. The conclusion, then, is very fairly to be drawn, that the deposit of the public money in banking corporations, to be used in that way, is an application of the public money not warranted by the Constitution, and, most generally, proving alike disastrous to the individuals borrowing it, the banks which lend it, and the Government which thus permits its revenue to be used.

[Mr. Brown here replies to observations made in the speeches of Messrs. Webster, Rives, Tallmadge, and others, and then remarks:]

In relation to the question of a National Bank, now no longer kept in the background, in the debate by its friends, as was formerly the case, there was another objection to it, in addition to many others, which had been repeatedly urged in debate, that had not been adverted to, that was entitled to great consideration, in his opinion. Springing, as such an institution has heretofore, and, if hereafter adopted, must again, from that broad and undefined field of construction, which makes the Constitution mean any thing that ingenious men may choose to make it, all its sympathies would necessarily incline it to support all that class of measures, claiming the same lineage. It will, therefore, be the natural ally of the tariff, of internal improvement, and all other kindred measures, derived from construction. Conscious of the doubtful tenure by which it would exist under the Constitution, its interests and safety would both lead it to create as many allies as it could, of the same character for mutual support and protection. Here, then, would exist a great moneyed power, whose interests would lead it to urge the Government beyond its sphere of constitutional action, and to build up other great interests of doubtful power, in order to guarantee its own permanency.

It had, said Mr. B. occurred to him, as a circumstance by no means unimportant,

prediction, so exultingly uttered by the younger Pitt, many years ago, that the funding and paper system would prove fatal to our Republic, seems to be on the point of being realized. The measure proposed by the friends of the Administration, is the only one which can reclaim our original constitutional rights, stay the march of this mighty inundation of bank power and influence, and save the free institutions of the country from being overwhelmed, in its rapid and almost resistless progress. The main objection, which had been urged by those opposed to it, partook of that distinctive character, jealousy and distrust of the people, which he had shown as belonging to one of the political parties in this country, in its origin, and in all its subsequent changes. It was an objection, which, by denying the existence of sufficient honesty and intelligence to the citizens of this country to execute its financial affairs, without the intervention of banking corporations, went to the competency of the people to govern themselves. The great argument on which the capacity of the people to govern themselves rests, is their supposed honesty and intelligence. If public officers cannot be selected from the great mass of our citizens, who are both faithful & capable, then it would seem to follow, as a necessary consequence, from this argument, mainly relied on by gentlemen in opposition, that the country was destitute of those virtues, and of that intelligence, indispensable to enable its citizens to govern themselves. It could not fail, therefore, to attract our attention, that this main objection had its origin in the earliest division of parties in this country, founded on a distrust of the people, and had, on all the great leading questions of policy and construction of the Constitution, been the point at which the two parties had almost uniformly separated.

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