A Divergence of Interests: When Banks Fail

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In June of 1819, the Exchange Bank of New York suspended specie payments, becoming one of the most famous casualties of the ongoing panic. A private bank run by Jacob Barker, the institution had been under constant attack since its inception in 1815 from the state-chartered banking interests of New York. Barker's public battles with his competitors, the bank's subsequent failure, and Barker's 1826-7 fraud trials for his role in the failure of the Life and Fire Company of New York have colored the historical memory of the original bank. Jacob Barker is often depicted in the historiography as an opportunist, a speculator, or even an outright fraud who took advantage of the financial naïvety of the public and the inadequacies of state regulation in perpetrating his illegal activities. In his volume *The Panic of 1819*, for example, Murray Rothbard calls the Exchange Bank "a private bank of unorthodox principles."[1] In "Rogue Finance: The Life and Fire Insurance Company and the Panic of 1826," Eric Hilt views the Exchange Bank as a trial run for the banker's questionable practices during the 1820s.[2] But the story of Barker's Exchange Bank is much more complicated than just being a morality tale of financial chicanery. Indeed, the fact that the bank failed during the panic – along with a large number of state-chartered banks – is not in itself evidence of either fraud or "unorthodox" practices. Rather, it is a continuation of the disunion of interests described by Matson and Onuf, as Americans continued to grapple with the "fundamental transformations in the ways Anglo-Americans thought about private 'interest' and the public good."[3]

Whereas state-chartered banks were created with the intention of supporting the public welfare, they often mainly focused their activities on furthering the private interests of their stockholders. This included using the legislative process to block the incorporation of new, competing banks, even when the public demanded additional institutions to meet the needs of a growing economy. In particular, the financial requirements of laborers and small businessmen for loans, discounts, and small-denomination bills had been left unsatisfied. Unable to obtain a bank charter, but recognizing an economic opportunity in these unmet needs, Jacob Barker opened the Exchange Bank. In this way, his private bank promoted the interests of the public more than the state-chartered banks which used the language of public interest to try to preserve their monopoly power.

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[1] Murray Rothbard, *The Panic of 1819*, 192.
[2] Eric Hilt, "Rogue Finance: The Life and Fire Insurance Company and the Panic of 1826," *Business History Review* (Spring 2009): 87-112.
[3] Matson & Onuf, *A Union of Interests*, 3.

Banking for the Public Good

During the post-Revolutionary period, states restricted charters of incorporation to institutions that served a clear public function and thus deserved the support and imprimatur of the state. Early corporate charters were largely limited to municipalities, hospitals, transportation companies, and banks. Supporters of banks focused their attention on the benefits to the community from their existence – facilitating exchange, encouraging commerce, enabling the completion of internal improvements, and generally creating more opportunities for local inhabitants to increase their wealth.

It was quite common for bank charters to be explicitly linked with particular public benefits. For example, in 1816 the Virginia legislature passed a banking law requiring all newly incorporated banks to pay a bonus premium and provide a portion of their stock to be invested in the state's internal improvement fund. In this way, the state anticipated being able to raise $1,125,000 over ten years, and through "this novel though productive system of finance" accomplish many "public improvement[s]" with "a very inconsiderable part, if any, [being] derived from the pockets of the people, by the imposition of taxes."[4] Bank incorporations could thus serve as a potential (magic) solution to the funding needs of various states.

As the New York state legislature's committee on the currency of the state noted in 1818, a wide variety of public benefits could be accomplished through banks:

> [B]anking establishments are highly beneficial in a country like ours, with an extensive external and internal commerce, by affording facility in making remittances, and in transmitting large sums from one part of the country to another, and in the head market towns in affording temporary loans at particular seasons of the year, for the purchase of produce, and in seaport towns where large capital is vested in shipping engaged in foreign commerce, by enabling the proprietors with temporary loans, to purchase fresh cargoes and dispatch their vessels. So far the committee believe they are warranted in saying, that experience has show that banks have been very beneficial to this state.[5]

[4] "Legislature of Virginia," *Niles' Weekly Register*, February 24, 1816: 149.
[5] "Legislature of New York," *Niles' Weekly Register*, March 14, 1818: 39.

Yet this initial ringing endorsement of the state's banking system had an important caveat, since the committee felt they would be "violating their character as legislators and as guardians of the public welfare" if they did not ultimately conclude that the rapid spread of new banks "counteract entirely all the beneficial effects expected from them...to the very great embarrassment of internal commerce." Whereas "in applying for their charters, they all profess to have the public good solely in view... their conduct has shown, that they soon become blind to all other interest but their own."[6] Thus while the purpose of banks was highly beneficial, they often fell short in the execution of this purpose.

Despite – or perhaps because of – the rapid growth of the nation's banking system after 1815, these banks received a considerable amount of criticism. Although early bankers touted their institutions as quasi-public entities that promoted the common good by facilitating exchange, encouraging commerce, enabling the completion of internal improvements, and generally creating more opportunities for local inhabitants to increase their wealth, many contemporaries accused banks of receiving special privileges from the state for a purely for-profit enterprise. Others argued that while the financial intermediary function of banks was useful to the community, the issuance of banknotes in excess of specie reserves was a dangerous practice that promoted inflation and encouraged fraud. It also potentially violated the Constitution, which expressly delegated the power to coin and regulate money to Congress. During the War of 1812, the large demand for specie to fight the war forced most banks temporarily to suspend specie payments in exchange for their banknotes. A direct response to the contingencies of war, this move enabled banks to avoid declaring bankruptcy and allowed banknotes still to circulate in the economy. Yet many people worried about the safety of a system not explicitly backed by gold and silver.

Bank incorporations had increased steadily from approximately 24 in 1800 to 101 by 1811. Due to both the void created by the closing of the First Bank of the United States in 1811 as well as the economic prosperity following the War of 1812, commercial bank charters then rapidly proliferated throughout the country to meet the credit demands of everyone from merchants to farmers. By 1820 over 300 banks dotted the landscape in cities and towns both big and small. State-chartered banks proliferated alongside the Second Bank of the United States, and banknotes of all shapes, sizes, and qualities dominated the money supply. By the post-War

[6] "Legislature of New York," *Niles' Weekly Register*, March 14, 1818: 39.

of 1812 period, people had come to depend on the services provided by these banks: namely small, short-term loans to provide operating capital for businesses and farms, and a circulating medium – banknotes – to supplement the sparse supplies of gold and silver in the economy.

Most banks conducted their business responsibly and very few banks actually failed during this early period. Yet those that failed often did so with such disastrous results for their local communities that these examples only served to fuel criticism of the banking system and reinforce public skepticism. One of the most notorious was Andrew Dexter's Farmer's Exchange Bank of Gloucester, Rhode Island.[7] During the first decade of the nineteenth century, Dexter gained control of several banks at a great distance from each other, manufactured banknotes for these institutions far in excess of the specie reserves on hand, and then released these notes for circulation at a distant location where bearers would find it very difficult to exchange notes for specie at the issuing bank. For example, the notes on the Farmer's Exchange Bank of Rhode Island were loaned out to debtors of Dexter's bank in Detroit, and vice versa. This scheme worked relatively well until Dexter's own greed and mounting debts caught up with him, causing his banks to fail catastrophically and leaving the remaining noteholders, depositors, and shareholders penniless. Early Americans often latched onto the few spectacular failures such as Dexter's as evidence of problems with the system as a whole.

Despite a small number of isolated but infamous exceptions, the majority of bankers operated responsibly. Still, the system was far from perfect. In particular, the issuance of banknotes by hundreds of different banks meant that notes drawn on safe banks were virtually indistinguishable from those issued by the few irresponsible bankers. The notes of defunct banks as well as outright counterfeits likewise complicated the monetary system. As a result, people valued most highly banknotes issued by institutions close to home, about which they possessed the most knowledge. The further a note circulated from its home bank, and the less well-known the institution, the more likely it would trade at a discount – meaning that a banknote would be accepted at a reduction off of its face value. This discount reflected both the greater risk attached to a lesser-known bank and the transportation costs of returning that note to the bank of issue for specie. Although discounts were often small, with notes commonly being accepted at 95¢ to

[7] Jane Kamensky recounts the story of this bank in her 2008 book *The Exchange Artist: A Tale of High-Flying Speculation and America's First Banking Collapse*.

99.5¢ on the dollar, these reductions could quickly add up for users of banknotes. In extreme cases, the discounts could be as high as 25¢ to 50¢ on the dollar.

Whether a banknote was a counterfeit or just heavily discounted due to the location or reputation of the issuing bank, workers were the people most hurt in these situations. Employers expected them to accept banknotes at face value, even if they were fully aware that these notes traded at a discount within the local community. In order to counteract this problem, by 1830 most states required banknotes to be denominated in round numbers, eliminating fractional 10¢, 25¢, or 50¢ bills. By 1832, eleven states banned the issuance of small-denomination banknotes below $5; in 1835 New York banned bills under $10. Even in states without an explicit law, many individual bank charters limited the printing of small notes. Since laborers and factory workers commonly earned less than $5 per week, this theoretically forced owners to pay workers in specie rather than in banknotes. Yet specie was still scarce, so the coins needed to conduct these small transactions were hard to obtain.

To fill this gap in the money supply, particularly during periods when the economy was struggling and specie was especially limited, many nonbank institutions including manufacturing companies, municipalities, and individual merchants began printing scrip. Scrip, commonly referred to as shinplasters, was fiat currency with no legal standing. As one 1817 commentator described them: "Under this appreciated term [SHIN PLASTERS] may be included all the ragged trash issued by bridge, turnpike and manufacturing companies; by city and borough authorities; by merchants and tavern keepers, barbers and shoe-blacks; from three cents upwards."[8] It was issued outside of the banking system and only intended to circulate in the local economy. For instance, rather than paying its workers in specie, a lumber company could print up small-denomination notes of less than $5 and even fractional-denomination notes of under $1. With the exception of the company's name in place of a bank's name, these notes were visibly indistinguishable from the legitimate notes issued by commercial banks.

Although it was illegal for a nonbanking institution to issue money in this way, many employers still forced their workers to accept them as pay. And in places where there was an extreme shortage of specie coins needed to conduct smaller transactions, they would circulate as currency in the local economy. Most people knew that shinplasters were both illegal and technically worthless, but they nonetheless were used out of necessity with everyone playing

[8] "Shin Plasters," *Berkshire Star* (June 5, 1817): 2.

what historian Joshua Greenberg has called a game of hot potato. As the 1817 commentator concluded: "There is, no doubt, great difference in the value of those tickets; but the public have been vexed and amused with them long enough and the good, bad and indifference are sharing a common fate."[9] When the economy improved and legitimate forms of money flowed back into the area, shinplasters would no longer be necessary. You just did not want to be the one caught holding the currency at that unpredictable moment when the community suddenly stopped accepting the notes in payment for goods and services.

Distinct from these nonbanking institutions issuing scrip were unchartered banks, commonly referred to as private banks since, in lacking a state charter, they presumably had no obligations to uphold or promote the public welfare. During the early republic, many individuals performed all the essential functions of banks without possessing a corporate charter. These private bankers accepted deposits, discounted notes, extended loans, and even issued their own banknotes backed by specie. Rather than selling bank shares, the capital stock instead usually came from the personal funds of one particularly wealthy individual, or several individuals in partnership. Due to the severe restrictions placed on incorporation in Britain, most English banks were private. But in the United States, many bankers sought and received an official charter from the state which specifically defined the rights, privileges, and duties of the institution. The main advantages of incorporation for bankers were continued existence for the institution beyond the life of the founders, easier access to capital funds through the sale of capital stock, limited liability,[10] and special privileges from the state such as the right to issue banknotes. The states, for their part, encouraged incorporation because it enabled them to raise revenue, promote public projects, and exert some minimal degree of regulatory control over these institutions.

A particular privilege of incorporation was the right to do something that unincorporated companies could not. In the case of banks, beginning in 1799 states started passing legislation known as restraining acts which forbade private banks from issuing banknotes. With specie being scarce and no other forms of money available, banknotes were a bank's main means of granting loans and discounting commercial paper. Without this privilege, the bank's ability to

[9] "Shin Plasters," *Berkshire Star* (June 5, 1817): 2.
[10] Limited liability was still an evolving concept at this point. It was often acknowledged by the courts before receiving official sanction in corporate charters and state law during the 1820s and 1830s.

earn a profit was greatly limited. These laws encouraged many private bankers to obtain a state charter, while a few others found ways around the law. Some private banks, for instance, issued loans by crediting a person's bank account which they could then draw against by writing checks. Others, such as Stephen Girard of Philadelphia, continued to issue notes that functioned the same way as banknotes, although he claimed they were not banknotes. Since his credit was so respected, his notes circulated in the local economy despite the law.[11]

The state-chartered banking interests aggressively promoted and defended these restraining acts as being in the best interests of the public. Yet as the New York State Supreme Court concluded in the 1824 case of *New York Fireman Insurance Co.* v. *Ely*, the principle object of these acts was to guarantee "a monopoly of the rights and privileges granted to [chartered banks], which had been encroached upon or infringed by private associations."[12] As Bray Hammond notes, it was unclear whether these acts "restrained banking in the public interest or in the interest of the chartered banks."[13] These restraining acts would become one of the main objects of contention between the state-chartered banks and Jacob Barker's Exchange Bank.

<u>The Exchange Bank vs. the State-Chartered Banks of New York City</u>

When the Exchange Bank opened its doors in 1815, the nation was just emerging from the War of 1812. Most banks (outside of New England) had been forced to suspend specie payments during the fall of 1814 as demands for specie greatly outpaced the available gold and silver in their vaults. State governments could have challenged the decisions of their banks to suspend payments, forcing each bank either to resume specie payments immediately or have their charter revoked. But the banks were careful to justify their decision with the state authorities and the public as a necessary war measure. The banks of Philadelphia, for example, published a joint statement in which "they deem[ed] it their duty to submit to their fellow citizens the circumstances which induced them to adopt this measure." They cited the blockade of American ports by the British as the main problem. With trade disrupted, the nation was unable to gain specie by exporting goods to Europe, while the expenses of war continued to drain what little specie remained. "Believing the public interest will be best promoted by stopping the

[11] Hammond, 184-5 (and other sources…)
[12] As quoted in Hammond, 577.
[13] Hammond, 578.

payment of specie before the monied capital of the country is further diminished, and that by adopting the measure at this time the banks may hereafter resume their accustomed operations with less difficulty, they have unanimously agreed to it."[14] The presidents of all six Philadelphia banks signed the notice. By acting as a group rather than as individual banks, by explaining their decision as necessary given the wartime conditions, and by promising to resume payments as soon as possible after the crisis had ended, the banks maintained the public's trust. Recognizing that widespread bank failures would only further hurt the economy, both the public and the state governments held their panic in check. Instead, federal and state officials supported the banks' decisions by setting aside the normal requirement that government taxes and fees be paid in specie. Even war bonds could now be purchased with banknotes. This eased demand for specie and reaffirmed trust in the system.

Yet as the war ended, the public became increasingly frustrated with the banks, demanding that the legislature intervene to force resumption of specie payments. As a December 1815 article in *The Examiner* of New York complained, "This unexpected, this unnecessary, this willful perseverance in the non paying system, astonishing to all, could not fail to arrest the attention of the legislature. And a bill was introduced [in the spring of 1815] into the house of assembly, subjecting bank notes to an interest of *fourteen per cent. per annum*, if payment should be refused, after the first day of January, 1816." Fearful of such a punitive measure, but still unable to resume payments, the New York City banks met in April 1815 to ease the public outcry and forestall the legislation, resolving unanimously "That the banks in the city of New-York *pledge themselves* to the public, and to each other, that they will uniformly exert themselves to resume their specie payments, and that they will make any reasonable *sacrifice* to hasten this *desirable* event." The banks purposely drew on this language of public service and sacrifice in the hopes of reminding people that state-chartered banks were intended to promote the common good. The resolution of the bankers was successful in ending discussion of the bill, but the editorialist remained frustrated that "the public were left to repose on the assurances and fidelity of the banks, for the attainment of the 'desirable' object."[15]

[14] "To the Public," *Democratic Press*, August 30, 1814: 2.
[15] "An Appeal to the public on the conduct of the Banks in the City of New-York," *The Examiner* (December 25, 1815): 33.

In the spring of 1816, the Treasury Department notified the banks that it would again require specie for the payment of taxes and fees as of February 1817, when the newly-chartered Second Bank of the United States officially began operations. This gave the banks a specific deadline for rebalancing their banknotes, loans, and specie reserves. When that date arrived, the resumption of specie payments occurred relatively smoothly in banks throughout the nation. One New York newspaper reported, for example, that the bank counters "exhibited a glitter of Gold and Silver Coin that delighted every beholder. But contrary to all calculation (which is honorable to the citizens of this wealthy metropolis) there was no RUN for Specie." The author predicted that "In a few days all the *paper* change will be out of circulation. Much of this trash was yesterday redeemed, and committed to the flames."[16] Many editorials encouraged the public to support the banks' efforts by limiting specie withdrawals to what was absolutely necessary, "And instead of making a run upon the Banks *for* specie, that those who may have specie horded up in a state of inaction, will, with alacrity, *deposit* it in the Banks for the purpose of aiding this desired object."[17] A few banks however, particularly in the West, proved more reluctant to comply, with many not resuming payments until 1818.

As the Exchange Bank opened its doors in 1815, the chartered New York City banks were still under fire for not redeeming their banknotes for specie. Capitalized at about $250,000, Barker's bank quickly expanded into this market and, according to one bank historian, "acquired an excellent credit rating, expanding fast and encroaching on the domain of the chartered banks." But Barker likewise began targeting some other constituencies who had been unserved or underserved by the commercial banks, "especially New York mechanics and residents of the adjacent counties, men who could not get accommodations from incorporated banks in New York City. Its notes had a wide circulation among New York craftsmen, traders, and laborers."[18] To address the more limited financial needs of these groups, the Exchange Bank began printing small-denomination bills that tended to circulate more widely in the economy.

The Exchange Bank immediately came under attack from both critics of banking and its competitor banks. In particular, people wondered whether a private bank which was completely unregulated by the state, and owned and operated by a single individual, was a legitimate

[16] "Specie Payments," *American Advocate* (March 1, 1817): 3.
[17] "Specie Payments," *Knoxville Register* (April 10, 1817): 3.
[18] Fritz Redlich, v. II, p. 60-61.

financial institution providing real benefits to the community. Since Barker did not have to raise capital through the sale of stock, some considered his specie reserves to be "dubious, if not fictitious." His ties to Tammany Hall also made him the political enemy of most bank directors.[19] And many competitors tried to paint his embrace of small-denomination bills as an artful ruse to foist banknotes of questionable value on the unsuspecting small businessmen and workers of the city.

The banker's first real test came in March 1816 when his brother-in-law's business in Liverpool failed. Since the private Exchange Bank was backed only by the personal funds of Jacob Barker, many people feared that his finances would be compromised by involvement with his brother-in-law's insolvent business. As the *New-York Courier* reported on March 9, 1816, "The Exchange Bank has for two or three days past, experienced, and, until the alarm subsides, will probably continue to be subjected to, a very severe *run.* The throng of people who surrounded the bank yesterday, presented a really novel spectacle in Wall-street." Barker's critics reveled in this uncertainty, hoping that it would bring about his demise, although *The Courier* editor rebuked them for allowing "*[p]olitical* differences" to create "*personal* ill will."[20] Barker himself railed against "the thousand falsehoods that have been industriously circulated during the present week."[21]

Barker had been out of town when the panic began, but his cashiers took it upon themselves to allay the public's fears and "instead of showing hesitation or slowness, placed half a dozen extra clerks to pay the demands made upon it."[22] Rather than showing concern or panic, Barker "arrived from Albany, to all appearance nothing disheartened"[23] The banker then issued a proclamation addressed "to the public," in which he reassured noteholders and depositors that his own finances had not been negatively impacted by his brother-in-law's "speculations," reiterating that "every demand on the BANK has been *punctually* and *promptly* met, and that my estate is too large and too well invested for a loss of ten thousand pounds to endanger the safety

[19] Redlich, 61.
[20] *New-York Courier,* March 9, 1816, p. 2.
[21] *Commercial Advertiser* "Exchange Bank," March 9, 1816, p. 3.

[22] "Mr. Barker's Exchange Bank" *The National Advocate* March 12, 1816 p. 2.
[23] *New-York Courier,* March 9, 1816, p. 2.

of any man who may have claims upon me."[24] By all accounts, Barker's conduct during this crisis calmed the nerves of the public.

In many ways, this episode was a blessing in disguise for the Exchange Bank. Rather than proving the weaknesses of a private bank, it instead demonstrated its strengths. The editor of *The Courier* remarked that "we yet think it a fortunate circumstance *for the public*, that an alarm has been excited; because if friend Jacob is able to stand *a run* – not a contrived, but a general, popular, universal *run*, it will be pretty conclusive evidence, that his bank has some *bottom*. From present appearances, it would rather seem that he will be able to stand it." Chastising the chartered banks, many of whom had still not resumed specie payments after the wartime suspension, the editorial continued, "It would be somewhat strange, however, if a private bank should, under such circumstances, be able to do, what the incorporated banks could not."[25] Similarly, *The National Advocate* opined that "There is nothing in this world more vulnerable than a monied institution, unless it may be the fair fame of a woman; they, may be viewed on a parallel; each alike liable to be blasted, even by suspicion." Yet the Exchange Bank had weathered these attacks on its fragile reputation, demonstrating that "The affairs of this bank, however, it appears, from the results, were arranged with such prudence, that on an unlooked for RUN for three days, himself absent, no injury or disappointment whatever was the consequence."[26] Finally, *The Albany Register* seemed almost shocked to admit that "The Bank of Jacob Barker turns out to be perfectly solvent, reports to the contrary notwithstanding." Like the other writers, this author likewise could not avoid making a comparison with the experiences of the chartered banks. "It has been run upon in a manner which no Bank ever was before in this state, and has met promptly every demand. This proves that the proprietor has been prudent in his emissions, and simple in his provisions to meet their return."[27]

The Exchange Bank had survived the perfect storm. An already skeptical public was being egged on by the chartered banks throwing further fuel on the firestorm questioning the bank's viability. These rumors and suppositions then encountered the reality of a failure close to Barker, completing the recipe for a panic. By casting this episode as a morality tale of prudence, sound business practice, and service to the public in the face of incredible odds, Barker

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[24] *Commercial Advertiser* March 9, 1816 p. 3.
[25] *New-York Courier,* March 9, 1816, p. 2.
[26] "Mr. Barker's Exchange Bank" *The National Advocate* March 12, 1816 p. 2.
[27] "Jacob Barker's Bank" *The Albany Register* March 19, 1816 p. 3.

undermined his critics and solidified the Exchange Bank as an important financial institution in New York City. Interestingly, Barker almost immediately began petitioning the legislature for a formal charter for the Exchange Bank.[28] Perhaps Barker had a masterful poker face, and his finances were more effected by the failure of the Liverpool institution than he had let on. Or perhaps it had opened his eyes to just how vulnerable his personal finances were to rumors and panic. Certainly it was not because he desired state oversight, or now needed the imprimatur of the state to ensure the bank's success. Either way, his adversaries in Albany were not interested in having him join their chartered ranks; the Exchange Bank legislation would never pass.

With the Exchange Bank gaining in respect and popularity among the public, the state-chartered institutions decided to challenge the legality of the bank's banknote operations by invoking the state's restraining act. New York's act stated "that no person, unauthorized by law, shall subscribe to, or become a member of, any association, institution, or company, or proprietor of any bank or fund, for the purpose of issuing notes, receiving deposits, making discounts, or transacting any other business which incorporated banks may or do transact, by virtue of their respective acts of incorporation." Barker, in conducting each and every one of these functions through the Exchange Bank, appeared to be in clear violation of this law. Yet Barker's lawyer was able to thread him through an unintended loophole in the law by arguing that the law only applied to groups, not individuals. Agreeing with this interpretation, Chief Justice Thompson ruled in the 1816 case of *Bristol* v. *Barker* that the law "was intended to restrain banking associations unincorporated. An individual may certainly, by law, issue notes, receive deposits, and make discounts." This ruling also exempted Barker for that portion of the act designed "to prevent the passing and receiving of bank notes, less than the nominal value of one dollar."[29] Once again, Barker appeared to have outwitted his chartered competitors. Not only was he allowed to continue his private banking institution, but he remained unrestrained by the note-issuing regulations to which they were subject.

Furious, the state-chartered banks engaged in a thinly-veiled attack on Barker and the Exchange Bank, trying to create an artificial run on the specie of the bank by questioning the safety of small-denomination notes. *The Evening Post* of February 19, 1817 published "an invitation by the authority of the Incorporated Banks of this city, to the public, to send in all

[28] *The Columbian* April 20, 1816 p. 2.
[29] Bristol, qui tam, v. Jacob Barker, Ant. N.P. Cas 169 (1816). Also Redlich, v. II, p. 61.

small bills and obtain specie therefor[e]." Of course, due to the limits placed on the banknote issues of the chartered banks, the only bank issuing small-denomination notes was the Exchange Bank, making the call "no more nor less, than an invitation from the other banks to injure Mr. Jacob Barker's Bank." A response published the following day in *The National Advocate* called out the chartered banks on their attack, stating "However hostile they may have been to Mr. Barker, it was not to have been expected they would thus publicly have announced their hostility." The article went on to defend the operations of the bank, asserting that "The small bills of Mr. Barker's bank are punctually redeemed, and answer the purposes of mechanics and small dealers as well as specie, and [can] be borrowed by them then they cannot obtain a loan of specie from the other banks." Once again, this defense was highlighting the important service the bank providing to vital segments of the community, which the chartered banks were unwilling or unable to provide. The article then concluded with a final jab at the incorporated banks, calling them "great men" who "wish to put down those in a small way."[30] In aligning Barker with the smaller businesses of the city, the author (who may or may not have been Barker himself), was trying to create a clear distinction between the monied class who controlled the political (and thus the chartering) process, and the middle and working class members of the public whose financial needs were being ignored by these banks.

A few days later, an article in *The National Advocate* was positively gloating "How have the mighty fallen!" While the incorporated bankers seemed determined to succeed in their "contemptible object of exterminating a private individual....th[e] public do not recognize any difference in the *size* of bank notes. All they want is SPECIE for them." But if the public was indeed in need of specie, then it would be much more efficient for them to redeem larger-denomination notes, which would "supply the public with that article much more speedily than they can obtain it by only sending in the bills less than one dollar." And the author again chastised the chartered banks for ignoring the financial needs of a large segment of the public when they targeted just "one bank," which "being accommodated to the interests and wants of the middling and poorer classes of the community, is necessarily in a smaller line of business than the others – and, consequently, issues paper of a less denomination."[31] Without a state charter, the main asset keeping the Exchange Bank afloat was its reputation with the public.

[30] *The National Advocate*, 2/20/1817 p. 2.
[31] *The National Advocate* 2/24/1817 p. 2.

Barker and his supporters had to meet each challenge to that reputation directly and forcefully in order to stay in business.

Yet whereas this advocate of the Exchange Bank hoped to be able to calm the demands for specie by exposing the self-interested intentions of those calling for the redemption of small bills, the chartered banks coupled this attack with public meetings demanding better regulation of small-denomination bills and an end to private banking. For example, a pro-Barker editorial reported on “A very curious meeting of bankers and merchants” whose purpose was to promote “measures against the circulation of Mr. Barker’s notes, and to influence the public by very reprehensible arguments, to an illegal and outrageous declaration against the credit of an individual whose liberal discounts and generous manners have contributed considerably to the life of business during the long absence of specie, and the late unfortunate depression of every branch of trade.”[32] But once again, Barker was not one to be defeated easily in a public relations war; “the friends of the Exchange Bank are as ready and willing to have a public meeting as the friends of the other banks, and pass resolutions equally high seasoned.”[33]

The Exchange Bank’s reputation ultimately depended on the support of “the public, who were often indulged by Mr. Barker, while the Wall-street *Shavers* were extorting two hundred per cent per annum discount from the distressed, who suspect that a chartered bank issues more paper than allowed by law.” If the public judged based on their experiences of the bank, rather than on the groundless rumors floated by its competition, they would have to conclude “that Mr. Barker’s paper may be something more valuable than paper refusing to be controlled by the law that sanctioned such bank with a charter.”[34] The Exchange Bank claimed to serve the needs of the public better than the state-chartered institutions, and it also depended on the public’s continued loyalty to stay in business.

While Barker’s Exchange Bank was the only private bank in New York City (meaning an institution entirely devoted to banking operations), several other individuals and institutions engaged in unchartered banking activities as an offshoot of their main business. Whereas the chartered banks faced great difficulty in convincing the public of the instability of the Exchange Bank specifically, it was much easier to impugn private banking when any of these nonbank

[32] *The Exile* “Jacob Barker’s Bank” 4/19/1817.
[33] *The National Advocate* 2/24/1817 p. 2.
[34] *The Exile* “Jacob Barker’s Bank” 4/19/1817.

institutions failed. For example in July, Levi M'Keen "who has been deeply engaged in private banking...closed his concerns in a mysterious manner." Although M'Keen was only engaging in some banking operations on the side, this article tried to paint him as a typical private banker, equating private banking more generally with instability and failure. The author concluded: "We presume those who are most interested will investigate this important failure, and inform the public of the causes which led to it."[35]

Another New York businessman by the name of Calvin Cheeseman was also engaged in illicit banking operations and banknote issuance as a side to his main line of business as a tavern keeper. When Cheeseman failed just a month later in August of 1817, the chartered banks immediately jumped on the story, declaring "Another bubble burst." Calling Cheeseman's business "a private banking institution," the author clearly implied that private banks were inherently unstable and prone to failure. As the article concluded, "*Experience is the school of wisdom*. The lessons which we have had upon private banking the last year, it is devoutly to be hoped, will produce a sensation upon the public mind sufficient to induce the legislature to restrain their further operations."[36] The author accomplished two things with this article. First, the idea of private banking was linked to the idea of instability and failure, even if Cheeseman's enterprise was in no way similar to Barker's bank. Second, it endorsed the idea that the public's interests could only be protected through more stringent government regulation of these institutions. As the *New York Evening Post* editorialized later that fall, "We hope the explosion of another private banking house in this state, if it do not operate to induce some legislative provision against the evil, will at least serve to put people on their guard against it [sic] ruinous consequences."[37] If the public was not sophisticated enough to understand the differences between private banks on businesses engaged in banking activities, then the reputation of the Exchange Bank could be pulled down along with these more speculative enterprises.

Unsurprisingly, Barker's supporters immediately struck back in an attempt to correct the record and undermine the goals of the chartered banks. In one response from *The New-York Herald*, the author clarified that Cheeseman was "a tavern-keeper...who issued bills to a large amount" and not a private banker, as the original article asserted. Whereas some of the

[35] "M'Keen's Money," *The Watch-Tower* July 24, 1817, p. 2.
[36] "Another bubble burst," *The National Advocate* August 29, 1817 p. 3
[37] As reprinted in *The Carolina Federal Republican*, September 20, 1817, p. 2.

businesses who issued private banknotes occasionally failed, “There has not been any failure of any private banking house in this city.”[38] This stark statement was meant to be a ringing endorsement of the success and long-term stability of the Exchange Bank, the only true private banking house in the city, as well as to educate the public on the differences between these types of institutions.

Barker understood that this newspaper war could take a toll on his bank’s precious reputation, that that his enemies in Albany were still conspiring to eliminate private banking. Late in 1817, Barker again gave notice of his intention “to apply to the Legislature of the State of New-York, at its next session, for an act of incorporation; incorporating them and their associates by the name and style of the Exchange Bank.”[39] While this move would subject the bank’s operations to greater restrictions and scrutiny, Barker probably also hoped it would eliminate the repeated attacks on the bank by his New York competitors. Requesting a capitalization of one million dollars, the proposed charter would also replace Barker’s personal assets as the main reserve fund of the bank.

For similar reasons, Barker allied himself with the newly-chartered Washington and Warren Bank of Sandy Hill, New York.[40] Although Barker was not listed as an incorporator on the original charter from April 7, 1817, by October 1817 he had purchased “more than half the stock” in the institution, acquiring a controlling interest.[41] Historians such as Bray Hammond interpret this move as intended by Barker “to float circulating notes in remote spots in order to make their redemption difficult,”[42] much as Andrew Dexter had done with his Rhode Island and Detroit banks. But it is also quite plausible that Barker’s main motive was neither speculative, nor fraudulent, nor contrary to the general public welfare. Seeking more stability for his Exchange Bank but unable to obtain a formal charter for it from Albany, a controlling interest in the Washington and Warren bank meant that he could draw on its much larger capital stock to provide temporary liquidity for the Exchange Bank during bank runs. This could be especially useful when those runs were manufactured by rumors spread by his competition.

[38] *New-York Herald* September 6, 1817 p. 1.
[39] *The New-York Columbian* 12/30/1817 p. 1.
[40] The Village of Sandy Hill, now Hudson Falls, is located on the east bank of the Hudson River, about 55 miles north of Albany, and 200 miles north of New York City.
[41] “An Act to incorporate the Bank of Washington and Warren,” *Laws of the State of New-York passed at the Thirty-Ninth, Fortieth, and Forty-First Sessions of the Legislature*, (Albany: 1818); *The Pilot*, 10/8/1817 p. 2; and *The Ulster Plebeian*, 10/18/1817 p. 2.
[42] Hammond, 342.

The Restraining Act War

Simultaneously, this ongoing battle between the Exchange Bank and the chartered institutions moved into the legislative arena, with each side battling for both political and public support for revisions to the restraining act. Barker appeared to have struck first, getting his allies in Albany – including Martin Van Buren and Abraham Van Vechten – to introduce a "bill for repealing the Restraining Law, and for authorizing Private Banking Associations." The bill, which would have "authori[zed] any number of persons not exceeding five, to associate for the purpose of private banking," passed in the Senate by a vote of 13-8 on March 22 and was sent to the Assembly.[43] Yet the Assembly simultaneously "pass[ed] a bill, prohibiting Private Banking, under penalty of imprisonment and other forfeitures."[44] With both sides unwilling to budge, "The Legislature adjourned without passing any law for restricting or regulating private banking, or in relation to small notes."[45] Yet this impasse was only temporary. The chartered banks and their allies in Albany were determined to pass legislation to put Barker out of business. And they soon found an ally in Governor DeWitt Clinton.

In January 1818, Clinton issued his state of the state address, which included a substantial section on banking. His attack on banks was multisided, asserting that "The evils arising from the disordered state of our currency, have been aggravated by the banking operations of individuals," i.e., private bankers, "and the unauthorised emission of small notes by corporations." He called for "the immediate and correcting interposition of the legislature" to eradicate these abuses. Clinton also took a swipe at banks like the Washington and Warren Bank which were located in small communities, questioning "whether the incorporation of banks in places where they are not required by the exigencies of commerce, trade or manufactures, ought to be countenanced." The problem he asserted was that "Such institutions, having but few deposits of money, must rely for their profits principally upon the circulation of their notes, and they are therefore tempted to extend it beyond their faculties. These bills are diffused either in the shape of loans, or by appointing confidential agents to exchange them for those of other establishments." Although not naming the Washington and Warren Bank by name, their close

[43] *The Albany Advertiser*, March 19, 1819, p. 1; and *The New-York Courier*, March 28, 1817, p. 2.
[44] "Consistency," *Albany Gazette*, April 1, 1817, p. 2.
[45] *The National Advocate* April 18, 1817 p. 2.

involvement with the Exchange Bank – through Barker – meant that the notes of remote Sandy Hill often circulated in New York City, and vice versa.

Clinton's speech then approached apocalyptic levels, declaring that "The banishment of metalic [sic] money, the loss of commercial confidence, the exhibition of fictitious capital, the increase of civil prosecutions, the multiplication of crimes, the injurious enhancement of prices, and the dangerous extension of credit, are among the mischiefs which flow from this state of things," and would eventually "produce an explosion that will demolish the whole system." While "the agricultural interest is the principal sufferer by these proceedings," Clinton believed that it was having "a most pernicious effect on the public welfare" more generally.[46] As a result, he called on the legislature to appoint a special committee to examine the state of banking in New York, and to propose legislation or other remedies to address any specific issues.

The committee issued their report on February 24, 1818, stating that "The committee are fully satisfied, that banking establishments are highly beneficial in a country like ours" and "that experience has shown that banks have been very beneficial to this state." However, "as guardians of the public welfare" they felt compelled to conclude that "when administered by unskilful [sic] hands, too profusely...banking establishments ... counteract entirely all the beneficial effects expected from them." In particular, they recognized the disconnect between the stated interests and intentions of the incorporators, and their conduct in practice: "In applying for their charters, they all profess to have the public good solely in view, but in too many instances, their conduct has shown, that they soon become blind to all other interests but their own." They then went on to list numerous abuses committed by the various banks throughout the state, concluding that "Of all aristocracies none more completely enslave a people than that of money; and, in the opinion of your committee, no system was every better devised so perfectly to enslave a community, as the present mode of conducting banking establishments." It was therefore the "duty of a wise and discreet legislature" to refrain from granting charters to those "who appear to have forgotten for the time their public trusts" and to ensure that the banks of the state were operating in accord with the best interests of the public.[47]

These remarks breathed new life into the legislative debates around banking. Although the committee impugned the banking interests in general, it particularly revived the arguments of

[46] "Legislature of New-York" *Niles Weekly Register* February 14, 1818: 406.
[47] "Legislature of New York," *Niles' Weekly Register*, March 14, 1818 p. 39.

those railing against private banks. Barker and his allies once again felt the necessity to go on the offensive to sway the public to their cause. Thus in response to the committee report, Benjamin Franklin Butler, one of Barker's closest allies, published his *Remarks on Private Banking* under the pseudonym Marcus. This pamphlet was an extensive, exhaustive defense of private banking in general and Barker and the Exchange Bank in particular. To counter the accusation that private banking was "dangerous to the community," Butler looked to Britain – where private banking was the norm – as well as to other states such as Pennsylvania where Stephen Girard's private bank was highly respected. Both of these examples demonstrated that the operations of private banks were "beneficial to society at large, and the advantages of an abundant currency are evident from the growing wealth and prosperity of the nation."[48] Ultimately, the existence of a charter was a moot point. What mattered was the reputation of those in charge of the bank. "Unless the public, who are acquainted with his character and ability, are desirous of obtaining [banknotes], his bank will soon dwindle into perfect insignificance. Where then is the danger to be apprehended from private banking?"[49] The system was thus self-regulating. The public would force unnecessary, dishonest, or speculative banks out of business – whether they be private or state chartered. The recent failures of M'Keen and Cheeseman actually supported this point; in acting irresponsibly, they were forced out of business.[50] He ended this section by noting: "haven't merchants and manufactures also failed" with even greater harm to the community?[51]

But Butler's main concern was to highlight the public benefits of the Exchange Bank, in particular, for the small businessmen and mechanics of the city, as well as for the farmers of the countryside. These businesses needed regular access to circulating capital, yet their "notes are frequently of so small an amount that incorporated banks are unwilling to discount them." In contrast, "a private banker is always ready to convert such paper into cash... The benefits which the mechanical and labouring part of the community must derive from such an institution are evident at first sight." Similarly, "the farmers of the adjoining counties are frequently in want of small sums to enable them to carry on their agricultural pursuits with advantage and success. The small amount of the sums required – and the peculiar objects for which the city banks are

[48] *Remarks on Private Banking*, February 28, 1818, p. 6-7.
[49] *Remarks on Private Banking*, February 28, 1818, p. 9-10.
[50] *Remarks on Private Banking*, February 28, 1818, p. 10-11.
[51] *Remarks on Private Banking*, February 28, 1818, p. 12.

incorporated, effectually prevent them from extending any aid to such persons. They can only be relieved by a private banker."[52] Making the same argument that Barker always highlighted in his defense of the Exchange Bank, Butler emphasized how private banks catered to a public need that was being ignored by the chartered banks.

Whereas private banks were dependent on their reputations to sustain their operations, the state-chartered banks abused their privileged positions in pursuit of their own self-interest. Indeed, the long list of banking abuses detailed in the legislative report had all been committed by chartered banks: "Private banking is not the origin of the evils you have enumerated.... Private banking dwindles to a pigmy, and becomes harmless as a new born babe, when compared with that huge Colossus, which with one foot planted at Niagara, and the other at New-York, bestrides the State, scattering with one hand the evils of Pandora's box, and plundering with the other, the wealth of our inhabitants."[53] The private banks were the victims of "the overweening jealousy, and the domineering spirit of our monied institutions" who were "desirous of monopolizing an employment which should ever be left open to the exercise of all, they have endeavoured by every means in their power, to impede the operations of the only individual in the State, who has had the hardihood to breast their opposition, and the ability to withstand it with success."[54] Butler then listed off each of the attacks on the Exchange Bank, including attempts to "destroy the credit of the bank," "*running* it for specie," calling "meetings of the citizens" against it, and using "noise and clamour, to prejudice the public mind." Yet each of these methods failed. Weathering these storms, "resulted in a settled determination of vast majorities of persons, that the bank was beneficial, and ought to be supported."[55]

Butler hoped that his arguments would sway the public and the legislature against any restraining acts. But if they still insisted on banning private banks, he hoped "that the only individual who is now engaged in its exercise, will be exempted from the prohibition either by an exception to be stated in the bill, or by granting him an act of incorporation" since "the gentleman whose case is alluded to, entered into the business of private banking with lawful authority….He has conducted it with credit and ability; with honourable fairness and complete success," and has earned the "public confidence" and "public approbation." By including him in

[52] *Remarks on Private Banking*, February 28, 1818, p. 14.
[53] *Remarks on Private Banking*, February 28, 1818, p. 16-17.
[54] *Remarks on Private Banking*, February 28, 1818, p. 17-18.
[55] *Remarks on Private Banking*, February 28, 1818, p. 19.

any ban, they would be "violating the sacred principle which protects us in the prosecution of our lawful employments, and secures us from the evils of retrospective and *ex post facto* regulations."[56] With this pamphlet, Butler did the Exchange Bank a huge favor, laying out in stark and persuasive terms the state of banking as the legislature met. His arguments expertly refuted the main points of Barker's detractors, emphasized the service rendered to the public by the Exchange Bank, and pointed out the potential constitutional problems of passing legislation which would explicitly put the bank out of business.

By early March, the Senate was again debating a banking bill, whose purpose was "to prohibit all persons from banking unless *specially* authorized by an act of the legislature." Yet in accordance with Butler's plea, the Senate agreed to exempt the Exchange Bank from the law, since Barker had "commenced his operations with lawful authority, and conducted them with credit and ability."[57] Barker's supporters cheered this provision, stating that "There is a numerous class of small traders, mechanics and farmers, accommodated by this bank, who cannot or do not obtain access to the other banks; and restraining its operations would have inflicted a wound on the most valuable part of community, and those who are least able to bear it."[58] Yet their celebration proved to be premature, as the legislature later added a clause limiting this exemption to just three years. Over the ensuing weeks, several public meetings were held to pass resolutions defending the Exchange Bank and blasting the legislature for proposing a law which:

> would operate very injuriously to a large proportion of the citizens of this district, inasmuch, as it would destroy all competition with the incorporated banks, benefit the rich, oppress and injure the poor, extend the power of existing aristocracies already too great, and ultimately terminate the banking transactions of an individual, whose loans have been highly advantageous to many laborious and industrious mechanics and neighboring farmers.[59]

Another editorial called into question the integrity of the members of the legislative committee reporting on the banks, two of whom were bank directors themselves and thus could not be

[56] *Remarks on Private Banking*, February 28, 1818, p. 24-26.
[57] *Albany Gazette*, March 2, 1818, p. 2.
[58] "Exchange Bank," *The New-York Columbian* March 5, 1818 p. 2.
[59] "Jacob Barker's Bank," *Columbian Register and True Republican* (New Haven) 4/11/1818 p. 2. See also, *Mercantile Advertiser* April 9, 1818 p. 2; and *The Connecticut Herald* 4/14/1818 p. 3.

"impartial judges" of the industry.[60] Despite this public outpouring, the bill passed the legislature on April 21, 1818.[61] Yet the efforts on the part of Barker's supporters were not entirely in vain. Although the legislature had also discussed exempting two other companies that engaged in private banking, the Utica Insurance Company and the Catskill Aqueduct Association,[62] these exceptions were stripped from the final bill and only the three-year exemption of the Exchange Bank remained.

With the clock now ticking on the life of the Exchange Bank, Barker continued his efforts to receive a formal act of incorporation while parrying the attacks of his competitors. In July 1818, for example, a newspaper article claimed that "most of the 5 dollar notes" of the Exchange Bank were "counterfeit – that there is no security for the payment of these notes of an individual – and proposing that our merchants should unite to prevent their circulation among us." Although his supporters called this attack "false, scandalous and malicious," it was clear that the state-chartered banks of the city were determined to drive him out of business sooner rather than later.[63] It was also clear that Barker took these attacks seriously. Within days, he responded with a plan for dealing with counterfeits to assuage the fears of the public: "The moment a counterfeit note is discovered on his bank, a discontinuance of the denomination thus counterfeited is ordered, and the plate destroyed."[64] Despite such an extreme measure, the attacks continued, with another editorial asserting that "numerous complaints in this city and its vicinity" about counterfeits indicated that Barker was not "aware of the extent of the evil." Barker again fought back, claiming that he had personally apprehended and turned over to the police a counterfeiter with the forged notes of numerous banks in his possession. And while "it is admitted that counterfeiters have made great proficiency in their diabolical practises [sic]...it is denied that they have succeeded better in imitating the bills of Mr. Barker's bank than of nearly all the other banks in the union."[65] Once again, Barker and his supporters tried to break down the argument that a private bank was somehow uniquely susceptible to attacks on its paper.

His enemies likewise began using the three-year exemption in the law against him, warning the public that he would go out of business at the end of that term, rendering his

[60] *The New-York Columbian* April 9, 1818 p. 2.
[61] *Otsego Herald*, May 25, 1818, p. 1.
[62] *Albany Gazette*, March 2, 1818, p. 2.
[63] "Jacob Barker's Bank," *Columbian Register and True Republican*, July 25, 1818, p. 3.
[64] *City of Washington Gazette*, July 28, 1818.
[65] "Counterfeit Notes," *The Connecticut Journal*, July 28, 1818, p. 3.

banknotes worthless; they should thus dump all his notes now, before they got stuck with them. "Or perhaps he will stop business sooner," leaving current noteholders completely in a lurch.[66] Still hoping to remove this line of argument, Barker again renewed his efforts to obtain a bank charter from the state of New York.[67] By February 1819, a bill in support of this effort reached the Senate floor. Citing the "confidence" and "approbation of the community, as appears by the petitions of a numerous class of citizens, now before the Senate," the banking committee concluded that Barker had earned the three-year exemption because "his establishment was conducted with credit and ability." The proposed bill would extend that exemption until 1832, "when the charters of the incorporated banks will expire" and the legislature would be reassessing the public benefit of all of these institutions.[68]

Yet even as this relief bill was winding its way through the legislature, the Panic of 1819 was taking hold of the country. Whereas the state-chartered banks had previously been unable to bring about the failure of the Exchange Bank through the dissemination of rumors, this time of heightened concern for the safety of banks more generally left Barker especially vulnerable. When a South Carolina businessman failed in May, his enemies – "evil disposed men" – tried to link Barker with the failure although their business relationship had been dissolved two years prior.[69] The scare created a run on the bank, which Barker was still able to meet "promptly and satisfactorily."[70] With a well-placed counter jab, one editorial reporting on the end of the run: "Few of our incorporated banks, we fear, would be able to withstand such repeated pressures."[71] Still feeling vulnerable to the rumors and uncertainty of the period, Barker published a defense in the form of a letter to a friend in Bristol, Pennsylvania. Informing his friend of "the tricks" which have "of late been play[ed] on the commercial men" by "the enemies of private Banking," he then recounted in detail the course of the "ridiculous" rumors and his efforts to "counteract the effect of the slander." The full intent of the letter was to demonstrate the continued strength of both the Exchange Bank and the affiliated Washington and Warren Bank, while highlighting the ongoing but ineffective attacks of the state-chartered banks.[72]

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[66] "Exchange Bank," *Columbian Register and True Republican*, August 1, 1818, p. 2.
[67] *The New-York Columbian*, November 26, 1818, p. 3.
[68] "Legislature of New-York," *New-York Daily Advertiser*, February 8, 1819, p. 2.
[69] *The New-York Columbian*, May 3, 1819, p. 2.
[70] *Commercial Advertiser*, May 5, 1819, p. 2.
[71] *Otsego Herald*, May 17, 1819, p. 3.
[72] *New-York Gazette & General Advertiser*, May 14, 1819, p. 2.

In June, "his aristocratic enemies...continue[d] their persecution," raising rumors about the solvency of both the Exchange Bank and the Washington and Warren Bank.[73] Since the latter bank was obligated by charter to maintain specie payments, Barker shifted funds from the Exchange Bank to Sandy Hill, and "suspend[ed] the business of the Exchange Bank for a few weeks."[74] He promised to keep the public apprised of the situation, and to resume payments as soon as possible. While some journalists called for patience, since "it is the middling and poorer classes of the community that will be the greatest sufferers" should the bank fail,[75] others tried to fan the flames of the panic. For example, one newspaper questioned the wisdom of the laboring class who had "placed implicit confidence in the stability and moral honesty of Mr. Barker." They believed him when he "uniformly profess[ed] to regard *their* interests to that of those in more easy circumstances" because he "flattered the poor" and "uniformly declared his willingness at all times to serve them." Calling him "undignified, petulent and rude," this author reluctantly concluded that Barker might still try to make good on his promises. But the tone of the article was hardly likely to calm unsettled nerves.[76] Another cautioned readers that Barker – "the High Priest of private banking" – seemed like the "foolish man" in Matthew's gospel who had "built his house on sand. The rain came down, the streams rose, and the winds blew and beat against that house, and it fell with a great crash."[77] Both banks were severely damaged during the summer of 1819, and although they continued to operate on some level, neither recovered enough to resume full banking functions.[78]

As this drama was unfolding during the summer of 1819, a supporter of Barker named Vermilye Taylor published a play entitled *Things as They Will Be; or, All Barkers are not Biters. A Farce, in three acts*; this play was "Respectfully dedicated to the holders of *Washington* and *Warren*, and *Exchange Bank* bills." First appearing in July, this play was a commentary on this crisis and how it *should* resolve itself (the *Things as They Will Be* from the title). The play opened with Simeon Dubious shouting "Damn the banks! and damn the shavers!" as he

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[73] *Connecticut Herald*, June 22, 1819, p. 3.
[74] "Exchange Bank," *Commercial Advertiser*, June 22, 1819, p. 2.
[75] "Barker's Exchange Bank," *New-York Evening Post,* as reprinted in *Baltimore Patriot & Mercantile Advertiser*, June 24, 1819, p. 2.
[76] *New-York Gazette & General Advertiser*, June 24, 1819, p. 2.
[77] *Hampshire Gazette*, June 29, 1819, p. 3; Matthew 7:26-27.
[78] It is extremely unclear when these banks formally closed. Different historians cite different years, with some saying that the Washington and Warren was still in operation until 1824. However, their banknotes circulated at a severe discount from 1819 through 1822, with this discount reaching 50-60% for the Washington & Warren Bank, and over 80% for the Exchange Bank. [notes??]

complained about the $500 in bank bills he possessed in the bank of Jacob (with his last name redacted) – an obvious reference to Jacob Barker. While this at first appeared to be a general anti-banking rant, as the plot continued it is clear that the characters who believed the rumors and lost faith in the bank (like Simeon *Dubious*) were the true target of this farce. This was also clear from the subtitle of the play: *All Barkers are not Biters.* Do not believe that the Jacob Barkers of the world are all going to hurt you.

According to "current opinion," the banker Jacob "has more paper out, than all the specie in the state could redeem." Yet when Simeon asked his knowledgeable friend Harry for advice on what to do with the allegedly worthless bank bills, Harry advised him "to hold on them – in a few days, the time he [Jacob] has required, will have elapsed, and I have no doubt he will act the man of honour, and take up all his notes." Simeon Dubious, however, refused to believe his wise friend, calling him a "fool" and a "ninny" and instead went to Jacob to insist he redeem the notes immediately. Jacob, however, said he will only redeem the notes if Simeon was in "immediate want," which Simeon admits he was not. "Wert thou a poor tradesman, whose necessities could not wait, I would do it; but those who are not in want, must wait till I redeem all." Simon angrily left the bank, again shouting "damn the banks" and saying that he would instead "speculate" on the notes. Simeon used the notes to purchase cloth from a merchant, which he immediately placed on auction for specie. As the chief clerk at the merchant house commented after the deal was consummated, "There goes another of those knowing-fools, who think they have made a bargain by disposing of Jacob's money...however common sense might teach them, that if we take it for goods, we must certainly think it will be good eventually." The merchants were happy to make a profit off of Simeon's doubts.

Meanwhile, in the romantic plot line, Louisa and Edward wished to be married, but Louisa's guardian, Old Percent, insisted that she instead marry the old miser named Craveall. Under the terms of her father's will, Louisa had to either marry the man of her guardian's choosing or lose her substantial fortune (which happened to be tied up in stock of Jacob's bank). The lovers were willing to sacrifice the fortune in the name of true love. (This portion of the play is particularly humorous as the lovers spoke their affections in terms of merchandise, valuations at par, credit, and waste-books), yet our old wise friend Harry again appeared before all was lost. When Harry learned of the situation, he used the rumors of the bank's weakness against the guardian. He craftily told Craveall that Louisa's fortune was worthless since Jacob's bank was allegedly failing. Craveall refused to marry Louisa without a secure fortune, and Old Percent decided to give in to Louisa's wishes; he allowed her both to marry Edward and to keep her possibly worthless fortune, saying "The Bank in time may prove solvent."

Meanwhile, Jacob – demonstrating his honesty and integrity – made good on his promise to redeem the notes of a poor cartman and a labourer, to which the cartman replied "this is an unexpected but much wanted relief" while the labourer wished the banker "long life" and promised to perform all future work at half price. Jacob later told his clerk that the bank was again solvent and instructed him to begin redeeming all notes. The losers were not the honest workers or the people who trusted the bank, but rather the people like Craveall who believed the rumors, and especially Simeon Dubious. His $500 investment in textiles only earned him $200 at auction, a significant loss – and now he had changed his tune from "Damn the banks" to "Damn the cotton." The play ended with each character summarizing the moral of the tale, with Edward concluding "And may fortune the plans of those wights ever mar,/ Who would wish Jacob's bills to be e'er below par." This play encapsulated the experiences of the Exchange Bank and its supporters, again highlighting that Barker was an honest banker looking out for the best interests of the public – especially the workers and small businesses ignored by the larger banks, while naysayers tried to sully the reputation of the bank and bring it down by spreading rumors.

<u>Conclusion</u>

Jacob Barker was not entirely innocent of some of the allegations leveled against him. He did engage in some questionable, unorthodox practices with regard to his issuance of special "red ink" banknotes (not discussed here). But while unorthodox, it is unclear that these practices were fraudulent, speculative, or otherwise destabilizing for the bank. Indeed, what is most notable about Barker's Exchange Bank is not that it failed in the summer of 1819 – many other incorporated banks also succumbed during the panic – but rather that it survived as long as it did despite the many pointed attacks on its existence. And although Barker was certainly a master of public relations, support for the bank and its stated mission of providing financial services to those portions of the public ignored by the incorporated banks was widely echoed in both the press and legislature. It is difficult to believe that this level of support was entirely manufactured or manipulated. Thus if we ignore Barker's subsequent trial for fraud in the case of the Life and

Fire Insurance Company, we are left with a very different picture of the banking environment in New York City after 1815, and the role of the Exchange Bank in that period.

By definition, a private bank represented private interests, while an incorporated bank received its charter in order to promote the best interests of the public. The practical reality of banking in the early republic reflected the problem with these stark demarcations. Incorporated banks hid behind the public interests that their charters were purported to represent in order to promote the private interests of their stockholders and directors. They likewise manipulated their privileged positions to block further incorporations – especially among their political adversaries – despite the real and growing financial needs of the public in this rapidly expanding economy. It seemed like the only way for these needs to be addressed was for the legislative system to be bypassed with the creation of a private bank. While Barker was certainly interested in making a profit, there is no credible evidence that he sought to line his own pockets through fraudulent or speculative means and at the expense of his clientele. Rather, it appears that he recognized an unmet need in the community, and created a bank to respond to that need. In this way, his private interests coincided with and promoted the public interests of the workers and small businesses of New York City.