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SPEECH OF MR. CALHOUN,

OF SOUTH CAROLINA, ON THE

Sub-Treasury Bill:

Delivered in the Senate of the United States, February 15, 1838.

I regard this measure, which has been so much denounced, as very little more than an attempt to carry out the provisions of the joint resolution of 1816, and the deposite act of 1836. The former provides that no notes but those of specie paying banks shall be received in the dues of the Government, and the latter that such banks only shall be the depositories of the public revenues and fiscal agents of the Government; but it omitted to make provisions for the contingency of a general suspension of specie payments, such as is the present. It followed, accordingly, on the suspension in May last, which totally separated the Government and the banks, that the revenues were thrown in the hands of the Executive, where it has since remained under its exclusive control, without any legal provisions for its safe-keeping. The object of this bill is to supply this omission: to take the public money out of the hands of the Executive and place it under the custody of the laws, and to prevent the renewal of a connexion which has proved so unfortunate to both the Government and the banks. But it is this measure, originating in an exigency caused by our own acts, and that seeks to make the most of a change effected by operation of law, instead of attempting to innovate, or to make another experiment, as has been erroneously represented, which has been denounced under the name of the Sub-treasury with such unexampled bitterness.

In lieu of this bill, an amendment has been offered, as a substitute, by the Senator from Virginia, furthest from the chair, [Mr. Rives,] which he informs us is the first choice of himself and those who agree with him, and the second choice of those with whom he is allied on this question. If I may judge from appearances, which can hardly deceive, he might have said their first choice, under existing circumstances; and have added, that despairing of a National Bank, the object of their preference, they have adopted his substitute, as the only practical alternative at present. We have, then, the question thus narrowed down to this bill and the proposed substitute. It is agreed on all sides, that one or the other must be selected, and that to adopt or reject the one, is to reject or adopt the other. The single question then is, which shall we choose? A deeply momentous question, which we are now called on to decide in behalf of the States of this Union, and on our decision their future destiny must, in a great degree, depend so long as their Union endures.

In comparing the relative merits of the two measures, preparatory to a decision, I shall touch very briefly on the principles and details of the bill. The former is well understood by the Senate and the country at large, and the latter has been so ably and lucidly explained by the Chairman of the Committee in his opening speech, as to supercede the necessity of further remarks on them at this stage of the discussion. I propose, then, to limit myself to a mere general summary, accompanied by a few brief observations.

The object of the bill, as I have already stated, is to take the public funds out of the hands of the Executive, where they have been thrown by operation of our acts, and to place them under the custody of laws; and to provide for a gradual and slow, but a perpetual seperation between the Government and the banks. It proposes to extend the process of seperating to the year 1845, receiving during the first year of the series the notes of such banks as may pay specie, and reducing thereafter the amount receivable in notes one-sixth annually, till the separation shall be finally consummated at the period mentioned.

The provisions of the bill are the most simple and effectual that an able committee could devise. Four principal receivers, a few clerks, and a sufficient number of agents to examine the state of the public funds, in order to see that all is right, at an annual charge, not exceeding forty or fifty thousand dollars at most, constitute the additional officers and expenditures required, to perform all the functions heretofore discharged by the banks, as depositories of the public money and fiscal agents of the Treasury. This simple apparatus will place the publick Treasury on an independent footing, and give to the Government, at all times, a certain command of its funds to meet its engagements, and to preserve its honor and faith inviolate. If it be desirable to separate from the banks, the Government must have some independent agency of its own to keep and disburse the public revenue; and if it must have such an agency, none, in my opinion, can be devised more simple, more economical, more effectual, and safe than that provided by this bill. It is the necessary result of the separation, and to reject it, without proposing a better, (if, indeed, a better can be,) is to reject the separation itself.

I turn now to the substitute. Its object is directly the reverse of that of the bill. It proposes to revive the league of State banks, and to renew our connexion with them, and which all acknowledge has contributed so much to corrupt the community, and to create a spirit for speculation, heretofore unexampled in our history.

The Senator in offering it, whether wisely or not, has at least acted consistently. He was its advocate at first in 1834, when the alternative was between it and the rechatter of the late Bank of the United States. He then defended it zealously and manifestly, against the fierce assaults of his present allies, as he now defends it, when those, who then sustained him, have abandoned the measure. Wether wisely or not, there is something heroic in his adherence, and I commend him for it; but, I fear I cannot say as much for his wisdom and discretion. He acknowledged, with all others, the disasters that have followed the first experiment, but attributes the failure to inauspicious circumstances, and insists that the measure has not had a fair trial. I grant that a second experiment may succeed, after the first has failed; but the Senator must concede, in return, that every failure must necessarily weaken confidence, both in the experiment and the experimenter. He cannot be more confident in making the second trial, than he was in the first; and, if I doubted the success then, and preferred the Sub-Treasury to his league of banks, he must excuse me for still adhering to my opinion, and doubting the success of his second trial. Nor ought he to be surprised, that those who joined him in the first should be rather shy of trying the experiment again, after having been blown into the air, and burnt and scalded by the explosion. But, if the Senator has been unfortunate in failing to secure the co-operation of those who aided him in the first trial, he has been compensated by securing the support of those who were then opposed to him. They are now his zealous supporters. In contrasting their course then and now, I intend nothing personal. I make no charge of inconsistency, nor do I intend to imply it. My object is truth, and not to wound the feelings of any one, or any party. I know that to make out a charge of inconsistency, not only the question, but all the material circumstances, must be the same. A change in either, may make a change of vote necessary; and, with a meterial variation in circumstances, we are often compelled to vary our course, in order to preserve our principles. In this case, I conceive, that circumstances as far as the present allies of the Senator are concerned, have materially changed. Then the option was between a recharter of the late bank, and a league of State banks; but now the former is out of the question, and the option is between such a league and a total separation from the banks. This being the alternative, they may well take that, which they rejected in 1834, without subjecting themselves to the charge of inconsistency, or justly exposing themselves to the imputation of change of principle, or opinion. I acquit them, then, of all such charges. They doubtless think now, as they formerly did, of the measure, which they then denounced and rejected, but which a change of circumstances now compel them to support. But in thus acquitting them of the charge of inconsistency, they must excuse me, if I should avail myself of the fact, that their opinion remains unchanged, as an argument in favor of the bill—against the substitute. The choice is between them. They are in the opposite scales. To take from the one is, in effect, to add to the other; and any objection against the one, is an argument equally strong in favor of the other. I then do avail myself of their many powerful objections in '34 against the measure, which this substitute proposes now to revive. I call to my aid, and press into my service every denunciation they then uttered, and every argument they then so successfully urged against it. They, no, we (for I was then, as now, irreconcileably opposed to the measure,) charged against it, and proved what we charged, that it placed the purse and the sword in the same hands; that it would be the source of boundless patronage and corruption, and fatal in its consequences to the currency of the country; and I now avail myself of these, and all other objections, then urged by us, in as full force against this substitute, as if you were again to rise in your places and repeat them now; and of course, as so many arguments, in effect, in favor of the bill; and on their strength I claim your vote in its favor, unless, indeed, still stronger objections can be urged against it. I say stronger, because time has proved the truth of all that was then said against the measure now proposed to be revived by this substitute. What was then prediction is now fact. But whatever objections have been, or may be urged against the bill, however strong they may appear in argument, remain yet to be tested by the unerring test of time and experience. Whether they shall ever be realized must be admitted even by those who may have the greatest confidence in them, to be at least uncertain; and it is the part of wisdom and prudence, where objections are equally strong against two measures, to prefer that which is yet untried, to that which has been tried and failed. Against this conclusion, there is but one escape.

It may be said, that we are sometimes compelled, in the midst of the many extraordinary circumstances in which we may be placed, to prefer that, which is of itself the more objectionable, to that which is less so; because the former may more probably lead, in the end, to some desired result, than the latter. To apply the principle to this case. It may be said that the substitute, though of itself objectionable, is to be preferred, because it would more probably lead to the establishment of a National Bank, than the bill which you believe to be the only certain remedy for all the disorders that affect the currency. I admit the position to be sound in principle but it is one exceedingly bold and full of danger in practice, and ought never to be acted on, but in extreme cases, and where there is a rational prospect of accomplishing the object ultimately aimed at. The application, in this case, I must think would be rashness itself. It may be safely assumed, that the success of either, whichever may be adopted, the bill, or the substitue, would be fatal to the establishment of a National Bank. It can never put down a successful measure to take its place, and, of course, that which is most likely to fail, and re-pl unge the country into all the disasters of a disordered currency, is that which would most probably lead to the restoration of a National Bank; and to prefer the substitute on that account is, in fact to prefer it because it is the worst of the two. But are you certain that another explosion would be followed by a bank? We have already had two; and it is far more probable, that the third would impress, universally and indelibly, on the public mind, that there was something radically and incurably wrong in the system which would blow up the whole concern, National Bank and all.

If I may be permitted to express an opinion, I would say, you have pursued a course on this subject unfortunate both for yourselves and country. You are opposed both to the league of banks, and the Sub-treasury. You prefer a National Bank; and regard it as the only safe and certain regulator of the currency, but consider it for the present, out of the question, and are therefore compelled to choose between the other two. By supporting the substitute, you will be held responsible for all the mischief and disasters that may follow the revival of the pet bank system, as it has been called, with the almost certain defeat of your first and cherished choice; and those you oppose will reap all the benefits of the power, patronage and influence, which it may place in their hands, without incurring any portion of the responsibility. But that is not all. The success of the substitute would be the defeat of the bill, which would, in like manner, place on you the responsibility of its defeat, and give those you oppose, all the advantage of having supported it without any of the responsibility, that would have belonged to it, had it been adopted. Had a different course been taken—had you joined in aiding to extend the custody of the laws over the public revenue, in the hands of the Executive, where your own acts have placed it, and for which you, of course, are responsible, throwing the blame at the same time on those, to whom you attribute the present disordered state of the currency, the burthen of the responsibility, you would have stood ready to profit by events. If the Sub-treasury contary to your anticipation, succeeded, as patriots, you would have cause to rejoice in the unexpected good. If it failed, you would have the credit of having anticipated the result, and might then after a double triumph of sagacity and foresight, have brought forward your favorite measure, with a fair prospect of success, when every other had failed. By not taking this course, you have lost the only prospect of establishing a National Bnk.

Nor has your course, in my opinion, been fortunate for the country. Had it been different, the currency question would have been decided at the called session; and had it been decided then, the country would this day have been in a much better condition: at least the manufacturing and commercial section to the North, where the derangement of the currency is felt the most severely. The South is comparatively is an easy condition.

Such are the difficulties that stand in the way of the substitute at the very threshhold. Those beyond are vastly greater, as I shall now proceed to show. Its object, as I have stated, is to revive the league of State banks, and the first question presented for consideration is, how is this to be done—how is the league to be formed? how stimulated into life when formed; and what after it has been revived, would be the true character of the league of combination? To answer these questions we must turn to its provisions.

It provides, that the Secretary of the Treasury shall select twenty-five specie paying banks, as the fiscal agents of the Government, all to be respectable and substantial; and that the selection shall be confirmed by the joint vote of the two Houses. It also provides, that they shall be made the depositories of the public money, and that their notes shall be receivable in the dues of the Government; and that in turn, for these advantages, they shall stipulate to perform certain duties, and comply with various conditions, the object of which is, to give to the Secretary of the Treasury full knowledge of their condition and business, with the view to supervise and control their acts as far as the interest of the Government is concerned. In addition to these, it contains other and important provisions, which I shall not enumerate, because they do not fall within the scope of the objections, that I propose to urge against the measure.

Now I ask what does all this amount to? What but a proposal on the part of the Government to enter into a contract, or bargain, with certain selected State banks, on the terms and conditions contained. Have we the right to make such a bargain is the first question; and to that, I give a decided negative, which I hope to place on constitutional grounds, that cannot be shaken. I intend to discuss, it with other questions growing out of the connection of the Government with the banks, as a new question for the first time presented for consideration and decision. Strange as it may seem, the questions growing out of it as long as [illegible] nothing has yet been presented nor investigated in reference to their constitutionality. How this has happened, I shall now proceed to explain preparatory to the examination of the question, which I proposed.

The union of the government and the banks was never legally solemnized. It originated shortly after the Government went into operation, not in any legal enactment, but in a short order of the Treasury Department, of not much more than a half a dozen of lines, as if it were a mere matter of course. We thus glided imperceptibly into a connexion, which was never recognised by law till 1816, (if my memory serves,) but which has produced more important after consequences, and has had a greater control over the destiny of this country, than any of the mighty questions which have so often and deeply agitated the country. To it may be traced, as their seminal principle, the vast and extraordinary expansion of our banking system, our excessive import duties, unconstitutional and profuse disbursements, the protective tariff, and its associated system for spending what it threw into the Treasury, followed in time by a vast surplus, which the utmost extravagance of the government could not dissipate, and finally, by a sort of retributive justice, the explosion of the entire banking system, and the present prostrated condition of the currency, now the subject of our deliberations.

How a measure, fraught with such important consequences should at first, and for so long a time should have escaped the attention and the investigation of the public, deserves a passing notice. It is to be explained by the false conception of the entire subject of banking, which at that early period universally prevailed in the community. So erroneous was it, that a bank note was then identified in the mind of the public with gold and silver, and a deposite in bank was regarded, as under the most safe and sacred custody, that could be devised. The original impression, derived from the Bank of Amsterdam, where every note, or certificate in circulation, was honestly represented by an equal and specific quantity of gold or silver in bank, and where every deposite was kept, as a sacred trust, to be safely returned to the depository, when demanded, was extended to banks of discount, down to the time of the formation of our government, with but slight modifications. With this impression, it is not at all extraordinary, that the deposite of the revenue in banks for safe keeping, and the receipt of their notes in the public dues, should be considered a matter of course, requiring no higher authority than a Treasury order, and hence a connection with all the important questions belonging to it, and now considered of vast magnitude, received so little notice, till public attention was directed to it by its recent rupture. This total separation from the system, in which we now find ourselves placed, for the first time, authorises and demands, that we shall investigate freely and fully, not only the consequences of the connection, but all the questions growing out of it, more especially those of a constitutional character; and I shall in obedience to this demand return to the question from which this digression has carried me so far.

Have we then the right to make the bargain proposed? Have we the right to bestow the high privileges, I might say prerogatives, on them of being made the depositories of the public revenue, and of having their notes received and treated as gold and silver in the dues of the government and in all its fiscal transactions? Have we the right to do all this in order to bestow confidence in the banks, with the view to enable them to resume specie payments? What is the state of the case? The banks are deeply indebted to the country, & are unable to pay; and we are asked to give them these advantages, in order to enable them to pay their debts. Can we grant the boon? In answering this important question, I begin with the fact, that our government is one of limited powers. It can exercise no right but what is specifically granted; nor pass any law, but what is necessary and proper to carry such power into effect. This small pamphlet (holding it up) contains the Constitution. Its grants of power are few and plain; and I ask gentlemen to turn to it, and point out the power that authorizes us to do what is proposed to be done, or to show that, to pass this substitute, is necessary to carry any of the granted powers into effect. If neither can be shown, what is proposed cannot be constitutionally done; and till it is specifically pointed out, I am warranted in believing that it cannot be shown.

Our reason is often confounded by a mere name. An act, in the minds of many, may become of doubtful constitutional authority, when applied to a bank, which none would, for a moment, hesitate to pronounce grossly unconstitutional, when applied to an individual. To free ourselves from this illusion, I ask, could this government constitutionally bestow on individuals, or proposed to be bestowed on the selected banks, in order to enable them to pay their debts? Is there one who hears me, who would venture to say, yes, even in the case of the most extensive merchant or mercantile concern, such as some of those in New York, or New Orleans, at the late suspension, whose embarrassments involved entire sections in distress? But, if not, on what principle can a discrimination be made in favor of the banks? They are local institutions, created by the States for local purposes, composed, like private associations of individual citizens, on whom the acts of the State cannot confer a particle of constitutional right under this constitution, that does not belong to the humblest citizen. So far from it, if there be a distinction, it is against the banks. They are removed farther from the control of this government than the individual citizens, who, by the constitution, are expressly subject to the direct action of this government in many instances; while the State banks, as constituting a portion of the domestic institutions of the States, and resting on their reserved rights, are entirely beyond our control; so much so, as not to be the subject of a bankrupt law, although the authority to pass one is expressly granted by the constitution.

On what possible ground, then, can the right in question be placed, unless, indeed, on the broad principle that these local institutions, intended for State purposes, have been so extended and have so connected themselves with the general circulation and business of the country, as to affect the interest of the whole community, so as to make it the right and duty of Congress to regulate them; or, in short, on the broad principle of the general welfare? There is none other, that I can perceive: but this would be to adopt the old and exploded principle, at all times dangerous, but pre-eminently so at this time, when such loose and dangerous conceptions of the constitution are abroad in the land. If the argument is good in one case, it is good in all similar cases. If this Government may interfere with any one of the domestic institutions of the States, on the ground of promoting the general welfare, it may with others. If it may bestow privileges to control them, it may also appropriate money for the same purpose; and thus a door might be opened to an interference with State institutions, of which we of a certain section ought at this time to be not a little jealous.

The argument might be pushed much further. We not only offer to confer great and important privileges on the banks to be selected, but, in turn, ask them to stipulate to comply with certain conditions, the object of which is to bring them under the supervision and control of this government. It might be asked, where is the right to purchase or assume such supervision, or control? It might be reputed, that they are State institutions, incorporated solely for State purposes, and to be entirely under State control, and that all supervision on our part is in violation of the rights of the States. It might be argued that such supervision or control, is calculated to weaken the control of the States over their own institutions, and to render them less subservient to their peculiar and local interests, for the promotion of which they were established; and too subservient to other, and, perhaps conflicting interests, which might feel but little sympathy with those of the States. But I forbear. O her, and not less urgent objections claim my attention. To dilate too much on one, would necessarily sacrifice the claim of others.

I next object, that whatever may be the right to enter into the proposed bargain, the mode in which it is proposed to make it is clearly unconstitutional, if I rightly comprehend it. I am not certain that I do; but, if I unders and it rightly, the plan is, for the Secretary of the Treasury to select twenty five State banks, as described in the sub-stitute, which are to be submitted to the two Houses to be confirmed, or rejected, by their joint resolutions, without the approval of the President; in the same mode as they would appoint a chaplain, or to establish a joint rule for the government of their proceedings.

In acting on the joint resolution, if what I suppose be intended, each house would have the right, of course, to strike from it the name of any bank and insert another, which would in fact vest in the two Houses the uncontrollable right of making the selection. Now, if this be the mode proposed, as I infer from the silence of the mover, it is a plain and palpable violation of the constitution. The obvious intention is, to evade the veto power of the Executive, which cannot be, without a infraction of an express provision of the Constitution, drawn up with the utmost care, and intended to prevent the possibility of evasion. It is contained in the 1st article, 7th section, and the last clause, which I ask the Secretary to read;

["Every order, resolution, or vote, to which the concurrence of the Senate and House may be necessary (except on a question of adjournment) shall be presented to the President of the United States, and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules & limitations prescribed in the case of a bill."]

Nothing can be more explicit, or full. It is no more possible to evade the Executive veto, on any joint vote, than in the passage of a bill. The veto was vested in him not only to protect his own powers, but as an additional guard to the constitution. I am not the advocate of executive power, which I have been often compelled to resist of late, when extended beyond its proper limits, as I shall ever be prepared to do when it is. Nor am I the advocate of legislative or judicial. I stand ready to protect all, within the sphere assigned by the constitution, and to resist them beyond. To this explicit and comprehensive provision of the Constitution, in protection of the veto, there is but a single exception, resulting, by necessary implication, from another portion of the instrument, not less explicit, which authorizes each House to establish the rules of its proceedings. Under this provision the two Houses have full and uncontrollable authority within the limits of their respective walls, and over those subject to their authority, in their official character. To that extent, they may pass joint votes and resolutions, without the approval of the Executive; but beyond that, without it, they are powerless.

There is in this case special reasons why his approval should not be evaded. The President is at the head of the administrative department of the government, and is especially responsible for its good management. In order to hold him responsible, he ought to have due power in the selection of its agents, and proper control over their conduct. These banks would be by far the most powerful and influential of all the agents of the government, and ought not to be selected without the concurrence of the executive. If this substitute should be adopted, and the provision in question be regarded such, as I consider it, there can be no doubt what must be the fate of the measure. The executive will be bound to protect, by the intervention of its constitutional right, the portion of power clearly allotted to that department by that instrument, which would make it impossible for it to become a law, with the existing division in the two Houses.

I have not yet exhausted my constitutional objections. I rise to higher and to broader, applying directly to the very essence of this substitute. I deny your right to make a general deposite of the public revenue in a bank. More than half of the errors of life may be traced to fallacies originating in an