

DEBATE ON THE BANK QUESTION.

Which took place in the House of Commons, from Dec. 29 to Jan. 3.

At the commencement of the Session, a Joint Select Committee was appointed, on so much of the Message of the Governor as related to the Banks of the State, consisting of Messrs. Graham, Mendenhall, Spruill, Rafin, Swain, Eccles, Wilson, Mearns, Wellborn, Hunt, M'Dearmid—Potter, Brittain, Branch, Croom, M'Farland, Leonard and Sherrard.

The eleven first named gentlemen were in favor of the Report made by a majority of the Committee—which takes a view of the manner in which the Stocks of the several Banks were subscribed; states that a considerable portion of them was paid in specie, and the rest in paper currency and Bank notes. It appears that the whole of the Stock was not taken up at the first opening of the Books of the State Bank; that they were opened a second time, and being subscribed for, were principally paid for in Bank notes. It does not appear that any of the Banks issued more notes than they were authorized to issue by their charters: They have no doubt that the Banks have all declined paying specie for their notes on many occasions; but that the Bank of Cape-Fear, since January last, has become a proper specie-paying Bank. No evidence had been adduced to show that the Bank of Newbern had ever dealt in any article not strictly comprehended within its charter: but it appears that the State Bank and Bank of Cape-Fear have both purchased Stock of the Bank of the United States, and the latter Institution is now the owner of a considerable amount of that Stock; that they were induced to purchase this Stock as a ready means of acquiring at all times a fund equal to specie, and when specie was not attainable; and it also afforded them a regular interest—that much good, therefore, resulted to the Bank from these purchases, and no injury to the public. It appeared that the State Bank had purchased Cotton to a considerable amount, at a time when that Institution was in great want of specie to meet the heavy demands made upon it. Respecting the enquiry whether any of the Banks had exacted usurious interest from their dealers, it appears that the State Bank and the Bank of Newbern have required applicants for accommodation to exchange Northern funds for their own notes, when these notes were considerably below par; but no evidence has been given that the Cape-Fear Bank had resorted to this practice. Nor had the Committee any evidence that the Bank of Newbern had ever purchased its own notes, but it appeared that both the other Banks had done so, but always at a higher rate than the market price, and this with a view of raising their value, and rendering them more current. The Committee were of opinion, that all the Banks in this State, as well as the Banks in all the States, in the years 1817, '18 and '19, issued paper beyond the limits of prudence; and that, from a wish not to oppress their debtors, they have not called in their debts to the extent they might have done. The Committee, however, believe, that the situation of all our Banks is at present much improved, and that the Bank of Cape-Fear has become a specie-paying Bank. They conclude their Report, with recommending the passage of a law compelling the Banks to resume specie payments, after a certain day, on pain of forfeiting per cent. on the amount of any notes which they may fail promptly to redeem with specie.

The seven last named gentlemen, not willing to sanction the Report of their colleagues, made a Report of their own, representing the conduct of the several Banks in a much more reprehensible point of view than their colleagues had done. They charge the Banks of Cape-Fear and Newbern with contemplating, from the outset, an evasion of their charters, by obtaining possession of nearly all the old paper currency issued by the State, which, being a legal tender, they used to guard their specie; that when, after a few years, their charters and capital stocks were extended, it is asserted, that the additional stock was manufactured by the Banks themselves, by permitting persons to obtain it on their promissory notes, without any payments of specie; that the whole of the interest drawn from the people on loans made on this fictitious capital, was a foul and illegal extortion; that they must have put into circulation, in consequence of this fabricated capital, between three and four millions of dollars in their Bank notes, and that thus a parcel of individuals, under the name of Stockholders, but who, in fact, held no Stock, contrived to exchange their notes given for the Stock, without interest, for the notes of the people, bearing an interest of six per cent. and by this means drawing from them an interest of about \$200,000 a year. The State Bank is also charged with suffering a portion of its first subscribed Stock to be paid for in Bank notes, instead of specie; and when books were opened for the remainder of their Stock, that they received their own notes, instead of specie, in payment for it, and that before all the instalments became payable, the several Banks entered into a Resolution not to pay specie for their notes, in consequence of which, their notes immediately fell to 15 per cent below par. Then, it is stated, began the system of usury and extortion, which was carried on under the name of exchange, and the specie funds, thus obtained from the people, were used to purchase up their own notes. That the State Bank and Bank of Cape-Fear had purchased United States Bank Stock; and the State Bank had been in the habit of representing this Stock, in their annual Report to the Legislature, as specie. The Committee conclude their Report by noticing the intention of the State Bank to wind up its business, and by a fell swoop, to extort from the people their means of subsistence. But ask whether the Legislature will permit a parcel of men, who have set the laws at defiance, to go on and complete the ruin they have so nearly accomplished? Will you not, say the Committee, bring them to the observance of the law? Will you not, at length, cause them to feel the rod of the law they have so long despised and violated? The Report concludes with a resolution directing the Attorney-General to institute a judicial enquiry into the conduct of said Banks, by writ of *Quo Warranto*, or other legal process.

The House being in Committee of the Whole, (Mr. Nash in the Chair,) both Reports (of which the above are mere sketches,) having been read at length,

Mr. Potter (the Chairman of the Committee) rose, and moved the adoption of the Resolution reported by the minority committee, in preference to that recommended by the majority. Mr. P. after some prolatory remarks, which he had partly made before the Reporter entered the Hall, in which he said the safety of the community depended upon the deliberations of the General Assembly on this subject, proceeded to dilate on the evidence which had been adduced before the Committee to whom this matter had been referred.

Mr. P. said he would first advert to the manner in which the capital stock of the several Banks had been raised; and for this purpose he would refer to the statement made to the Committee by the gentleman from Newbern, who is President of the Bank of that town, (Mr. Guston.) He states, "that the charter of that Bank was granted in 1804. How the shares were then paid for, he does not know. By the act of 1814, the charter of the Bank was prolonged, and an enlargement of its stock authorized, by a subscription for additional shares, which were to be paid for in ten instalments. These were paid, as all other debts, in whatever was regarded as money, or the representative of money. Very little was received in gold or silver. The greater part was paid in Bank notes of the State; and, no doubt, the means of making the deferred payments, were, in many instances, procured by loans from the Banks. The act of 1814, in providing for these additional shares, says nothing of paying them in gold or silver, and that such a requisition could avail nothing, as the gold and silver could have been obtained only from the Banks."

It follows, said Mr. P. from this statement, that in 1814, the Banks had in their possession all the gold and silver coin in the country. Gold and silver, it is stated, could be obtained only from the Banks.

Mr. P. then read Mr. G's answer to the question, "Has the Bank of Newbern paid its notes in specie on demand?" Ans. "In the war, the Banks of this State, as of all the southern and middle States, suspended specie payments. At what precise period after the close of the war, they were punctually resumed, I

cannot say; but I think in the summer of 1817. In 1818, the sums on the Bank for specie were very heavy. It became certain that the Bank could not supply this continued drain, unless it compelled its debtors to make large payments. The expedient was then resorted to, in concert with the other Banks of the State, to refuse specie to the brokers, who principally annoyed the institutions. The Bank has since been irregular in the payment of specie. It has paid when it had the means of payment—and when it had not the means of payment, it made the best arrangements in its power with those who presented demands against it."

Taking these two statements together, said Mr. P. and to what do they amount? That, during the war, the Banks suspended specie payments, which were not resumed until 1817. So that when this additional stock was granted to the Cape-Fear and Newbern Banks, they were not specie-paying Banks. They had, it is acknowledged, at the time all the gold and silver coin in their possession; but they did not choose to part with it.

How, then, was it possible, at the time these two Banks increased their capitals, the one \$575,000, and the other \$525,000, to add any thing to their means of doing business?

The plain inference is, that these Banks manufactured this additional capital of 1,100,000 dollars.

The Banks, nevertheless, proceeded to issue notes on this capital; and if they issued, as they were authorized to do, three for one, they loaned between three and four million of dollars in their notes, bearing no interest, in exchange for the well-secured notes of the people, bearing an interest of six per cent. These individuals, might as well have issued their own notes, as to have gone into a large Brick House, called a Bank, and issued notes on no better foundation.

It appears, then, that all the interest received on this assumed capital, has been improperly extorted from individuals, without any corresponding banking capital to authorize the loans upon which it was paid.

The gentleman from Newbern, in giving his testimony to the committee, had said he did not know how the original stock of the Bank of Newbern was paid for; but Judge Seawell and Mr. Mearns, in their testimony, say that nearly the whole of the paper money of the State had been obtained by the Newbern and Cape-Fear Banks, which was kept and used by them as a defence, to ward off specie payments.

Mr. P. said he would next enquire how the capital of the State Bank had been raised; and for this purpose he read an extract from the statement made by Judge Seawell, who states, "that he was originally one of the Commissioners appointed to receive subscriptions for stock; that one fourth of each share subscribed for, he is confident, was paid in gold and silver to the commissioners at the time of subscribing; and after it was certified to the principal Bank, by the respective branches, that the sum required to authorize the bank to go into operation, the mother bank, the only part of the institution which discounted a note, did discount one only, in order to call in the second instalment, which by the charter, was payable in sixty days thereafter. The payments after the first instalment, of course, were paid to the Cashier in gold and silver, as far as this witness has any knowledge of this payment, and he feels satisfied such was the fact. After the second instalment was paid in, the Bank then went into operation to a considerable extent; and it is the belief of this witness, that the remaining two instalments were paid generally in the notes of the Bank. The witness feels considerable confidence in this opinion, from the well known fact, that nearly the whole of the paper money of the State had been obtained by the Newbern and Cape-Fear Banks, and used by them as a defence; that the circulating medium at that time consisted almost entirely of Newbern and Cape-Fear Bank paper, including the issues of the State Bank; and though the State Bank was quite able to meet the call of such notes as might be brought to obtain specie to pay the third instalment, as that course would not have actually increased the amount of specie in the Bank, he feels satisfied that the notes of the Bank were taken in payment of the third instalment, and he presumes the same thing was done in most instances in payment of the fourth instalment, as the State Bank had not at that time forced the local Banks to deliver up the paper money."

Judge Seawell further adds, "that the stock not sold in the first instance, was directed to be sold in 1819, not for the purpose of increasing the legal capacity of contracting debt, but to enable them to extinguish some portion of that which actually existed."

It was evident, Mr. P. said, that the \$424,000 of Stock last subscribed, was added in order to enable the Bank to extinguish a part of the existing debt, and the charter required that three-fourths of the subscription should be paid in specie. Yet payment was allowed to be made in Bank notes of the State, which could not then be considered specie-paying Institutions, as in June, 1819, the Banks had agreed to discontinue payments in specie.

As no specie was received for this stock, Mr. P. said, it might be considered as fabricated by the Bank. Admitting that the original capital of the Cape-Fear and Newbern Banks, and the two first instalments of the State Bank, were paid in specie, the whole amount of specie received by all the Banks would be only about \$900,000. Yet notes of these Banks had been issued to the amount of three millions and upwards—a great portion of which was issued in violation of their charters, and the interest on which they were no way entitled to.

To prove that the State Bank had been in the habit of receiving more than legal interest for loans, Mr. P. referred to the testimony of Mr. Birdsell, who stated, "that the principal Bank has required from applicants for discounts an exchange of specie, United States, or Virginia Bank notes, equal to the amount of the discount. It has also made loans at ninety days, payable in the above named funds; also in three equal instalments at 90 days each."

It is in evidence, that in the year 1819, after specie payments were suspended, that our Bank notes sunk to 15 per cent. below par, but soon rose again to 5 per cent. From that time to the present, the State Bank has been in the habit of requiring from persons applying for loans, an exchange of specie funds for their notes to an amount equal to the loan required. And what, Mr. P. asked, was the effect of this operation? Suppose their notes at 5 per cent. below par only. The person borrowing \$1,000, loses 50 dollars by the exchange, and only gets 950 dollars for his note of 1,000. So that while the Directors of the Bank have been purchasing their notes at New York and Petersburg at 7 or 8 per cent. they have forced persons applying for loans to receive the same notes at par. And when persons have come to them to ask for payment of their notes in specie, the officers of the Bank have had the assurance to tender them an oath, to declare that they had not purchased them, but had received them in the regular course of their business.

It is clear, said Mr. P. that the Banks of the State have now debts due from the People of nearly four times the amount of the present circulating medium. They have already considerably reduced the amount of the Bank notes in circulation; yet such is the amount of the premiums they have received on loans, that in effecting this, their debt has been but little reduced.

It seemed to him, in the language of the Report of the minority of the Committee to whom this subject was referred, that the present is a question not only whether our constituents shall live under a government of laws, or a government of corporations; but it involves the question of preserving the liberties of the people.

To obtain the redress sought for, may be attended with some difficulty; but though it may be difficult, it will not be found impracticable. It is in the power of the Legislature to do much towards curing the evils complained of; and the people look to this body with bleeding hearts for the decision of this question, though they are silent. If their feelings were to be expressed, they would speak in a voice that would rend these walls. There is an agony that cannot last long; we must afford them relief, or the consequences may be of the most serious kind.

In order more fully to explain his views on the subject, he who act with him, he would take the liberty of reading a bill which he had prepared for carrying these views into effect, and which he would submit to the consideration of the Committee.

Mr. P. then read the following bill:

A Bill directing a prosecution against the several Banks of this State, and regulating the proceedings therein, and to restore and preserve the character of the circulating medium.

Whereas it appears to the Legislature that the State Bank, the Bank of Newbern, and Bank of Cape-Fear have violated their charters and committed great frauds on the people of North Carolina, whereby said Banks have forfeited the powers and privileges granted in their charters: Therefore

Be it resolved, by the General Assembly of the State of North Carolina, That the Attorney General be, and he is hereby directed forthwith to institute a judicial enquiry into the conduct of the said several Banks; and that he prosecute such enquiry by writ of *quo warranto* or other legal process; & to prevent unnecessary delay and obstruction to such investigation.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Supreme Court of North Carolina does & shall possess jurisdiction of all cases of abuse of trusts & violations of charter by corporations, or in individual members thereof; and shall be authorized to proceed against the same by presentment indictment, *scire facias*, *quo warranto*, or such other writ or process as the case may require, the same being conformable to the principles and usage of the law, and for that purpose shall be authorized to summon juries from any of the counties within the State, and require the attendance of witnesses, and the attendance and services of the officers of the law, under rules analogous to those which apply to other suits and proceedings in law and equity.

Be it further enacted, That upon a judgment or decree of forfeiture being had, in the investigation herebefore directed, against the said several Banks aforesaid, or either of them, the Court shall appoint commissioners, and take from them bond with sufficient security for the faithful performance of their duty whose duty it shall be forthwith to take possession of the property, debts, evidences of debts, or effects, forfeited or condemned as aforesaid; to examine them on oath, and to summon and examine other witnesses on oath, touching the said matters; and to compel the said officers and others in possession of property, debts, evidences of debts or effects, forfeited or condemned as aforesaid, to deliver up the same into the hands of the said commissioners, under the penalty of imprisonment during their contumacy; and the said commissioners are hereby authorized to command the attendance and services of the officers of the law, in the several counties of this State, so far as may be necessary to carry into effect the provisions of this act; and the said officers are hereby enjoined and commanded to carry into effect the lawful orders of the said commissioners, under the same penalties as would attach to their refusal or neglect to execute the orders of the several Courts of law and equity now established in this State.

Be it further enacted, That the property, debts, evidences of debts and effects, which shall remain in the hands of the commissioners aforesaid, after making the disbursements required by the orders and decrees of the court, shall by the said commissioners be held subject to the directions of the Legislature at its future sessions; and the said commissioners, at the time they receive their commissions from the court, which said commissions are hereby directed to be made out under the hands and seals of the judges, and approved by the Governor, who shall appoint thereto an order to the officers of the State, civil and military, requiring them to execute the lawful commands of said commissioners, and attest the same by the great seal of the State, shall, in the presence and under the direction of the court, swear that they will support the Constitution of the United States, the Constitution and Laws of North Carolina, and faithfully discharge their duties as commissioners; and again when they shall have finished their duties, they shall make out and deliver to the court a detailed statement in writing of their proceedings, and they shall swear to the truth of the same; and that they have truly, honestly and faithfully accounted for all the property, debts, evidences of debts and effects of every description whatever, which may have come into their hands as commissioners; and for their services in this behalf, they shall receive such compensation, recommended by the Court, as the Legislature at its future session may deem just, they being hereby authorized in the mean time, to defray their necessary expenses out of the funds which may come into their hands as commissioners; and to prevent the destruction, transfer or concealment of any of the property, debts, evidences of debts, or effects of the aforesaid Banks, or either of them, it is hereby declared to be an indictable offence, punishable by fine and imprisonment, at the discretion of the court aforesaid, for the officers or either of them, of the said several Banks, or either of them, to destroy, transfer, or conceal, by any mode whatever, any of the accounts, books, property, debts, evidences of debts or effects whatever, belonging to the said several Banks aforesaid, or either of them; and it shall be lawful for the commissioners aforesaid to seize such accounts, books, property, debts, evidences of debts, and effects, wherever they may be or can be found; and every assignment, or other transfer, made by any officer of either of the Banks aforesaid, of any property, debt, or evidence of debt, belonging to either of the Banks aforesaid, is hereby declared to be utterly void and of no effect; and to prevent injury to persons holding notes on the present Banks, in consequence of any depreciation of those notes, which might otherwise be occasioned by the proceedings herebefore directed, the Governor is hereby authorized and requested to make proclamation, pledging the faith of the State for the redemption of the notes aforesaid; and he is further authorized, either under the investigation herein directed, or otherwise, such dissolution shall not work an extinguishment either of the debts due to or from such corporation.

The bill was laid on the table. Mr. Potter said, he wished to act towards the Banks as he would act towards individuals who had offended against the laws. All he desired was, that the officers of the Banks should answer to the law for the abuses of the trusts which had been confided to them. It could not be possible that such transcendent frauds could be committed on the community, and that no law should reach them. He had no doubt, if the Legislature did its duty, that the Attorney-General would bring these Institutions to a proper account. He pledged himself to produce sufficient evidence to convict them of all the charges contained in the Report which he had had the honor to make to this House; and in which case, he had no doubt, a decree of forfeiture would be obtained against them, and their franchises would revert to the people. The Supreme Court will appoint Commissioners to take possession of the Bank property and effects, which they will hold until a decision of the cause. In the mean time, proceedings would be taken against the Presidents and Directors of these Institutions, which will bring them before the Court, and oblige them to render a complete account of their doings from the commencement of the operations of the Banks. Nor did he conceive any difficulty in effecting this object, as the whole could be reduced to figures. He was for taking from these men what they had drawn from the people in violation of the law, and of handing over the proceeds to the officers of a new Bank of the State which he wished to see established, which should be authorized to borrow on the faith of the State such an amount in specie as may be necessary for conducting the operations of such Bank in a proper and efficient manner.

In the mean time, to prevent the depreciation of the Bank notes now in circulation, he proposed that the Governor should issue his Proclamation pledging the faith of the State for their payment; and as there existed no doubt as to the solvency of the Banks, and they had good security for the debts due to them, this could be done without risk to the State.

The objection made to the proposed course, that it will be attended with some trouble and difficulty, ought to have no weight. It could not be expected that the people could be extricated from the distress in which a mischievous Banking system of twenty years had involved them, without trouble. But he believed the course which he proposed was the best which could be adopted, and he called on gentlemen of talents in the Committee to aid him in carrying it into effect. Hitherto, he had received but little aid; but he trusted that having now brought the subject fully before the Committee, that he should receive the aid of those superior legal talents which were necessary to carry into effect the measure proposed.

(Debate to be continued.)

Joseph Hunton, convicted of forgery, was executed at London on the 8th Dec. The multitude assembled to witness the melancholy ceremony is said to have been greater than on any former similar occasion, not excepting the memorable execution of Holloway and Haggerty, for the murder of Mr. Steele, and the more recent death of Fauntleroy. Of course the cause of such unexampled public curiosity can be only accounted for by the dreadful and degrading exit of one, who was once a respectable member of a class so generally respected by the community, called Quakers, and his ignominious dissolution being the only instance said to be on record of a man of his faith having fallen by the hands of the common executioner. Hunton was a partner of the house of John Dickson & Co. and was convicted of having altered and published two bills of exchange with forged acceptances. As soon as he found he was likely to be detected, he embarked for the United States on board of the Leeds, New-York packet, but was overtaken by the Police Officers after the vessel was out of the harbor in the Offing, and taken back to London.—N. Y. Post.