



Quis are the plans of fairdelightful Peace, Unwar'd by party rage, to live like Brothers.

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THURSDAY, JANUARY 18, 1810.

No. 539

Central Assembly.

DEBATE

On the Bill relative to the Banks.

HOUSE OF COMMONS, Tuesday, Dec. 19

Mr. GASTON proposed an amendment to the bill which had for its object the payment of the proposed tax when due immediately into the Public Treasury, by the President or Cashier, instead of suffering the money to go through the hands of the Sheriffs...

Mr. BRITTON, a knowledgeable he did not know much about Banks; but it appeared to him that the tax proposed on the stock of the Banks would fall unequally, as it appeared from the debate which had taken place on this subject...

Mr. DREW wished to do equal and exact justice to both Banks as far as it was practicable. He had thought of the mode of taxing them, proposed by the gentleman from Mecklenburg, but he found it attended with difficulties...

Mr. W. R. KING was in favor of the amendment proposed by the gentleman from Mecklenburg as operating equally on all Banks, whether their dividends rise or fall. Mr. K. went into calculations similar to those made by the gentleman from Mecklenburg...

Mr. DREW wished he could agree with the gentleman from Sampson; but he said to him, that the Directors of the Banks, if the tax were laid on dividends, might not make as large dividends as they do at present. They would share the profits in some other way. At all events he thought the tax on the stock would be most certain, as dividends would be evaded.

Mr. J. C. BAYNES would be in favor of the dividends, as the most equitable. He was sure it could not be evaded; and he said the object of the Legislature might be defeated altogether if the tax were on dividends.

The motion was negatived, without a division.

Mr. W. W. JONES said, it appeared to him that the amendment was necessary in the 21st section. On reference to the report of the Public Treasurer, it appeared to him that he states that the mode proposed by the Treasury, with the ordinary expenses of the Government, would not be more than sufficient to pay the expenses of the Government. He proposed that this tax should be applied to the Paper Currency; and that the section of the bill directs

the Treasurer to appropriate the interest arising from our Stock in the funds of the United States to the same object. The Treasurer, he presumed, would then be reduced too low to meet the demands which would be made upon it in the course of the year. He moved, therefore, to strike out the words which direct that the amount of this tax shall go to the redemption of the paper money, in order that it may go into the Treasury like other taxes, for the ordinary purposes of Government.

Mr. GASTON said, if he understood the object of this bill, it was to provide for the redemption of the paper money in the Banks; and for this purpose, it was deemed necessary to provide some tax; but according to the amendment of the gentleman from Halifax, the money is to be preserved, but the end abandoned. When proposition, asked Mr. G. does this tax bear to any other tax? There is no tax paid by any citizens of N. Carolina that is equal to one-tenth of this tax. The tax on negroes is 20c a poll. Negroes, on an average, from the age of 12 to 50, will hire for 20l a year; so that the tax on this property is only one-two hundredth part of its hire. The tax on town property is 2c on every 100l value. But its value is generally fixed below what it would sell for. This property may be estimated therefore as worth 10l a year, which is the one-hundredth part of its annual proceeds. A tax of 8d. is laid on every 100 acres of land. If land will rent for any thing it will not for 1s. an acre; this tax is therefore only a hundred and fiftieth part of its rent. If the proposed tax was, therefore, to meet the current expenses of the Government one-tenth of one per cent. on the stock of the Banks would be a high tax. So enormous a tax as the one proposed was never before heard of in this country. The heaviest tax ever laid even in England, where the people pay higher taxes than in any other part of the world, was the Income Tax, under Mr. Pitt's Administration, which was one-tenth part of a man's income. Yet this maximum is here to be imposed upon for meeting our ordinary supplies.

Mr. G. remarked, that the gentleman from Halifax had not exhibited his usual correctness on this occasion. The first section of the bill, does not now provide for an appropriation of the interest arising from the stock belonging to this State in the funds of the U. S. That provision had been struck out, on a motion made by himself. That section now provides that the dividends arising from the shares which the State holds in the Banks of Newbern & Cape Fear, when in the opinion of the Treasurer the state of our finances will permit, shall be thus applied.

The motion was negatived. Mr. KING now made his motion for excepting from the operation of the bill the bank shares belonging to the State and the University. — Not carried.

The section of the bill being under consideration which restricted the Bank from issuing notes for less than \$5.

Mr. GASTON observed that when he first heard this section read, it did not appear to him that it would be attended with any injurious effects; but on reflecting on the subject, he was satisfied that no benefit would accrue to the State from this provision, and that it would be injurious to the citizens, and embarrassing to the Banks. He presumed that the object of this restriction was, if the Banks were not permitted to issue notes for less than \$5, that for all less sums they would be compelled to part with specie. But so long as our paper currency exists, they will be at liberty to pay in that; and at the moment the Legislature is cramping their operations, it cannot be supposed that they will voluntarily cramp themselves still more. What, then, will be the effect of this restriction? When the Banks have to pay any less sum than \$5 they will pay it in ragged 10s, 20s, and 40s bills, and when they become so torn as to be good for nothing, they will perish in the hands of our citizens—for they cannot get them exchanged for others, as they could exchange Bank Notes, if they happened to be torn. He thought, therefore, the only consequence of this provision would be to embarrass unnecessarily the operations of the Banks, at the same time that it would injure individuals, as long as the paper currency remains, & it would be of no benefit when the paper currency shall be extinguished; because then,

whenever a Note shall be presented to the Bank, specie must be given for it of course. If the house were willing to make their restriction to all notes less than \$1 he would not object to it; and concluded with moving that amendment.

Mr. DREW said, if he could be induced to believe that these Banks were of any benefit to the people of North-Carolina, he would have no objection to join the gentleman from Newbern in his motion; but deeming their conduct sinister and injurious, he could not agree to it. He wished not to embarrass the Banks; but to revive their credit, and to infuse a portion of health into their system, that their Notes might not continue to depreciate, and with them, our old State currency. If these Banks were considered as beneficial to the State, no complaints would be heard against them. They do not support the dignity of Banks—for the Bank of Newbern issues notes as low as five cents, which is unprecedented in the annals of Banking. The Bank of England, till lately, never issued a note for less than 10l. The Bank of Edinburgh, had issued notes for 20s, but these were complained of. These small notes aggravate the running change of the country; and we can get no change that will pass in an adjoining State. The Bank of Virginia has no notes of less value than \$5. Mr. D. professed his object in prohibiting notes of less value than \$5 was, to get out of the Banks our gold and silver bills, which were far preferable to these notes. But it is said these bills will be ragged; but they will not be refused if they be ragged—they are a legal tender. Before these Banks went into operation, no complaint of the want of a small change was heard. Where there were no 10s bills there were half dollars. He hoped, therefore, if gentlemen consulted the character of our Banks at home and abroad, they would prohibit the issuing of these small notes.

Mr. GASTON replied, that whatever might be the intention of the gentleman from Halifax, he had no doubt that if this section was suffered to remain, it would be injurious to the community and embarrass the proceedings of the Banks. It was said these small Notes had an effect upon our current change; but what, he asked, was this change? It was not silver; but the good old Paper Money of N. Carolina, as the gentleman from Halifax termed it, but what he called ragged, inconvenient 10s, 20s, and 40s bills, many of which were counterfeit. In order to know whether our good old paper money is superior to Bank notes, let us enquire into facts.—When persons are in possession of Bank notes, will they exchange them for this paper money? They would not. He knew that the Bank notes were preferred, because less worn and there was no risk of their being counterfeit. He did not know that the practice of the Bank of England or Edinburgh had any thing to do in the case. It is true, that the Bank of England did not issue Notes for a less sum than 10l, but there were Banks in every town, and in many of their villages, which issued notes for smaller sums. Mr. G. wished the house not to imagine that by talking of dignity, they would impart dignity to the Banks—nothing but the correct management of these institutions would insure them this character.

The motion was carried.

Mr. DREW wished to introduce an amendment which he believed to be important, not from any hostility to the Banks, but in order to restrain them within their proper bounds. In the act incorporating these Banks, they are permitted to issue Notes to three times the amount of their capital, over and above their deposits. He believed an improper use had been made of the liberty granted of issuing notes on deposits. In order to prevent this being done in future, he proposed a proviso, that nothing in the act of incorporation should authorize the Banks to issue Notes on temporary deposits.

Mr. GASTON hoped this amendment would not be agreed to. In the charter granted to these Banks by the Legislature, it is said, the Directors may issue notes on the amount of their deposits; and are the members of this house prepared to say, that, after this bargain has been made, and after the Banks have gone into operation, we will not comply with the stipulated terms? He hoped the house would not adopt any such monstrous amendment.

Mr. G. said, in his apprehension there was no fund more safe than these deposits. In all places where Banks exist, the current business is chiefly done there, without drawing any money out of its funds. Suppose for instance, I have deposited in the Bank one thousand dollars, with the liberty of drawing for it as I want it. I have to pay a man \$500. I pay him by writing him a check on the Bank for that sum. He does not receive the money, as he also keeps his money in the Bank, but sends the check, with directions to have it placed to his credit. After a Bank has been some time in operation, it can ascertain the sum below which these deposits will never fall. Provided, therefore, the Banks keep money in their vaults to meet the demands which may be made upon them, there is no fund on which they can more safely issue their notes. If the Banks were thus to be limited in their progress, how could they gain sufficiently to pay all their expenses of clerks, stationary, &c., and even share one per cent. Admit a principle like this, said Mr. G. and I would not give you one-tenth part of the price which the State has paid for her shares in these Banks. All writers on the subject were agreed, as to the propriety of his practice. He referred to the Report of the first, as well as the present Secretary of the Treasury of the U. States, and added that it was the constant practice of the Bank of the U. States, and that all Banks must be permitted to act in this way, or they could not carry on their business. He hoped, therefore, the motion would be rejected.

Mr. DREW observed, though he saw the house was restless under the investigation of this subject, he hoped he should be permitted to show that his amendment was calculated to prevent abuses in the Banks and to serve the State.

Though the gentleman from Newbern had not directly questioned the constitutionality of putting this restraint upon the conduct of the Banks, yet he had said that the Legislature were about to dispossess them of a right given to them by charter. This is thrown out to deter the house from acting upon the subject; but he contended, that if this privilege of issuing on deposits was found to be attended with injurious consequences to the State, this Legislature have a right to correct the evil. In order to prove the correctness of the opinion, Mr. D. read a late decision in a corporation cause by Judges Roane and Fleming, in the Supreme Court of Virginia, where they declare, that "where any charter has been granted by the Legislature, the object of which, instead of proving serviceable to the community, as it was intended, operates injuriously, they have a right to amend or annul it altogether." He also cited Governor Tyler's opinion, in confirmation of the same doctrine.

If the deposits in question were made for the purpose of increasing the funds of the Bank, he would not object to Notes being issued upon them; but the deposits he wished to guard against were such as might be made to day and withdrawn to-morrow, perhaps for the very purpose of authorising the Bank to emit Notes upon them.—Exclusive of any deposits, the Banks are at liberty to issue Notes to the amount of three times their capital. This in one of the Banks (provided all their Stock were subscribed for) would be \$750,000 and in the other \$500,000, which would surely be as many Bank Notes as ought to be in circulation in this State. Besides, this authority to issue on deposits, eludes all possibility of prescribing any limit to their emissions. Each Bank may, if its Directors choose, issue a million of dollars on this ground.

As to its being necessary to issue upon these deposits, to enable the Banks to pay their expenses and insure a proper dividend, he had no doubt that the profits arising from an issue of three times their capital would be amply sufficient.

Mr. W. W. JONES said, that after the house had been wearied out by tedious argument, it became necessary that he should confine himself closely to the subject under discussion. The gentleman from Halifax had introduced another newspaper into the house. On a former occasion he brought forward a Petersburg paper to shew that our Bank Notes were there depreciated. He believed it was a practice with some men here to cry down our Notes, that they might purchase them and bring them on

to the Banks for payment. He had seen a person carry off 15 or 20,000 hard dollars in this way. But a Richmond paper is now introduced containing the opinion of two of their Judges in a certain case, which he believed to be no way parallel to this. It was said, that no charter ought to be granted but for the good of the community. This, Mr. J. allowed; but the proper time for making this enquiry, is at the period when the charter is about to be granted. He agreed in opinion with these Judges that corporations may be corrected where they act amiss; but these Judges have not said that our Corporations may be taken away; if they had, such an opinion would not be sanctioned by the Judges of this State. The Legislature of North-Carolina once made themselves ridiculous by taking from the University property which they had given to it; but the Judges declared they had acted unconscionably and would not carry the law into effect. They would, no doubt, on a similar occasion, shew similar firmness.

But, said Mr. J. suppose these corporations have acted improperly, do you constitute the proper tribunal before which their conduct ought to be arraigned? You are not to try whether or not they have complied with their charter in every particular. The opinion of the Judges which the gentleman has introduced, is a proof of this. The reason is obvious, said he, that although we can make laws, we are not always correct expounders of them.

In addition to what had been stated by the gentleman from Newbern respecting deposits, he would observe, that in the town from which he came the merchants traded principally to the W. Indies. When vessels came in to purchase cargoes of our produce, the persons concerned were not desirous of paying for it in gold or silver, they deposited this therefore in the Bank, and make their purchases by checks upon the cashier. When such deposits were made, Mr. J. said it was right to issue Notes upon them, and it was a right granted to the Banks by their charters.

Mr. GASTON said, the gentleman from Halifax entertained an idea that great abuses have been, or may be committed by means of issuing notes on temporary deposits. He would venture to say that this evil has not, nor can it, in the nature of things exist. What does the charter of the Banks say? That it shall not be lawful at any time, to issue more notes than three times their capital, over and above the amount of their deposits. It is said that a sum of money may be deposited, notes issued upon it, and the next moment it may be withdrawn. The Banks never have issued notes on such deposits as these.

Mr. G. would inform the house on what kind of deposits the Banks issued notes. Ascertaining by a course of experience, the lowest sum to which the deposits ever amount, which happens at the time when the merchants of this State go to the Northward to procure their goods and make payment, because then they want all the money which they can get, the Directors can safely issue upon this amount. And if the Banks were not to have this advantage from the deposits, they would get nothing for the risk of keeping them.—Mr. G. supposed the lowest sum at which the deposits in the Newbern Bank could be at any time estimated, was about \$50,000.

Mr. G. would add one word with respect to the legality of the proposed amendment. That this house, that this State, may make a specific contract, by which they are to receive a benefit, and afterwards legally violate it, he trusted would never be seriously maintained.—After all that they had heard on the unconstitutionality of impairing contracts, that this Legislature shall say to a corporation, let us have so many shares of your stock, and you may issue so many notes, and now, after we have got the stock, we should turn round and say we will not be bound by this contract, was to him unaccountable conduct, and such as he trusted could not be sanctioned by this house.

The motion was negatived.

Mr. GASTON supposed some amendment was necessary in the last section of the bill. As it stood, the heirs of the present stockholders would be liable for any deficiency which might take place by the misconduct of their successors, after they were dead and gone, & their shares possessed by others. This, he supposed, could not have been the in-