

of this proposition, they probably held a considerable amount, and which they were desirous of selling.

This last proposition was made by Messrs. Baring, as above stated Dec. 6th, 1839. It was received and confirmed, as appears from the report of the directors, January 8th, 1840, and was communicated through Mr. Peabody by letter from the president of the company, dated January 24th, 1840. The date when this confirmation was received by Messrs. Baring does not appear from the report, but my letters from them of March and April 1840, state distinctly that the stock which they had purchased of Mr. Peabody was all re-sold, and that they held only the £133,000 received from Mr. Peabody, on which they had agreed to advance gradually 65 per cent. as the wants of the company might require.

At the time therefore of receiving the said bonds for account of the canal company, and of making the advances thereon, Messrs. Baring held no bonds of the State of Maryland on their own account, so that the canal company, instead of being admitted to share *pro rata* in the benefit of their gradual sales, would be entitled to the benefit of all such sales, had any been made. It is true that they subsequently in 1841, became interested in a purchase made in Baltimore, but these bonds have not been sold, and of course have not interfered in any way with any sales which would have been made on account of the canal company.

From about the time when the bonds amounting to £133,000, were received by Messrs. Baring, and when their advances were made thereon, the demand for such stocks in London ceased, from causes which it is not necessary for me to advert to, and no sales of them have been made. Messrs. Baring although justly authorised by the terms of their agreement to cover their advances by sales, have with their usual liberality forborne for a period of two years and upwards to exercise that right, for reasons stated in their letter of the 3rd ultimo. They are now desirous of an adjustment of their account, and have named the terms on which they are willing to take the bonds in payment. Those terms not being acceded to, their right appears to be perfect, to make sales to reimburse themselves, according to the terms of the original agreement.

The ground taken by your company is, that under these circumstances Messrs. Baring have no right under this agreement to sell the bonds for this purpose, and that they are not at liberty to sell "except for the same price that they make sales of similar bonds, held on their own account." And in another passage the directors say to Messrs. Baring, "you reserved to yourselves the right to cover your cash advances by sales, but to secure the company against the sacrifice of its bonds *you were not to sell them except when you sold your own*, and in *pro rata* proportions, at the same time at which yours were sold."

It is here assumed that Messrs. Baring were not to sell unless they sold their own. You will find on reference to the agreement, that *there is no engagement not to sell*, but merely an engagement, that of what they should sell, the canal company should be admit-