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GENERAL ASSEMBLY.

BANK QUESTION. House of Commons - Friday Dec. 10. [Debate continued.]

M. PICKETT observed, that having been a member of the committee who made this report, and in the majority he would offer some reasons in support of it. And he would enquire first, with respect to the rights of the Legislature which passed the act incorporating the State Bank, had that Legislature the right to command the faith of the State? If they had, whether by the acts of 1810 and 1811, the faith of the State could be compromised by implication in relation to the subject before the house? The view he had of corporations, led him to conclude that the Legislature, being the Representatives of the People, can only create corporations for the public good; and whenever they cease to serve this end, they have a right to correct or to annul them. He knew that this would be deemed a novel doctrine by some gentlemen; but it is a doctrine drawn from that country from whence we have derived most of our principles.

M. P. read an extract from Blackstone's Commentaries to show that our Legislature cannot bind a succeeding Legislature, and to prove the sovereignty of the Legislative Body. It said he the Legislature of 1810, thought proper to grant to a particular body of men certain privileges we have a right, if we think proper, to take away. He looked upon the grant as a gratuitous one for certain purposes; and if it does not answer the end intended, this Legislature has a right to annul it. A contrary doctrine would put it in the power of the Legislature to sell this country. For, if one Legislature has a right to make a contract of the most trifling kind, which cannot be rescinded by a succeeding Legislature, you give it the power of wielding the destinies of North Carolina.

Mr. P. said he had no interest in either of the Banks, nor had any man in his county; but if we permit a doctrine of this kind to have a footing, we give the Legislature a power of passing laws that cannot be repealed. Suppose this Legislature were to say, we will sell to a certain man 50,000 acres of land, and no more shall be sold by any succeeding Legislature. Would this be submitted to? It would not. To say that the Legislature can pass a law which cannot be repealed, is to stab the liberties of the people. The people have a right to petition for a redress of grievances; and if they deem this Bank a grievance, shall they not complain of it, because a former Legislature has given it a charter?

Asking for arguments in support of the Law, which is not only obligatory on themselves, but on all future Legislatures, why this law must be irrevocable, and not left to implication. It had been intended that no future Legislature should legislate on this subject, why not explicitly say so? What are the words of the law? They are "That no other Bank shall be established by any future Law of this State, during the continuance of the Corporation hereby created; for which the faith of the State is hereby pledged."

He pretended not to be very well versed in subjects of criticism. But he apprehended these words, in common parlance, must refer to the creation of any new Bank, and had no objection to Banks then in existence. Are we said he, to give up the dearest rights of this country from a construction of acts of the Legislature? Acts which go to attack the sovereignty of the Country must, at least be in express terms.

Then, if we have the power of annulling the rights of any corporation whatever, we certainly have the right to regulate them; and the only

question to be asked is, Does the public interest require it?

He admitted that we have not the right to impair the obligation of contracts. But he would give his opinion of this section of the constitution of the United States. He did not think the framers of that instrument had in view contracts between a sovereign power and individuals. He presumed, to have said a State should not do a thing, would have been saying the States were not sovereign. They had in view contracts between individuals. They knew that contracts would take place between citizens of different States, and this clause had reference to such.

Mr. P. said it might be necessary to give his opinion of the contract in question. So far from its having been a valuable contract to the State, he thought it had been a very injurious one. It was doubtless deemed beneficial at the time, but it had proved otherwise. The State had not only given up the stock which she held in the funds of the U. States to the State Bank, but she stipulated that no tax should be laid upon this new bank. So that gentlemen might rest the whole of their estates in this Bank, and thereby escape taxation altogether, except the poll tax. And what has the State received from this Bank? It has been two years and a half in operation. At the end of the first year after its operations commenced, it divided 2 1/2 per cent upon its capital, and it has made two half yearly dividends since of the same amount, which has done little more than pay the four per cent, which the State had to pay upon her deferred payment.

Gentlemen say the Bank has been prevented from making a larger dividend, by the clog which the paper currency has been upon their institution. But they were not compelled by law to take up this currency till the year 1817. Owing to some collision between the Banks, however, they have chosen to take in a considerable part of it sooner. But in the part of the State in which he lived, a ten shilling bill is worth more than a dollar note of the State Bank, and will be readily received. And if the Bank has taken up the currency, they have put their own notes out in its stead and he considered the loss very trifling to them. They have a right to issue upon it; whether it would be safe to do so, he could not tell. But while it was in circulation it was as valuable to the people as Bank notes.

On the other hand look at the profits derived from the Newbern and Cape Fear Banks. We have vested but a small capital in those Banks, but they produce us a large profit. Besides we have taxed them, and thereby obtained a considerable revenue from them. But when the State Bank was established, Capitalists from different parts of the State placed their funds in Bank stock in order to avoid taxation. The act establishing that Bank is an act curtailing the power of the Legislature and therefore not binding upon it. The Legislature who passed that law ought to have known that it was not in its power to enter into such a stipulation. So far from this law being binding, he had no doubt but this Legislature might rightfully pass a law to tax this Bank, as well as any other property.

Mr. P. said, that the bill before the house provides, that in case the State Bank surrenders her charter, the Newbern and Cape Fear Banks will take up the paper currency before the year 1817, in the same manner as the State Bank had agreed to do. We propose to place these Banks upon the same ground with the State Bank. If they have taken up a part of the currency already, it was because they found it their advantage to do so. All the advantages derivable from the State Bank will be derived from the Newbern and Cape Fear Banks, if the present bill shall

pass and the difference in the stipulations is very great. We have not said that another legislature shall not act upon this subject. We have not said another legislature shall not tax them. To say so, in his opinion, was striking at the foundation of the principles of our government.

Mr. P. asked whether it would be right to let the charters of the Newbern and Cape Fear Banks expire. Institutions which had been so useful and beneficial to the State. If, said he, we permit these Banks to go on with an increased capital, and tax them as we ought to do, we shall derive a revenue from them of at least \$20,000 a year, a sum greater than is produced by all the town property in the State.

But it was said, too much Banking Capital would be injurious to the people. He did not think so. The more money brought into market the more easily it would be obtained. No more of it would be put in circulation than was necessary. It was the business of the Banks to take care how they let it go out, and they might be safely trusted with the management of their own concerns.

Mr. IRDELL viewed this question as one of the most important that could be brought before the Legislature—a question which is to decide whether this Legislature is to be bound by its contracts, or whether it is above all law human and divine. He acknowledged himself a small stockholder in the State Bank; but said it was perfectly immaterial to him in that respect, whether the Bank continued in operation, or not. But he felt interested for the honor of the State, and for the interest of his constituents; and for these reasons, he would state his objections to the report and bill before the house.

Before he entered upon the subject he would remark an inconsistency which appeared on the face of the Memorials and of the arguments used in support of them. They assert that a Bank with a specie capital alone cannot be carried on in this State; and in the next breath, ask to be allowed the privilege of conducting a bank of this description.

We are told that this offer proceeds from the disinterested Patriotism of the stockholders of the Newbern and Cape Fear Banks. He had believed that patriotism had little to do with the stockholders of Banks—he had concluded they were generally actuated by considerations of interest alone.

It had been stated already, and was well known in this house, that the legislature entered into a contract with the stockholders of the State Bank in the year 1810 and confirmed it in the subsequent year in the following words "that no other Bank shall be established by any future law of this State, during the continuance of the Corporation thereby created, for which the faith of this State is pledged." He considered this compact as binding upon this Legislature not to act on the subject before the house. It has been said it is not so, because the Legislatures of 1810 and 1811 had no right to bind succeeding legislatures; that the acts are therefore unconstitutional, and not binding.

The gentleman from Anson, who spoke last, had laid down the broad position that one Legislature cannot be bound by a preceding one, and instead of adducing any proof of this from any of our own institutions or Constitutions, he goes to Great-Britain for proof. It is true that the doctrine which he had quoted, had been laid down by Blackstone in reference to the British Parliament; but his doctrine does not hold good here. The Legislature of this State and of every other State, is bound by their Constitution; and they can no more break a contract once made, than an individual can break his contract.

This principle has been decided in this State. It was decided in relation to our University; when the

State had attempted to take back from that Institution certain funds which it had before secured to it. The principle had also been decided over and over again in the Supreme Court of the U. States.

It had been said, that the clause in the Constitution of the United States in relation to the impairing of contracts, does not apply to States, because that instrument did not intend to affect their sovereignty. The Judges of the Supreme Court had put a different construction upon it. He believed it was intended particularly to apply to State Legislatures, as there was more danger that a Legislature might pass such laws in their own behalf, and therefore it was declared, "that no Legislatures shall pass any law to impair the obligations of contracts."

But the pledge of the State to the State Bank is said to be void because it grants a monopoly. In the first place he contended it did not grant a monopoly. A monopoly is where a privilege is granted to an individual or a set of individuals, to carry on some trade or business, such as the British East India Company. But the Constitution itself makes the distinction. A monopoly includes exclusive privilege; but there may be an exclusive privilege, and no monopoly. Exclusive privileges may be granted in consideration of public services. Members of Congress, for instance, have the privilege of franking letters; but this is not a monopoly. The State Bank possesses a privilege, but not a monopoly. What is the business of the State Bank?—It is to discount Notes and purchase bills of exchange. Is this business confined to the State Bank? Certainly not; every individual in the community, who has the means, may discount Notes or purchase bills of exchange, as well as the State Bank. But the State Bank has exclusive privileges. They have them in their incorporated capacity solely; they are allowed the common privileges of incorporated companies.

But it is said, that when the legislature enacted that "no other Bank shall be established," they did not mean to say the charters of Banks already established should not be extended. He agreed with the gentleman from Hillsborough, (Mr. Ruffin) who had so well explained this subject, that whenever the meaning of a law is ascertained by the law itself, that is the meaning which must be put upon it. If the meaning of the parties to a contract at the time of making it can be ascertained, that is surely the true meaning.

But take the words of the law themselves "no other Bank shall be established, &c." But gentlemen say the renewal of these charters is not establishing another Bank. But surely it is the same thing. If they are not renewed, the Newbern and Cape Fear Banks will expire in the year 1820; and therefore to say now they shall exist for fifteen years after that period, is in effect to establish by law new Banks. This law will not take effect till these charters expire. Suppose the charters of these Banks had expired yesterday, if we say they shall still exist, and grant them a new charter, is it not erecting them anew? It must be so considered.

The fears of members have been attempted to be excited by the great stress which has been laid upon the political influence which the State Bank would acquire. If he could believe that it would have such influence, had he an hundred times the amount which he held, he would rather throw the whole into the fire than appear in its support; but he could see no foundation for this apprehension. At present, the State holds one-fourth of the whole capital of the Bank; and from the number of votes which the State gives to its Agent the Public Treasurer, in the election of Directors, it is in the power to say who shall be the Directors of the Institution. Besides this,

the Treasurer is a Director ex officio.

If, said Mr. I. this legislature makes a contract, is it not right that it should be bound by it? Does it signify whether a contract be made between public bodies or individuals? The Legislature is a body, always in existence. The moment that one set of members goes out of power, another steps in. If then, the last Legislature bound itself to perform a certain act, this Legislature is equally bound. He made this remark, because it had been said, that one Legislature could not bind a succeeding Legislature.

But, admitting that the Legislature have the power to rescind a contract; though he was as firmly convinced of the contrary as he could be convinced of any thing and though this opinion had been confirmed by decisions of the Supreme Court of this State and of the U. States. Admitting that all these decisions had been erroneously made, yet would it be politic in this Legislature to tell the people throughout the U. States, that we, the Legislature of North-Carolina, though we may make contracts, we hold ourselves at liberty to set them aside at pleasure. Because we have of, said no superiors on Earth, or above the Earth—because we are complete sovereigns, shall we tell the People, LAC, will not be bound by our contracts.

In this season of War, and difficulty, said Mr. I. where are we to look for supplies for the protection of our sea coast, and for the purchase of munitions of war? Our only resource is Loans. And upon what foundation are these to be obtained? What but the faith of the State? Why, then, will you tell the world that you consider your faith as nothing but a straw which you can break at pleasure? This is not the way to establish our credit. If Congress were to adopt a course like this, what would become of the General Government, and how could we support the present, or any future war? Taxes cannot be immediately collected. Loans must always be resorted to in the first instance, and the faith of the United States is pledged for their payment. This is the only security the money lender has and it is deemed sufficient. But if a doctrine like the present is to be broached, all confidence in Governments would vanish. Nothing ought to be held more sacred than public faith. It should be pure as a virgin's honour. For his part, he should never wish to live in any Country where the Legislature shall declare themselves at liberty to observe or break their contracts at pleasure.

Mr. I. concluded by saying, that he hoped that the decision of this question would not be influenced by passion or prejudice; but that gentlemen would seriously and soberly determine whether the faith of the State shall be preserved inviolate, or whether it is worth nothing. As an individual, he would perform his contract, whether the law bound him to do so, or not; and as a member of the Legislature, he would not say he was less bound to perform a contract entered into on behalf of the State.

[Debate to be continued.]

JOSEPH ROSS

WILL sell that part of his lot on Fayetteville Street, now occupied by Messrs. Fuller, Mason, Atkinson, Meers, and Miles. This will be sold on such terms as will be an inducement to those who wish to invest their money in profitable property. Raleigh, Dec. 22, 1813.

William Pannill,

RESPECTFULLY informs his friends and the public, that he has leased the houses and lot in the town of Hillsboro, lately occupied by Henry Thompson, Esq; situate on the main street, between Eno Bridge and the Market-house, where he has lately erected a Tavern, which has been thoroughly repaired, and has made additions made to the streets are now built and will contain about thirty rooms in separate stalls. Those gentlemen who may please to favor him with their custom, may depend on his best endeavours to please, and see that none depart dissatisfied. Hillsboro Dec. 17th, 1813.