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SPEECH OF Mr. RIVES, OF VIRGINIA.

In the U. S. Senate, Jan. 17, 1834.

On the subject of the Removal of the Deposits from the Bank of the U. States.

Continued.

Sir, of all the reforms, social, political, or economical, required by the great interests of the country, that which is most urgently demanded, and which promises in its accomplishment the largest results of utility, security, and public benefit, is, beyond comparison, the restoration of the government to what it was intended by the framers of the constitution to be, a *hard money* government. We are too much in the habit, Mr. President, of regarding the evils of the paper system as necessary and incurable, and of being content with the delusive palliation of these evils, supposed to be derived from the controlling supremacy of a National Bank. Nothing in our condition is more demonstrable than that the great evil of our system, its numerous fluctuations arising from untempered expansions and contractions of bank issues, making a lottery, in effect, of private fortunes, and converting all prospective contracts and transactions into a species of gambling—nothing can be more certain than these various fluctuations (and we have a striking proof of it in the present distresses of the country, are increased, instead of being diminished, by the existence of an institution of such absolute ascendancy, that when it expands, the state banks expand with it; when it contracts, these banks are forced, in self-defence, to contract also. Whatever influence such an institution may be supposed to exert, in preserving the soundness of the currency, that object would be much more effectually promoted by a return, at first, to a metallic circulation. The first step towards this, relative to the Bank of the United States, would be to let its notes be withdrawn, the convenience of stretching alone would immediately create a demand for gold coins, as a substitute, and confer the necessity of correcting that over-valuation of the same, the bank, which is said to have contributed to their disappearance. In concurrence with this, for measures to be taken, as it is believed, to reduce the circulation of Bank notes under a certain limitation, (two or three dollars) of which the effect would be to produce another necessity, to the metallic circulating medium. The ordinary channels of circulation being thus supplied with gold and silver, the government would be prepared, without in any way to the public creditor, to require payment of its dues in specie, and thus realize a reform, that which none could be more deeply interesting in every respect, to the safety and prosperity of the country.

Sir, here is an object worthy to engage the most ardent labors of the patriot and statesman, and I feel persuaded that, with a tithe of the efforts and labor daily expended in the ephemeral contests of party, we should see it happily accomplished. I would gentlemen, then, with ability so economically fitted for this great work, to leave the Bank of the United States to its fate—a fate, as I have pronounced by the voice of the nation, and called for by the highest considerations connected with the safety of our institutions—*to be brought forward their powerful aid to an effort, to restore the government to its true constitutional character and destination—that of a simple, solid, hard money Government.*

But, I shall doubtless be asked, Mr. President, if in this instance, the public faith has been broken, and the rights of the Bank violated, will I not repair the breach, and redress the wrongs? Sir, if such were the

case, I would; but in my humble judgment, and I hope to be able to show it, the public faith has sustained no violation—the Bank no wrong; and this brings us to the consideration of the rights of the bank, as secured by its charter. Gentlemen have argued as if the Bank, by the bonus which it paid of a million and a half of dollars, had purchased a right to the deposits of the public money. But nothing is more obvious, from the fact of the Bank charter itself, and especially from the Report of the Secretary of the Treasury, (Mr. Dallas,) which transmitted and explained it, than that the bonus was the consideration, not for the public deposits, but for the charter grant—for the act of incorporation, conferring on the subscribers of the bank, the faculties and privileges of a body politic and corporate, empowered as such, to carry on the trade of banking with a capital of 25 millions of dollars, to hold property to the amount of 55 millions, to make by laws for the government of the corporation, to establish offices of discount and deposit in any of the States or Territories of the Union, and for the express stipulation, pledging the faith of the United States that no other Bank should be established by Congress, during the continuance of the said corporation.

These evidently were the "exclusive privileges and benefits conferred by the act" of incorporation; "the consideration of which" the bonus was to be paid—and were they not of value enough, Mr. President, of a character sufficiently important to merit and justify the price to be paid for them? Why, sir, among them is a great sovereign power granted to this corporation—that of establishing subordinate banks within the jurisdiction of the States, independent of the consent, and exempt from the legislation of the states in which they may be established, a power which Mr. Madison declared in the debate on the creation of the first bank in 1791, "ought not to be delegated to any set of men under the sun." The exercise of the public moneys in the Bank of the United States can with no propriety be considered as an "exclusive privilege or benefit conferred on the Bank of the United States by the act of incorporation," inasmuch as that act expressly reserves to the government by its first officers, the power to deposit its moneys in other banks if it should deem proper to do so.

But, sir, the document I have already referred to, the report of the Secretary of the Treasury, transmitting to Congress the plan of the bank, be examined, and nothing can be so clear, than that the true and legal contract between the government, on the one hand, and the subscribers of the bank, on the other, is that which I have stated—the grant of the important corporate faculties and privileges, already mentioned, on the one side, and the payment of the bonus on the other. The provisions in regard to the deposits of the public moneys by the government, and the transfer and distribution of the same by the bank, were treated as being of an incidental kind, and regarded in the light of "mutual equities" (the one a consideration for the other) growing out of the legal connection between the bank and the Secretary of the Treasury. So long as the public moneys should be deposited in the bank of the United States, the bank would be bound to transfer and distribute them as the agencies of the government should require. When they ceased to be deposited there, the bank would be relieved from the obligation. The deposits being reserved under the discretionary control of the Government, which could continue or withhold them as it pleased, could not rationally form a part of the consideration, for which a fixed and unchangeable equivalent was to be paid in the form of a bonus.

It is, moreover, to be remarked, as is shown likewise by the important documents to which I have referred, that at the time of the establishment of the Bank, the deposits of the public moneys were not regarded as a privilege or advantage to the bank, but also as a duty or charge. It is evident that they were not contemplated at the time, as a source for enlarging the discounts of the bank, to the extent to which they have been actually used for that purpose. It had been stated by Mr. Gallatin, in his report made by him as Secretary of the Treasury, on the 24th of March, 1805, that the Bank of the United States (the first Bank of the U. S.) was not, in any considerable degree, used for public deposits, for the purpose of enlarging its discounts; and the same course was, doubtless, expected of the new bank. It certainly never could have been supposed or intended, that the Bank, for its own advantage, should lead out the moneys of the United States committed to its keeping to such an extent as to enable (as it will be hereafter shown to have been on several occasions) to meet the calls of the government for its own funds, when required to discharge the public engagements.

But, sir, even if it could be shown, as is contended by the Bank, that the public moneys, and not the faculties and privileges conferred on it as a banking corporation,

were the consideration for which it stipulated to pay, and did pay, the bonus of a million and a half of dollars, it cannot, by virtue of this alleged contract, claim the deposits further or otherwise than the terms of the contract have given them. Now, what are the terms of this alleged contract? The 18th section of the bank charter furnishes the answer—"The deposits of the money of the United States in places in which the said bank and branches thereof may be established, shall be made in said bank or branches, unless the Secretary of the Treasury shall, at any time, otherwise order and direct in which case, &c. What are the true nature and extent of the right given by this section? Is it an absolute and perfect right to the public deposits; or rather, is it not a right to them, (if right may be called,) only so long as the government, by its financial organ, the Secretary of the Treasury, may not "otherwise order and direct," the right, by the terms of the contract itself, ceases.

I admit that this discretionary authority in the Secretary of the Treasury is not a mere capricious violation. It is to be exercised for reasons, which shall appear to him to be sufficient, and to be reported to and judged of by Congress. But an extraordinary attempt is now made against the clear import of the language used, to limit the power to the single case of the public funds being deemed unsafe in the keeping of the bank. If such had been the intention, nothing could have been easier than to have adopted a form of expression adapted to the object, and to have declared, "the deposits, &c. shall be made in the bank of the United States, unless the Secretary of the Treasury shall, at any time, otherwise order and direct." But, sir, the restricted nature of this discretionary power of the Secretary is served in the broadest and most general terms which the language can supply—"unless the Secretary of the Treasury shall, at any time, otherwise order and direct." By what arbitrary process of interpretation, as of so large a scope have been compressed into so narrow a circumscription, I am at a loss to conceive.

The honorable Senator from South Carolina, (Mr. Calhoun,) indeed, has contended that a power over the deposits, even if it had been retained in the fullest manner by Congress itself, "is from its very nature, united solely to the safe keeping of the public funds." But, sir, if the public deposits be so important a benefit as they have been represented, to the Bank, nothing seems to be more natural than that the power of withholding this benefit, should be reserved by the government, as a means of control over the conduct of the bank, as well as to provide for the safety of the public moneys. That such was a proper and important use of the power, seems to have been clearly the opinion of the honorable Senator himself on another occasion. While a Bank bill, providing, among other things, for a subscription of twenty millions of its stock by the United States was under consideration in the House of Representatives, of which the honorable gentleman was then a member, a motion being made to strike out so much of the bill as provided for this subscription by the United States, it was objected to the motion that the government ought to hold a due proportion of the stock in the proposed Bank, in order to guard itself against the operation of an untried influence. In answer to this objection, and in support of the motion, the honorable senator, as I find his speech reported in the volume in my hand, made the following just observation: "But there was another means of protecting the government against the bank, more potent and certain than such a provision, let the United States possess power over its deposits."

Here it is evident, the honorable senator considered the power over the public deposits as an important means of control over the general conduct of the bank, as well as a necessary provision for the safety of the public funds; and in this opinion I entirely concur. The power being preserved in the broadest terms by the charter of the existing Bank, it is applicable to all the rightful purposes of such a power; and the Secretary of the Treasury, in the exercise of it, may and ought to look to the general conduct of the institution, as well as to the safety of the public funds.

That such has been the uniform construction of the authority, both by the Treasury Department and by Congress, appears abundantly from the proceedings and correspondence of Mr. Crawford and Mr. Lughan on the one hand, and from the reports of the committee of Investigation in 1819, and of the committee of Ways and Means in 1830, on the other. We shall therefore, look into the conduct of the Bank, to see

far the secretary of the treasury is justifiable for having ordered the removal of the public deposits. The senator from South Carolina, (Mr. Calhoun,) remarked that it was not the conduct of the Bank, but the conduct of the Secretary, which was under review. The honorable gentleman, however, will permit me to say that as the justification of the secretary depends on the reasons furnished by the conduct of the Bank for the exercise of his authority, an inquiry into the conduct of the one necessarily involves a review of the conduct of the other.

[Here Mr. CALHOUN rose, and said he did not deny the right of the Secretary to bring the conduct of the bank under review, so far as the safety of the deposits was concerned, but no farther.]

I hope I have shown, replied Mr. R., that from the nature and terms of the authority reserved to the Secretary of the Treasury, the whole conduct of the bank, in the discharge of all its duties, is properly open to consideration; and I shall now proceed to inquire into its conduct in several instances, (which appear to me to furnish ample justification for withholding from it the deposits of the public money. In confining myself to those instances, I do not wish to be understood as thinking there is nothing else in the conduct of the Bank worthy of blame, or justly inciting the annulment of the government. On the contrary, I think there is much more; but I confine myself to those instances, because I believe they alone are abundantly sufficient, to justify the withholding of the deposits of the public money, and the leaving of the deposits in the hands of an individual or individuals, who are not so amenable to the public eye as the Senate and necessarily with delays of this sort.

The conduct and duties of the Bank, Mr. President, may be viewed in two great relations—1st, to the government;—2d, to the community at large.

In the first of these relations, its duties are two fold—as fiscal agent of the government, to receive and distribute the public moneys, and to have them ready for the public service, whenever and wherever they may be called for by the government—and as a corporation deriving its existence from the law, to observe and conform in all the conditions and securities imposed by the act of its creation. The first of these duties, how it has performed the first and of these duties. Has it been always ready and prompt to render up the public moneys committed to its keeping, when they have been required to meet the public engagements? This consideration I hold to be of the highest importance.—It is not sufficient that the public moneys should be ultimately safe in the hands of the Bank, or in other words, that the bank be ultimately solvent. But it is necessary that it should be ready to meet promptly & abundantly every call made upon it by the government for the public funds, when required for the public service. This is daily exemplified in the affairs of private life. When an individual has accumulated a sum of money which he wishes to put out at interest, to await an expected call, or an opportunity of profitable investment, it is a leading consideration of him to put his money in the hands of some one who will not merely be able to pay in the long run, but who will pay promptly and certainly whenever called upon.

Has the Bank of the United States, sir, displayed these fundamental qualities of promptitude and fidelity in rendering up the public funds for the public use, when called for by the government? I confidently appeal to the history of the postponements of the three per cent. redemption, to sustain me in the assertion that it has not. It is in the recollection of the senate that early in the spring of 1832, it had been determined to pay off six and a half millions of the 3 per cent stock on the ensuing 1st day of July, and that a correspondence took place, in the month of March, between the Treasury Department and the Bank, with a view to that end. It soon became evident that the bank was not in a situation to meet the operation largely had it used the public funds in an unprecedented extension of its discounts, as will be soon hereafter, to promote its own interests and views. In this state of things, various pretexts and suggestions were urged by the Bank to induce the government to postpone the contemplated payment; and a postponement to the month of October was finally yielded, the Bank undertaking to pay the interest on the debt in the mean time, and holding out expectations which it did not fulfil, of accommodations to the importing merchants to enable them, the better to pay the accruing revenue to the government. The Bank has resorted to a great deal of special pleading to show that, notwithstanding the arguments so zealously urged on the government, it either "sought for" nor "requested" the postponement. But what said the committee of investigation of 1832, before whom the matter was

thoroughly discussed and examined? "The committee are fully of opinion that though the Bank neither 'sought for' nor 'requested' the postponement," (returning thus the language of the President of the bank,) "if such postponement had not been made the bank would not, on the 1st of July, have possessed the ability to have met the demand without causing a scene of great distress in the commercial community."

Now, Mr. President, while the bank was thus unable to meet the demand of the United States for their own money, what was the state of the account between it and the public Treasury? Way, sir, on the 1st of April, 1832, when the notice was proposed to be issued of the contemplated payment, there was in the bank to the credit of the Treasury for public moneys on deposit, the sum of \$9,513,000, and on the 1st of July, when the payment was to have been made, the sum of \$9,811,000, more than three millions of the public money over and above the sum proposed to have been called for!

But, Sir, this was not all. When the month of July arrived, the Government determined, and issued notice of its intention to pay, on the 1st of October following, two thirds of the whole amount of the three per cent stocks and the remaining third on the 1st of January, thereafter. The Bank feeling that it could not, with any plausibility, appeal to the further indulgence of the Government, but being still unprepared to meet the call for the public funds, instantly set on foot a negotiation, and actually consummated an arrangement with the foreign holders of the stock, not to come forward with their certificates at the periods designated, to leave the amount due to them still in the Bank, on an agreement that the Bank should pay them the interest, but the Government continuing bound, in consequence of the detention of the certificates, for the principal of the debt. Here the conduct of the Bank, from a *negative*, became a *positive* delinquency. It was no longer a mere want of readiness and ability to pay up the public funds, when required for the public service, but an active and unwarrantable interposition, contrary to every principle of its duty as a fiscal agent of the Government, to thwart it in a great object of public policy, the ready and final extinguishment of the public debt.

When the existence and result of the secret negotiation became accidentally known, the Bank endeavored to undo what had been agreed to be done, and to procure the surrender of the certificates which it had previously made an arrangement to have held up. But this in no manner lessens the impropriety and unwarrantable character of the original act, and leaves the Bank justly exposed to the full force of the imputations of faithlessness and illegality, which its conduct in this transaction, has incurred. It avails as little to refer to the declaration of the Committee of Ways and Means of the House of Representatives, at the close of the last session of Congress, that as "the matter is now substantially closed by the surrender to nearly the whole of the certificates, it no longer presents a *practical* object of inquiry, or to call for, to admit any action of Congress upon it." The same committee explicitly pronounced the condemnation of the transaction, in declaring, as it did, "that the Bank had exceeded its legitimate authority, and had no warrant for it, in the correspondence of the Secretary of Treasury." In the state of the question now presented, to us, this transaction being referred to by the Secretary of the Treasury, as one of the reasons for ordering a removal of the public deposits, it necessarily becomes a *practical* object of inquiry, if not "the action of Congress;" and none, in my estimation, could more signally illustrate the delinquency of the Bank in its relations of fiscal agent to the government. While these secret negotiations were going on to withhold the public funds from their legitimate destination—the payment of the public debt—it appears that there was in the Bank on the 1st day of October, 1832, after deducting the whole amount of debt designated for payment on that day, a clear surplus of the public revenue of \$2,222,794.

Upon a calm review of these transactions, Mr. President, I think it must be admitted by all that the Bank, by an improper use of the public money for its own advantage, had disabled itself to meet, with promptitude and punctuality, the calls of the government for the public funds committed to its keeping; that it had not only failed to have those funds forthcoming, when required for the public service, but that, by a secret and unwarrantable intervention between the government and the public creditor, it had sought to prevent the application of these funds to the extinguishment of the public debt, and that, in both respects, it had violated its clearest duties as a fiscal agent of the government.

Let us now see if it has not equally violated the other duty indicated as appertaining to its relations to the government

A discussion subsequently took place between Mr. Calhoun and Mr. Rives on this topic, which will be published in the next issue.