

DEBATE ON THE BANK QUESTION,

Which took place in the House of Commons, from Dec. 29 to Jan. 6.

(Continued)

Mr. Potter wished to make a remark on what had fallen from the gentleman from Salisbury. He had been pleased to make a discrimination of parties on the present question. There was one party in the House, he said, inclined to go all lengths, without making any distinction between the innocent and the guilty; who seemed determined to bring confiscation, ruin and disgrace on all concerned, who were for violence and rapine—who would hang first, and try afterwards. At the head of this party, said Mr. P. the gentleman has been pleased to place myself. Another party, he described as desirous of doing nothing—but that we should fold our arms and look on the violated charters of the Bank, and the distresses of the people occasioned thereby, without moving a step. At the head of this party, he places the gentleman from Newbern. But he said, there was a third party, which he would call the honest party, who are for proceeding against the Banks; but who wish to do so with caution; they wish to protect the people, and at the same time to do justice to the stockholders; to this party, the gentleman professed himself to belong. They had no head, but he hoped they were sufficiently numerous to effect their object.

Mr. P. said, he had read, that *Diogenes*, a certain ancient Philosopher, despairing of being able to find an honest man, is represented as carrying about a lantern in his hand in search of such an one. Were a search of this kind now on foot, and the Philosopher should by chance enter this Hall, though it were in pitchy darkness, his difficulty would be at an end, as the honesty of the gentleman from Salisbury would shine so conspicuously, that it must at once be discovered!

Mr. Fisher rose to explain. He declared he had not used the terms "violence and rapine," and that he did not mean by any allusion that he had made to give offence to the gentleman from Granville.

The question being put on the amendment offered by Mr. Alexander, it was negatived 58 votes to 44.

On motion, the Committee rose, and reported to the House Mr. Potter's bill, without amendment, which passed its first reading, by Yeas and Nays, 66 votes to 54, as follows:

YEAS—Messrs. Alexander, Allison, Ball, Barnhardt, Bass, Battle, Blackwood, Bogie, Boykin, Branch, B. S. Britain, M. Brittain, Brooks, Bynum, Byrum, Clement, Cooper, Davenport, Dickinson, Dozier, Edmonston, Fisher, Fleming, Gary, Hampton, Hester, Hodges, Jasper, Kerr, Larkins, Latham, Lilly, Loretz, Martin, Montgomery, G. T. Moore, A. C. Moore, Morris, McKiel, McLean, McNeil, Pierce, Pool, Potter, Riddick, Rhodes, Rogers, Rogerson, Sainclair, Shipp, B. T. Simmons, Simpson, N. G. Smith, J. Smith, Steedman, Stockard, Underwood, Wadsworth, Watson, J. Webb, Webster, Wheeler, A. Williams, Wilkinson, Wilson, Wright—66.

NAYS—Messrs. Alford, Bethell, Borden, Bozman, Bryan, Calloway, Clayton, Cox, Eccles, Ellis, Poy, Gaston, Gibson, Gillespie, Graham, Gregory Hancock, Harper, Hellen, W. G. Jones, H. C. Jones, W. Jones, Kendall, Latham, Mendenhall, Mitchell, Moon, Moye, McMillan, Nash, Nelson, Newland, Nicholson, Purcell, Ruffin, Rainey, Sharpe, L. R. Simmons, Spruill, Stephens, Swain, Tyson, Yall, H. Wadwell, A. Wadwell, J. Walker, H. Walker, Ward, T. Webb, Whitfield, Whitaker, Wilder, E. Williams, Wyche—54.

The second reading of the bill was made the order of the day for Monday.

Monday, January 5.

The House again went into Committee of the whole on the Bank bill, Mr. Spruill in the Chair.

Mr. Potter rose, and said, he held in his hand a modification of the bill which had past its first reading in relation to the Banks, which he wished to offer in the place of that bill. Upon more mature consideration, and a consultation with his friends on the subject, he had concluded that it would be best to proceed against the State Bank alone. Not that he thought that either of the other Banks deserved to escape prosecution; but he believed that by confining the proceedings as proposed, less inconvenience would be experienced by the citizens of the State.

After explaining the several particulars in which this bill differed from the one already before the Committee, Mr. P. introduced it, and it was read as follows:

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

Whereas it appears to the Legislature, that the several Banks of this State have violated their charters, and that the State Bank has been guilty of frequent and manifest abuses of the fundamental articles of its charter, inasmuch that it is deemed the imperative duty of the Legislature to cause a judicial investigation to be commenced against it: 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 State Bank; and that he prosecute such enquiry by information in the nature of a writ of quo warranto, or other legal process; and to prevent any delay or obstruction to such investigation.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted, That the authority, title and name, That the Supreme Court of North Carolina does and shall possess jurisdiction of all cases of abuse of trust and violations of charter by corporations or the 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, returnable at such time as the Court may prescribe, 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 and allegans to those which apply to other suits and proceedings in law and equity; and with a view to the speedy decision of the particular investigation herein directed, the Judges of the Supreme Court aforesaid, are hereby authorized and directed, to hold an extra session of said Court, to commence on the first Monday of February next, and continue in session from day to day until the said investigation be terminated.

Be it further enacted, That upon a judgment or decree of forfeiture of the franchises of any corporation being had, or that the same is dissolved, it is hereby declared that such dissolution shall not work an extinguishment either of the debts due to or from such corporation, but all the property, real and personal, of such corporation, and all the debts due to the same, shall and are hereby declared to be vested in the State, to be disposed of for the benefit of the parties concerned in the manner hereinafter provided; and it shall be the duty of the court granting such judgment or decree, to appoint one or more commissioners, who shall forthwith take into their possession all the property and effects of every description whatever of such corporation, and proceed to wind up the affairs thereof, under such regulations as may be prescribed by the Court, always having due regard to the rights of the stockholders, the claims of the creditors, and the condition of the debtors; and in the mean time, to prevent injury, which might otherwise accrue to persons holding the notes of the State Bank aforesaid, the Governor is hereby authorized and requested, as soon as this act shall be ratified, to issue his proclamation, setting forth the causes of this prosecution, declaring the solvency of the State Bank aforesaid, and pledging the faith of the State for the redemption of its notes.

Be it further enacted, That the commissioners, appointed in pursuance of this act, before entering on their duties, shall under the direction of the court, execute a bond or bonds, with good and sufficient security, payable to the Governor for the time being and his successors in office, in such sum as the court may require, conditioned for the faithful discharge of their duty, and shall take and subscribe an oath for the faithful and honest discharge of their duty; and it shall be in the power of the court at any time, to remove such commissioners, or either of them, from office, and appoint others under like condition, in their stead, or at any time to require a renewal of their bonds; and when said commissioners shall have finished their duties, they shall make out and deliver to the court, a detailed statement in writing of their proceedings, and shall swear to the truth of the same; and for their services in this behalf, they shall, from time to time, receive such compensation as the Court may allow.

Be it further enacted, That if any officer, stockholder or agent of any corporation, against which a decree of forfeiture or dissolution may hereafter be had, shall pointedly refuse to deliver or surrender to the commissioner or commissioners appointed in his or their hands, the property, debts and effects of said corporation, or the persons or persons so offending, to be brought before it, and punish him or them, in like manner as for a contempt of court.

And be it further enacted, That every assignment, transfer, or other conveyance, by any corporation, or officer, or agent thereof, of any property debt or evidence of debt belonging to such corporation, made with a view to evade the operation of the law, or for other fraudulent purpose, shall be, and is hereby declared to be utterly null and void; and the parties to such assignment, transfer, or other conveyance aforesaid, shall, on conviction, be punished as for a misdemeanor.

The motion being to strike out the whole of the present bill, except the words "a bill," and insert the amendment offered, it was carried 54 votes to 50.

On motion, the committee then rose, and reported the bill to the House as amended.

And the amendment being concurred in by the House, a motion was made, that the bill now pass its second reading.

Mr. Nash hoped, that as the amended bill had been but just introduced, and no one had had an opportunity of reading it, that it would be suffered to lie on the table till to-morrow, and be printed. He wished for an opportunity of examining the bill, before he gave a vote upon it.

Mr. Potter said, he should be willing to accommodate the gentleman from Hillsborough, if he believed him sincere in his scruples; but as the subject had already occupied much time, and as he believed that members had generally made up their minds on the subject, he hoped the house would proceed to act upon it.

Mr. Nash and Mr. Eccles urged the reasonableness of the request which had been made, and showed in forcible terms the impropriety and want of ordinary comity in the refusal to grant it, and the more especially as Mr. Nash had been confined to the Chair of the Committee of the whole during the whole of the discussion on this subject. But the immediate second reading of the bill was urged by Mr. Potter and Mr. Fisher, and after some debate, the question on the 2d reading was finally put & carried, 62 votes to 54.

Tuesday, Jan. 6.

The question being on the third reading of the Bank bill.

Mr. Wyche observed, that as this subject assumed a different aspect every time it came before the House, it was evident that a majority were not agreed on any project that had been offered. He was himself wholly opposed to the bill before the House. He thought it objectionable in all its parts, and therefore proposed to strike out all after the words "a bill," and insert the bill which he held in his hand.

[This bill went to prohibit any President, Director, Cashier, or other officer of any of the Banks, from trading in stock, or articles not permitted by their charters, for or on account of such Bank. Or to require an exchange as a condition of a new loan, or more favourable terms of renewal, under pain of fine and imprisonment. To prohibit any Bank from purchasing its own notes at a discount, either in this State or elsewhere, under forfeiture of the amount so purchased; and lastly, to impose damages at the rate of ten per cent. per ann. on any Bank which failed to pay its notes in specie, on demand, after the 1st January, 1850.]

Mr. W. said, if this amendment be adopted, it would show that if the Banks had not heretofore observed the provisions of their charters, the Legislature was determined to enforce obedience hereafter. This seemed to him, to be all that the public interest required us to do.

After some Remarks of Mr. Potter and Mr. Fisher in opposition to this amendment and a reply by Mr. Wyche, the question was taken on it, and it was negatived 97 to 22.

The question then returned, on passing the bill before the house its third reading; when

Mr. Jones, of Rowan, rose and observed, that through the long period of this discussion, he had occupied his seat as an attentive and anxious listener. He was anxious, because he thought he had perceived at the very outset of this business, a strong determination in majority of this House, to stop their ears against reason and justice, and to dash along to extremes, regardless of consequences; and that anxiety had not been lessened by the various changes that the original proposition had undergone since it came into this House; indeed it has been patched, and altered, and re-patched, and re-altered, until there is scarce a rag left of the old garment, to tell its colour. I am, said he, glad, however, that we have at last got something before us to decide upon—and hope that we are to have no more fine cartridges wasted on flying targets. I stand not here, Mr. Speaker, as the advocate or even the apologist of the State Bank. I have always abominated these institutions as dangerous Aristocracies and utterly repugnant to the principles of Republican government. And of the Bank in question, I will say that she has acted irregularly, foolishly, against the spirit and meaning of her charter. But, sir, the questions turn round. What measure of punishment shall be inflicted on the Bank? who shall punish her? and will the course proposed by this bill, be just, wise and expedient? To the first of these enquiries, I must observe that the magnitude of an offence arises not from the grade or character of the accused, but from the quality and nature of the act done. I should not have stated this trite maxim if I had not believed there is great danger of its being lost sight of. Think you, sir, if the same facts had been proved against individuals as are alleged against the Bank, public justice would have been heard thus vociferously crying aloud for vengeance? How many sharpers and usurers are there in the neighbourhood of almost every gentleman on this floor, who are openly and notoriously violating the statutes of usury? How many hard-hearted creditors, with their obsequious instruments, the constables, are day after day violating honesty and fair-dealing, by availing themselves of the necessities or frailties of the poor, without even one of us believing it our duty to stand forth as the champions of the oppressed. The gentleman from Newbern and the gentleman from Buncombe, have shown, it seems to me most conclusively, that the most prominent charge brought against the Bank, I mean her not requiring the instalments of stock to be paid in specie, grew out of the defect of the charter which was granted to this Bank by the Legislature. It was a consequence resulting from a conflict of obligations authorised by that body which represented the sovereignty of this country. And it does seem to me, that the most of the other irregularities and blunders which the Bank fell into, were not so much from the motives of speculation, as to get rid of the difficulties resulting from the grand error which lies at door of the Legislature. These motives would certainly be looked to very carefully by the Supreme Court in determining the degree of guilt which had marked the conduct of this institution. And if they should not be able to discover a corrupt and fraudulent intention (which constitutes the very essence of crime,) may, if the Court was not thoroughly & completely satisfied of a grossly criminal intention, I hazard nothing in saying, the Bank could not be convicted under this quo warranto information.

But, sir, supposing it were possible to make out a sufficient case to convict the Bank, is it required of North Carolina, from a principle of Honour, or from a consideration of Expediency, to become the prosecutor? Her honour, it would seem to me, requires a very different course. Let it be remembered, that the State has had a strength in the Directory of this Bank nearly equal to the whole strength of the individual Stockholders. Indeed, it has been stated upon high authority, and has not been contradicted, that she has been able, by dint of a little management, to carry her measures in almost every instance. She has divided the spoil willingly, and I may almost say, greedily. She not only permitted these acts through her agents (the Legislature included,) but she has encouraged every measure to increase the profits of the establishment, even when it was foreseen that these measures were, or would be, injurious to the community. And now, sir, when the hour of difficulty has come, she proposes to desert her ancient ally! and since the Bank has ceased to be profitable, it is proposed to send her forth into the wilderness, as the scape-goat, to bear upon her forehead the sins of the whole concern! Truly has it been said, that alliances with the strong are dangerous to the weak! The wolf and the sheep set out together on a journey—they come to a stream—the sheep goes below to drink—the wolf accuses the sheep of muddying the water, and makes it a pretext for devouring her. I hope, sir, that we shall not hear it again said, that the Honour of our State requires this investigation. The fool points to the bloody spot on the carpet—the wise man hides it with his mantle!

Bridging this, then, to the bare question of expediency—is there a likelihood that any good can come of this extraordinary prosecution by this extraordinary proceeding, before an extraordinary tribunal? Several gentlemen of high legal reputation, have told us, that if the Bank shall have committed acts sufficiently gross to authorize the Court to say that it has forfeited its charter, that the necessary consequence will be a dissolution of the corporation; and that in that event, the debts which are due to the Bank, as well as those which the Bank owes, will be nullified. Others believe that the debts due to the Bank will be safe to the stockholders, because these debts are generally by notes endorsed in blank, and that by filling up the blank with the name of some third person, in trust for the stockholders, that this consequence will not ensue. Others again deny that either of these consequences will happen, but that the State by passing this act can take upon herself the right of collecting the debts on both sides, and accordingly a provision to that effect is inserted in this bill. But I would ask, if the Legislature has the constitutional power to attack one consequence to acts, which they did not bear at the time of their happening, why may she not give them another? If she can now seize upon the right to collect, why may she not assume that of pocketing?—And should any pressure to question the justice of this course, she could reply, as the Lion did in the fable, that she was the wretcheder beast and the stronger, and therefore she is entitled to the whole booty. It seems somewhat strange, that any pretence should be made towards collecting these Bank debts after what we have been told by the minority committee. It is asserted as a fact, by that committee, that these obligations on the People were obtained by practices that amounted to "foul and illegal extortion" (see page 7.) Again, they say it was "a system of usury and extortion," carried on with "unparalleled audacity" (p. 8);—and in several other places asserted in a distinct and emphatic manner, that all these contracts between the People and the Banks, were adulterated with fraud and corruption. I want to know, sir, on what principle of law or morals these debts can be obtained at all, if these be facts? Can the State, by putting herself in the shoes of the Bank, do that which it would be dishonest and unjust for the Bank to do? Whence did she obtain the exclusive privilege of cheating and defrauding? We must say the State's conscience is extremely elastic thus to outstretch that of the corporation!

Mr. Speaker, there is one consequence to result from the passage of this bill, which will fall heavily on the innocent community of North Carolina—I mean the certain depreciation of the Bank notes and Bank stock. Information has already arrived in this city, from various sources, that such has been the effect in some measure, from the mere supposition that this bill may pass. Let it once get through this Assembly, and the next news will be, that none of the notes of our Banks will be taken in the payment of debts. Sheriffs and constables will be directed to demand the specie, or its equivalent. Property will then go off at just the price that the merciful creditor chooses to give for it. The widow, whose deceased husband had bequeathed her his bank stock, because it was a species of property that required but little skill in its management to make it produce a certain means of subsistence, will have to part with that stock at a ruinous discount. Then, sir, in a word, we may expect to see the reality of that desolation which has been so strongly pictured to our fancies by the gentlemen on the other side. This catastrophe, we are told, is provided against by that clause of the bill which authorises the Governor to issue his proclamation, setting forth the causes of this prosecution and pledging the faith of the State for the redemption of the Bank notes. Alas, what a delusion! The experience of ages proves the utter insufficiency of pledges, proclamations, and all such expedients, to sustain the credit of Bank paper, where there is no means, nor immediate likelihood of means, to convert it into specie. The old Bank of England, many years ago, having lent most of its specie to the Government to carry on its foreign wars, found itself in great difficulties, inasmuch that the Crown of Great-Britain thought it necessary to interfere for her relief,—and yet, sir, the potent of the King of that rich sovereignty, backed by his omnipotent Parliament, pledging the faith of the greatest nation on earth in behalf of the Bank, could not save it from utter ruin. France, too, tried the experiment of sustaining unconvertible paper, by a pledge of the national faith—and although her celebrated Assignats had a brief day of prosperity, by the fraudulent contrivances of her then rulers, they suddenly sunk down to their proper degree of worthlessness, and contributed much towards the miseries that so long overshadowed that country. But to come nearer home for examples—the gallant State of Tennessee, rich in every thing that can ennoble a nation, offered the guaranty of its faith as the basis of Bank credit; yet, in a few months, the notes of the new institution, in the city of Nashville, were at a discount of from 50 to 75 per centum. Kentucky, also, adopted the plan, with no better success. But why multiply examples? Who has not heard of the proclamation money of the Revolution? The patriotism of the country, as well as its faith, was called on to keep up the credit of that money; and yet sir, in a little time, it became almost as valueless as the material out of which it was fabricated. But we are further told, that the effects of the Bank itself will assist to prevent this depreciation. We have no correct information as to the amount of those effects—if we are to look to the statement of the gentleman who is urging this measure with the most zeal (Mr. Potter) the amount of specie now on hand will be of little avail towards effecting this purpose; how much there may be when the expected judgment is pronounced, is still more doubtful. And, as to the United States Bank stock, owned by the State Bank, upon which large calculations are made, it is almost certain that that is beyond our reach. Think you that the United States Bank will acknowledge any other owner of that stock than the one she has sold it to? Whatever may be said of the omnipotency of our acts, within the limits of our State, it can hardly be believed that the rest of the world will feel themselves bound by them. At any rate, we might expect to be carried through a tedious course of litigation in the United States Courts, before any thing could be realised from this part of the speculation. Is it not, upon the whole, most certain, that the Governor's proclamation can not stay the calamity threatened by this measure? We have heard it again and again, from the gentleman who introduced this bill, that the people demand this prosecution against the Bank, and that we dare not go home without doing something in this matter to please the people. I cannot pretend to say how generally this excitement may have been got up in other parts of the State—it may be much greater than I am aware of—but in that part of the State where I am best acquainted, I do not believe that the bulk of the people—I mean the substantial yeomanry of the country—have ever concerned themselves in this matter, one way or the other. The county to which I belong, can boast of nearly two thousand voters, and although there is a branch of this Bank at its seat of justice, I speak advisedly when I say there are not three hundred of her citizens, either directly or indirectly concerned in the Bank, either as principal, debtor or security; and of that number I can safely say, I never heard ten men complain that the Bank had dealt dishonestly or ungenerously with them. And even amongst those where the wave of destruction has swept most furiously—"they that have shivered in the snows of Caucasus," or "have been baked and blistered by the torrid sun"—they that "have had their hearts ground out of them"—they "to whom every extremity of woe has been measured out, and into whose service every inglorious word in the dictionary has been pressed," and yet are walking about, well and hearty, and sit down every day to as plentiful dinners as any of us. These right reverend good sirs, will not be so very overwhelming with their thanks to their zealous advocates, when they are told that they did not intend by this bill to let them off from their debts entirely; but only to change the creditor from the State Bank to the State of North Carolina.