

LEGISLATIVE

DEBATE

On the Bill to enable the Cape Fear and Newbern Banks to wind up gradually, and to fix a uniform rate of collection.

House of Commons, Jan. 1.

Mr. Pearson rose and said:—I have the honor to represent a large and fertile county, but its wealth unfortunately induced the location of a Bank at its Court-house, and in the pride of prosperity, when cotton, land, negroes, every thing, sold high and money was plenty, the people went in debt—times altered—the price of property fell, money became scarce, and for a few years every exertion has been necessary for the people to hold up under their embarrassments. So far they have been able, by the proceeds of their lands, to keep up their renewals, and if they have a reasonable indulgence, they will get through without a sacrifice of much property. This matter, then, is of great importance to my constituents, and I am really sorry to see the opposition it meets with, the prejudices it has to encounter, and the disposition there seems to be to give it the go-by. To occupy as little time as possible by giving my views of the whole subject at once, I will state the amendments. I will offer the bill as it now stands, requires the Directors to diminish the amount of debts to one half their present amount, by the 1st of January 1835. I dislike this provision, because it leaves it in the discretion of the Directors to indulge a part of their debtors, and make the rest pay all the required amount. I shall move to strike it out, and insert a provision that each debt now existing may be paid by instalments of one-twentieth of its present amount every ninety days. In this way the people will have five years to pay in, and they will then know precisely what will be required at each instalment. I will also propose to permit the Bank to take its stock in payment of debts. This will have the effect of making stockholders indebted to the Bank pay their share, and will increase the means of paying debts due the Bank. I will also propose to authorise the stockholders to declare dividends of the capital after the 1st of January 1835. This will enable the State to withdraw its funds from the institution, and dissolve the copartnership, and will also dispose of the money that will accumulate, and be otherwise idle. In offering these amendments, and in considering the several provisions of the bill, I look at the legislature, not as dictating terms to these institutions, but as endeavoring to bring about an arrangement for the benefit of the people, that would meet the approbation of the stockholders. I might make the bill more indulgent to the people, but then the Banks would refuse to accept of the terms, and the measure be entirely frustrated. Let me beg gentlemen to view the subject in this light, and see if the provision is not as likely to meet the sanction of both parties, as any we can adopt. What is the situation of the country? For many years we have been groaning under an enormous amount of debt, and for the last two or three, have been gradually paying it off. At this time, the people owe four millions and a half of dollars to the Banks of this State—besides what they owe to each other and out of the State—for the last year, the collection of the several Banks have amounted to eight hundred thousand dollars, and at this rate, if let alone, by the 1st of January 1835, they will nearly have extinguished the whole debt, but Sir, the charters of these Banks run out on the 1st of January 1835, and unless something is done, they will not be let alone.—There is no provision in these charters that will enable the Banks to collect after their expiration, so that any debt not paid by that time will be entirely lost, and any debtor who can, by protracting a law suit, keep a judgment, or even an execution until that time, will be released, and the Banks may whistle for their money. Of course then, in the exercise of ordinary prudence, the Banks will require immediate payment, or institute actions upon all the debts due them. Can the people, at this time, pay four million and a half dollars! Will it not produce a shock throughout the whole State? Will it not bring ruin upon us all? For, Sir, it is not merely the debtor and his securities that would be involved. We are all dependent on each other, if one falls fifty may fall, if the Banks press their debtor, he must press those who owe him, and so the ruin would be general, the distress universal! Are gentlemen prepared for this state of things? Will they not try to avert it? And if they succeed, will they not have performed well the trust reposed in them and consulted the interest of the people? Gentlemen abuse the Banks, and say they have proved a curse to the country. I represent a section of the State that has as little right to be in love with the Banks, as any part of our State; and if cursing would do any good, we could curse as hard as any; but we are not trying the Banks, we are attempting to affect an arrangement, and feeling must be kept down, and reason permitted to act. We have got into these difficulties and we must get out the best way we can. The people do not wish to be released from debts for which they have received value, they want to pay them, but they want time to do it in. The Banks find it will be impossible to force that much out of the people, they know unless they give indulgence, many of their debts will be lost; and from the discussion of last session, they are not anxious to press matters too far. They are willing to give indulgence, if the people will agree not to take advantage of it. The bill proposes, that if the Bank will not require a greater instal-

ment every ninety days than the one-twentieth of the present amount of each debt, and if there should, at the expiration of the charters, be any debts outstanding, they may have three additional years to collect in.—Is not this perfectly fair? Is it not as reasonable as any thing can be? Gentlemen, say, they cannot see how this is to benefit the people! They have five years to pay in any how! Is it no benefit to have your debt divided into twenty equal parts, and to know that if you pay one of those parts every ninety days, you do as much as your creditor can ask? Whereas now, you don't know at what time you may be called on to pay the tenth, or the third, or the half, or the whole? Five years is all we want, but we want that uninterrupted, and unless this bill passes, instead of having five years, we must pay in the next six months or be sued. In five years we can pay off by the profits of our land, not by the property itself. Need I urge upon this house, the difference between paying a debt by the profits instead of with property? Break in upon a man's property once, and you may as well sell him out. His profits will be diminished by the sale of a negro, or a horse, and the next time you may sell two negroes or two horses—and his land. It is said, this bill is to benefit stockholders who owe the Bank; they are the debtors least interested—for if the Bank should not force all out of them before the charters expire, the stock and debt will cancel each other; but, Sir, a more deadly blow was directed, when the fears of the friends of the new Bank were roused, by alleging that this bill would prevent it from going into operation. I am friendly to the principal of that Bank, and so far from injuring, my honest conviction is, that the passage of this bill will be absolutely necessary for the operations of that Bank, and in addition to the direct benefit it will do the people, I flatter myself it will benefit them by paving the way for a Bank, that is to supply us with a sound circulating medium. In bringing myself to the determination, to support the new Bank, my greatest obstacle was the fear that this infant Bank would be swallowed up by the present Banks—I know this fear presents itself to all its friends—and the only thing I look to for removing that objection is, the passage of the bill upon your table. If the present Banks wind up gradually, it will enable the new Bank to go into operation gradually, as the notes of the one gradually go out of circulation, the notes of the other will take their place. If the present Bank indulge their debtors, they will stay where they are, and not flock to the new Bank—for no new institution can support itself, except by loans on short credit and prompt pay; but if you force them to call in their debts without delay, you might as well cast an infant into the raging sea, and expect it to swim out, as to expect the new Bank to go into operation amidst general distress and ruin! Away then with your fears for the New Bank! Away with your invectives against the present Banks—tell me not about bearding the lion in his den. This bold language comes from gentlemen whose constituents are too poor to tempt the monster. We who have felt his power, and are in reach of his paws, are the best judges. In an unhappy moment the Legislature created these Corporations; in an unhappy hour the people went in debt. Let us get out the easiest way.—We were told the other day, that this was an attempt to extend the charters of the Banks, and that the voice of the people forbade it. That is not the object of the bill. After the 1st January 1835, they are not to do Banking business, but merely to pay and collect debts. We all know that if a creditor dies before he has received the money, even if he has judgment, the debt is lost unless there is an executor or administrator, so in the case of the Banks, for banking purposes they die, at the expiration of their charters, and there is usually in Bank charters, a provision for collecting. In the charters of our Banks, there are no such provisions, and the bill proposes to supply that defect, so as to enable them to indulge their debtors until the last day, and not force them to sue immediately. Is not this the language of reason, will it not promote the interest of the people?

Mr. Gaston observed, that it might not be amiss to correct some misapprehensions which prevailed with respect to the origin of this Bill, and of another of a similar kind, in relation to the State Bank. At the last session, the Legislature passed an act for the appointment of Commissioners to represent the State in the general meeting of the Stockholders of these Institutions; and enjoined it upon these Commissioners to use all their exertions to prevent a too rapid collection by the Banks, and a too early closing of their business. In June last, these Commissioners attended the general meeting of the Stockholders at this City. It was anxiously desired by the principal Stockholders to terminate all banking operations, and to adjust their concerns as speedily as the nature of their business would permit. For this purpose, they proposed that an assignment should be made of all the corporate funds to Trustees, who should collect and pay debts, liquidate all claims, and settle with the stockholders. This proposition, recommended by many other motives, was said to be imperiously required by the consideration that the charter expired on the 1st of Jan. 1835, and that it was their duty as well as their interest to set their house in order before that day. But our Commissioners, obeying our instructions, most strenuously resisted the proposition, and pressed upon the stockholders to postpone a decision until after this then approaching session of the Legislature. Among the reasons urged for this postponement, were the necessities of the debtors, the pressure of the times, and the apprehended increase of distress from a rapid withdrawal of the circulating medium. And to obviate the objection arising from the near approach of

the day on which the charters of the Banks must expire, our Commissioners assured the Stockholders of the perfect confidence which they entertained that we would not hesitate to give a further day for the collection and payment of debts. The Commissioners succeeded—the decision was postponed, and the Stockholders are to meet again to pass upon this proposition as soon as our session shall close.

The Bills in question do not therefore come from the Banks, nor owe their existence to any application from them.—These Institutions ask nothing at our hands. They know when their chartered powers are to cease, and they are competent to take care of their interests, and provide for the performance of their obligations without any special help from us. The true question is—the only enquiry should be—whether this interference of ours is called for by considerations of public policy? Rhetorical invectives, and florid declamation, cannot aid us in solving this question. They may enliven a dull discussion, they may amuse the fancy or gratify resentment, but they assist not the judgment in coming to a correct conclusion.

No one was more thoroughly satisfied than himself, that the Banking system which had been pursued in this State had been productive of numerous and severe mischiefs. The system itself was wrong, and could not but terminate in evil. Banks were established, multiplied, kept up, and enlarged, not with a view to afford legitimate facilities to commerce, but to make accommodation loans, and to manufacture paper money. The State descending from its high station had entered into an unholy alliance with individual corporators, and had urged, encouraged and sanctioned a most pernicious course of operations. All who wanted to borrow, and could give security, were accommodated. Issues and re-issues of notes were thrown out to make money plenty. While this vicious course continued, nothing was so popular as the Banks. Their paper depreciated; but no matter, it would pay debts and buy produce. Fictitious credit was created, extravagance encouraged, and old fashioned industry made to give place to wild speculation; but the State made large dividends, men spent money freely, and no one thought of pay-day, provided he could but discharge the interest on his loan. It is impossible to say when or how this would have ended, but for a cause over which the State had no control. The Bank of the U. States received the paper of these Institutions, demanded payment, and would receive no denial. After every temporary expedient had failed, no alternative remained for the Banks but to call on their debtors to make payment—not all at once, but in small instalments. Then public favor was succeeded by public hatred. Then these beneficent Gemi who had thrown open the doors of their vaults at every call of "open sesame," were converted into un pitying monsters that fattened upon the life-blood of helpless victims. May we take a lesson from the past to avoid the like errors hereafter. But it is idle to recriminate, and silly to vent our unavailing anger. The mischiefs of this pernicious system now exist. How are these mischiefs to be cured? This is an enquiry worthy of all our attention, and demanding the exercise of our best judgment.

It is proper to bear in mind, that more than \$700,000 of the property of the State is embarked in these Institutions. True, it was unwisely embarked in them. The State had no business to engage in banking operations. But there it is, and it is our bounden duty to take care that it should receive no detriment. It is to this property only that every friend to the State must look as furnishing the funds for the future improvement of its moral and physical condition. Its preservation is an object that cannot be disregarded, without incurring the heaviest responsibility.

The paper issued by these Banks and yet in circulation, certainly exceeds a million—and if none has been lost must amount to fourteen hundred thousand dollars.—It constitutes the great mass of the currency of the State. Its character must affect all the monied operations of the country. Its gradual or rapid withdrawal will produce the most important effects on all contracts, and on the value of every species of property.

There is due to these institutions upwards of four millions of dollars. Few are so mad or so wicked as to contemplate any scheme for preventing the payment of these debts. It is the duty of the Directors of the Banks to have them collected, and if they be not paid voluntarily, the law must be resorted to in order to enforce their collection. Now it is a settled rule of law, that a corporation deriving its existence solely from the will of the Legislature that created it, can neither sue nor be sued—can perform no act of any kind after the day when its legal existence terminates. In order then to secure the receipt of what may be due, and to satisfy the demands of their creditors, the Banks must proceed by an energetic course of action to wind up their affairs, so that nothing may remain to be done when the 1st of January 1835 shall arrive. They may avoid this inconvenience by adopting an alternative which will perhaps answer their purposes, what they possess they may assign, and a Court of Equity will compel the assignees to perform any honest trust. They may therefore transfer all their property, in trust, to make sales, to collect debts, pay off all they owe, and divide the surplus among their Stockholders. Whatever others may think of an assignment, he should regard it, at the present mo-

ment, as a measure fraught with alarming consequences. It could not be expected of assignees, acting under a severe personal responsibility, to shew the same lenity, or exercise the same discretion in collecting debts, as may be practised by the Board of Directors. There may be serious difficulty in finding assignees worthy of so vast a trust, who could be induced to undertake it, and the property of the State and of our Citizens embarked in these institutions, might be exposed to great jeopardy. But above all, a dangerous depreciation of our currency, and its rapid retirement from circulation, would probably be the result of such an assignment. At present, our currency is in a sound state, for the Banks are able to pay their notes, and there is a short and effectual legal remedy for compelling payment. But when the corporate funds shall be in the hands of assignees, they cannot be compelled to pay but through the medium of a tedious and expensive suit in Equity, and only then out of the proceeds as they are realised. An assignment will naturally excite alarm, create distrust and be followed by depreciation. And when the notes of the transferring Bank shall be received by the assignees, they will have no right to re-issue them—and thus the notes would be speedily altogether withdrawn from circulation.

Without an assignment, the Banks cannot collect all that is due to them by the day when their charters expire, but by beginning without loss of time to demand considerable instalments, and enforcing the payment of them by rigorous measures. Who may be broken down by such a course, who may be involved in their fall, what ruinous sacrifices of property may be occasioned, what confusion and misery may be spread throughout the community, no one can predict with precision. But every man who is not destitute of feeling, and who takes an interest in the prosperity of his country, must earnestly hope that these calamities may be prevented. An assignment will no doubt be productive of less confusion and distress, but an assignment nevertheless must cause not a little embarrassment and public mischief. The true remedy seems, therefore to be, that which our Commissioners have indicated. Let the corporate existence of the Institutions be extended beyond the present term, for the sole purpose of enabling them to sue and be sued, to make collections and to pay debts. Let us avail ourselves of the occasion, while proposing this restricted extension of their charter, to impose such terms as shall secure our embarrassed citizens from caprice and oppression, produce a gradual retirement of the notes from circulation, insure a faithful discharge of duty on the part of the Corporators, and make it their interest to cooperate with our views of public policy. Time—time is the great lenitive of all human evils. The mischiefs of our present condition can be cured but by prudence, forbearance, industry and economy. Afford an opportunity for these remedies to operate, and all that we can reasonably hope for may be attained.

The Legislature cannot alter the charters but by consent of the Corporations. Of course it must be left to them to say whether they will accept of the prolongation offered under the restrictions with which it is accompanied. If the restrictions be reasonable, there is a rational certainty that the offer will not be refused; and it is our business to take care that they be reasonable.

Should the result be security to the public funds, and tranquility to the public mind, a mitigation of present distress, a gradual improvement in the condition of our citizens, and the prevention of those portentous calamities which seem to be impending, we may without envy, resign to others the glory of chivalric daring. Let it be their boast to beard lions and attack monsters, "Hydras, Gorgons, and Chimeras dire!" while ours is the mild gratification of doing good to those whom it ought to be our delight, as it certainly is our duty, to assist and protect.

The motion to lay the Bill on the table was negatived by a large majority, and the Bill passed its second reading 90 votes to 37.

CONGRESS. SENATE. The Senate did not sit either on Friday or Saturday. Monday, Jan. 25. Mr. Brown presented a resolution of the Legislature of North Carolina, instructing the Delegation from that State in Congress to procure the repeal of the duty on Salt. Referred to the Committee on Finance. Mr. Iredell presented a resolution of the Legislature of North Carolina, instructing the Delegation from that State in Congress to procure the passage of a law to punish frauds upon the public by passing or attempting to pass counterfeit or altering orders, checks, or drafts on the Bank of the United States, or its offices. Referred to the Committee on the Judiciary. Mr. Iredell also presented a petition from Saml. Simpson of Newbern, for a remission of the additional duties on certain goods imposed by him on the 1st July, 1832.

The unfinished business of Thursday being the order of the day, was then resumed, and the question being on the motion of Mr. Webster, to postpone indefinitely, the resolution proposed by Mr. Foot concerning the public Lands, and the amendment proposed in the same by Mr. Woodbury. Mr. Hayne rose, and in continuation of his reply to Mr. Webster, addressed the

Senate for two hours and a half. Which he had concluded. Mr. Webster rose to reply, but as the hour was advanced (it being then near a o'clock.) The Senate adjourned.

The National Intelligencer says, in relation to this debate.—A Debate of powerful interest has grown up in the Senate of the United States. The ground of it is a resolution moved by Mr. Foot concerning Surveys of the Public Lands; but its interest arises from the painful turn that it has taken into a comparison of the merits of particular sections of the country in relation to each other and to the whole. Mr. Benton, Mr. Hayne, and Mr. Webster, are the principal debaters. On no occasion whatever, that we recollect, have the walls of the Senate Chamber been so completely filled with auditors of both sexes, as when they come to read the Debate, which we shall exert ourselves to lay at large before them.

HOUSE OF REPRESENTATIVES. Friday, Jan. 22. Little business of interest was transacted to the House this day. Several bills were reported from Committees one of them from the Committee on Retrenchment to prohibit the use of secret service money in time of peace. The resolution respecting the Military Academy at West Point was further debated, and finally committed to the Committee on Military Affairs. Several other resolutions of inquiry heretofore offered, were agreed to, and two or three others submitted. The remainder of the sitting was consumed in an earnest discussion of the principle of a bill for the relief of George and William Bangs (to remit them the amount of duties on certain goods consumed by fire in the original packages in which they were imported.) The bill was finally lost by a large majority, by striking out the first section, and the House adjourned to Monday.

Monday, Jan. 25. Mr. De Witt, from the Committee on Retrenchment, reported the following Resolutions: Resolved, That the annual allowance of \$150 heretofore made in the disbursements of the House of Representatives, for the service of a draftsman, be, and the same is hereby discontinued. This resolution was read, and the further consideration thereof was postponed until Thursday next, the 28th instant. On motion of Mr. Dorsey, it was, Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of making provision for the widows, orphans and legal representatives of the officers and men on board of the Hornet at the time of her loss. The House again resolved itself into Committee of the whole House, Mr. Pease in the Chair, on the report of the Committee of Elections on the memorial of Ben Washburn, contesting the election of J. W. Ripley, returned as one of the members of this House, from the State of Maine when Mr. Tucker and Mr. Anderson successively addressed the House upon the subject; after which The Committee rose and reported progress, (Mr. Pease being next entitled the floor,) and then The House adjourned.

FOR SALE. A Valuable Lot in the Village of Chapel Hill known in the plan of said Village, as No. situated east of the College Buildings, adjoining the land belonging to the College, and containing four acres. Said lot formerly belonged to Clopton and Kollock, and is well improved, being all the requisite Outhouses and a fine Garden spot. The terms, which will be very accommodating, can be made known on application to the subscriber, residing near Pittsburgh, Chatham county. WOODSON LEE. Jan. 26. 463p.

To Members of the Bar. THE Subscribers beg leave to call the attention of legal gentlemen throughout the United States to their American edition of English Common Law Reports, edited by Thomas Sergeant and John C. Lowber, Esquires, of the Philadelphia Bar. The constant reference to the recent English Reports, in the arguments of Counsel and the decisions of the American Courts, particularly on commercial matters; and the analogy which must necessarily subsist in questions arising in two countries, whose legal principles and forms are in many respects the same; clearly evince the utility of the above mentioned publication. There is probably no American Jurist who would not desire to possess the convenience of referring to the points decided in England, as early as their authentic publication is possible. But few members of the American Bar possess a copy of the Modern English Reports, partly account of their enormous price, and partly because more than one half of their contents are no interest in this country; of this description are cases upon the annuity act, titles, partition acts of Parliament, special customs, branches of Common Law peculiar to the political and ecclesiastical organization of that country; and the thes that might be enumerated. With a view of removing extravagance and the necessity of purchasing useless matter, this publication has been undertaken, and been conducted on the most economical plan, securing in full, only those cases which are applicable to this country, and retaining of others only the names and marginal notes. Fourteen volumes of the work are published, furnishing a series of Reports of Courts of Common Pleas, King's Bench, Nisi Prius from 1813 to 1832, and from the arrangements the publishers have made for obtaining the English Reports by the earliest opportunity, they think it will be in their power to publish them here, within four months after their appearance in England. The fifteenth volume will be issued from press in three months, and will contain Bingham and 8th Barnwell & Creswell. Subscription price six dollars per volume, bound in calf, or five dollars volume in paper covers. Subscriptions, or orders for complete sets of old volumes, received by the publishers, Gales & Son, Raleigh, or any of their agents. P. H. NICKLIN & T. JOHNSON, Law Bookellers, No. 175 Chestnut Philadelphia, Jan. 1833.