

HOUSE.....No. 45.

Commonwealth of Massachusetts.

The Special Joint Committee, appointed to investigate the doings of any or all the banks in the Commonwealth, having considered the instructions given them by the Legislature, on the recommitment of their first report, as to what further legislation may be necessary on the subject matter thereof, respectfully

REPORT :

That on mature consideration of the facts, developed by their investigation, your Committee are of opinion, that sundry banks have committed gross, and palpable violations of the laws. It will not be denied, that it is of vital importance, both to the government, and to the people, that the supremacy of the laws should be maintained. If it be so important, as between the government and its private citizens, how immensely important is it, as between the government and its corporations, the creatures of its bounty? Misconstructions of doubtful provisions, and violations of loosely defined enactments, are not only pardonable, but in some instances, justifiable. The deliberate infraction, however, of a law clearly expressed, and consistent in its provisions, can

never be justified by a plea of ignorance, or misapprehension of its purport. A statute, that is so plain in its provisions, as to be understood and construed alike, by the mass of men, can never be made to palliate its own violations by those, whose interest it may be, to misconstrue or misapprehend it. The laws relating to banks and banking, we apprehend, are of this character. Their provisions are so explicit, and the language in which they are clothed, so precise and definite, that it is almost impossible for ingenuous minds to differ, as to their true intent and meaning. We are constrained to believe, therefore, that if they have been violated, the violation has been deliberate and intentional.

That the law against usury has been violated by some of the banks, we cannot doubt, and we can as little doubt, that the violation was committed with full knowledge of the laws. The circumstances, proved in the case, force this conclusion upon us. Why was all this machinery employed to effect an object, that could be much more easily attained in the ordinary way, unless the agents of its introduction were satisfied, that the object aimed at, was illegal? Why pursue this circuitous course to obtain more than six per cent. interest, unless they knew such interest to be unlawful? More than six per cent. is admitted by some of the banks, to have been taken. Whether it were obtained by direct or indirect means, by premiums on checks paid for notes discounted, or by a greater actual discount than six per cent. can make no difference, as the law equally prohibits both means of obtaining it. This resort, then, to these expedients, novel and ingenious as they are, satisfies your Committee beyond a reasonable doubt, that the law was understood, and that these expedients were

adopted for the very purpose of evading its well known provisions. Being thus persuaded, we can find no sufficient justification for the delinquents, nor can we discover any good reason, (and we have anxiously sought for it,) why the government should, again, forbear to enforce the sanctions of its violated laws.

The best good of corporations, especially of banking institutions, as well as the public weal, seems to require at the hands of the government, an admonitory example. A war is already begun, and vigorously carried on against corporations. This hostility may have been occasioned, in part, by their usurpation of powers and privileges, not delegated to them. It is for their good, therefore, that they should be strictly restrained and circumscribed by the limits of their charters. And how can the government command the respect of its citizens unless it respect itself, and meet with just and reasonable severities, wanton infractions of its laws? The Committee are of opinion, that the public good, and the best interests of corporations, and the common sentiment, concur in imposing upon them, the unpleasant duty of recommending to the legislature, further prosecution of certain banks.

We are not disposed to be vindictive, nor do we believe that the public weal would be promoted, by pursuing all the banks, which may have, more or less, transgressed. The government must maintain its dignity, the people demand a redress of grievances; corporations require reform. These objects can be as well accomplished, in the opinion of your Committee, by selecting, for further investigation, and for final remedies, some few prominent cases, as by pursuing the whole, and graduating penalties to the degrees of their several transgressions.

Having arrived at these conclusions, with great una-

nimity, your committee present the four following named banks, as proper subjects for further proceedings. Our great difficulty in making this selection, has been, not to determine what banks should be further prosecuted, but, chiefly, in deciding what ones should be left unprosecuted. We regard several of them not reported, as deserving especial censure, and unless there should be immediate and thorough reform, in all objectionable practices, it may hereafter be expedient to introduce them to the more particular notice of the legislature.

Your committee present, as worthy of further proceedings, the New England Bank, the City Bank, and the State Bank, in Boston, and the People's Bank, in Roxbury; and do respectfully recommend to the legislature, that they be severally proceeded against, according to the provisions of the 17th section, 96th chapter of the statutes of the year 1828.

All which is respectfully submitted.

By order of the Committee.

M. LAWRENCE.