A NEW SYSTEM OF PAPER CURRENCY.

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CONTENTS.

PART FIRST.

NOTE, 5

CHAPTER I.- Outline of the System, 9

CHAP. II.- Advantages of the System, 14

CHAP. III.-Security of the System, 21

CHAP. IV.- Practicability of the System, 27

CHAP. V.- Legality of the System, 48

PART SECOND.

ARTICLES OF ASSOCIATION OF A MORTGAGE STOCK BANKING COMPANY.

PART FIRST

NOTE.

THE subscriber believes that the right of property in ideas, is as valid, in the view both of the Common and constitutional law of this country, as is the right of property in material things; and that patent and copyright laws, instead of superseding, annulling, or being a substitute for, that right, arc simply aids to it.

In publishing this system of Paper Currency, he gives notice that he is the inventor of it, and that he reserves to himself all the exclusive property in it, 'which, in law, equity, or natural right, he can have; and, especially, that he reserves to himself the exclusive right to furnish the Articles

of Association to any Banking Companies that may adopt the system.

To secure to himself, so far as he may, this right, he has drawn up and copy. righted, not only such general Articles of Association as will be needed, but also such other papers as it kill be necessary to use separately from the Articles.

Even should it be possible for other persons to draw up Articles of Association, that ‘would evade the subscriber’s copyright, banking companies, that may adopt the system, will probably find it for their interest to adopt also the subscriber’s Articles of Association; for the reason that it will be important that Companies should all have Articles precisely, legally, and verbally alike. If their Articles should all be alike, any legal questions that may arise, when settled for one Company, would be settled for all.

Besides, if each Company were to have Articles different from those of other., no two Companies could take each other’s bills on precisely equal terms; because their legal rights, as bill holders, under each other’s Articles, would not be precisely alike, and might be very materially different.

Furthermore, if each Company were to have Articles of Association peculiar to itself, one Company, if it could take another’s bills at all, could not safely take them until the former had thoroughly examined, and satisfactorily ascertained, the *legal* meaning of the latter’s Articles of Association. This labor among banks, if Companies should he numerous, would be intolerable and impossible. The necessity of studying, understanding, and carrying in the mind, each other’. different Articles of Association, would introduce universal confusion, and make it impracticable for any considerable number of Companies to accept each other’. bills, or to cooperate in furnishing a currency for the public. Each Company would be able to get only such a circulation as it could get, ‘without having its bills received by other banks. But if all banks have precisely similar Articles *of* [*vi] Association, then one Company, so soon as it understands its own Articles, understands those of all other Companies, and can exchange bills with them readily, safely, and on precisely equal terms.

Moreover, if each separate Company were to have its peculiar Articles of Association, it would be wholly impossible for *the public* to become acquainted with them all, or even with any considerable number of them. It would, therefore, be impossible for the public to become acquainted with their legal rights, as bill holders, under all the different Articles. Of course they could not safely accept the currency furnished by the various Companies. But if all the Companies should have Articles precisely alike, the public would soon understand them, and could then act intelligently, as to their legal rights, in accepting or rejecting the currency.

The subscriber conceives that the Articles of Association, which he has drawn up, and copyrighted, are so nearly perfect, that they will never need any, unless very trivial, alterations. In them he has intended to provide so fully for all exigencies and details, as to supersede the necessity of By-Laws. This object was important, not only for the convenience of the Companies themselves, but because any power, in the holders of Productive Stock, to enact By-Laws, might be used to embarrass the legal rights of the bill holders under the Article, of Association.

Besides, as the holders of Productive Stock are liable to be continually changing, any power, in one set of holders, to establish By-Laws, would be likely to be used to the embarrassment, or even injury, of their successors.

It is obviously important to all parties, that the powers of the Trustees, and the rights of all holders, both of Productive and Circulating Stock, should be legally and precisely fixed by the Articles of Association, so as to be incapable of modification, or interference, by any body of men less than the whole number interested.

LYSANDER SPOONER.

Boston, 1861.

[*9]

A

NEW SYSTEM

-OF-

PAPER CURRENCY.

CHAPTER I.

OUTLINE OF THE SYSTEM

THE principle of the system is, that the currency shall represent an *invested* dollar, instead of a specie dollar.

The currency will, therefore, be redeemable by an invested dollar, unless the bankers c*hoose* to redeem it with specie.

Theoretically the capital may be made up of any property whatever. But, in practice, it will doubtless be necessary, in order to secure public confidence in the currency, that the capital should be property of a fixed and permanent nature, liable to few casualties and hazards, and yielding a constant, regular, and certain income, sufficient to make the PRODUCTIVE STOCK, hereafter mentioned, worth ordinarily par of specie in the market.

The best capital of all will probably be mortgages; and they may perhaps be the only capital, which it will ever be expedient to use.

This capital is to be put into joint stock, held by Trustees, and divided into shares, of one hundred dollars each, or any other sum that may be thought best. [*10]

This Stock may be called the PRODUCTIVE STOCK, and will be entitled to the dividends.

The dividends will consist of the interest on the mortgages, and the profits of the banking.

Another kind of Stock, which may be called *Circulating Stock,* will be created, *precisely equal in amount* to the PRODUCTIVE STOCK, and divided into shares of *one dollar each.*

This *Circulating Stock* will be represented by certificates, scrip, or bills, of various denominations, like our present bank bills - that is to say, *representing one, two, three, five, ten, or more shares, of one dollar each.*

These certificates, scrip, or bills of the *Circulating Stock* will be issued for circulation as a currency, by discounting notes, &c., as our bank bills are now.

This *Circulating Stock* will be entitled to no dividends; and its value will consist wholly <fn1> in its title to be received, at its nominal value, in payment of debts due to the bank, and to be

redeemed by PRODUCTIVE STOCK, unless the bankers *choose* to redeem it with specie. In law, the *Circulating Stock* will be in the nature of a lien upon the PRODUCTIVE STOCK.

Such are the general principles of the system.

The following provisions, although perhaps not essential to the system, will yet serve to keep the currency at a uniform value, and make the system operate without friction.

The original owners of the PRODUCTIVE STOCK, and all who hold it through *purchase* from them, (instead of by transfer in redemption of bills,) may be called PRIMARY STOCKHOLDERS. [*11]

Those, who hold PRODUCTIVE STOCK, by transfer in redemption of bills, may be called *Secondary Stockholders*.

All the resources of the bank - that is, the interest on the mortgages, and the banking profits - should be pledged to pay the *Secondary Stockholders* precisely six per centum per annum (or such other per centum as the Articles of Association may fix for them to receive) on their Stock; *no more, no less.* After these dividends shall have been paid to the *Secondary Stockholders,* the remaining dividends should be divided among the PRIMARY STOCKHOLDERS - *whether such dividends shall be more, or less, than those received by the Secondary Stockholders.*

The effect of securing to the *Secondary Stockholders* precisely six per centum (or any other given per centum) on their Stock, will be to make the *bills* represent, *to the public,* either invested capital, yielding precisely six per centum per annum (or precisely any other per centum, which it may be designed to represent) *or specie;* because the bills may, at pleasure, be converted into such capital, unless the bankers *prefer* to redeem them with specie.

Whenever PRODUCTIVE STOCK shall have been transferred, in redemption of bills, the bankers will have the right to buy it back, at pleasure, on paying its face in specie, with interest, (or dividends,) at the prescribed rate, for the time it shall have been in the hands of the *Secondary Stockholders*. <fn2>

It may be desirable, for various reasons, that the currency, representing the invested dollar, should, at all times, be, as nearly as may be, on a par with the specie dollar; neither rising above, nor falling below it, in value. This object, nearly enough for all practical purposes, can be accomplished in this way, to wit:

The rate of dividend, secured to be paid to the *Secondary Stockholders,* on their PRODUCTIVE STOCK, should be fixed so high as to make that Stock worth, *in their hands,* par of specie. [*12] (Under an abundant currency, such as this system would furnish, six per centum would probably be sufficient for this purpose). This would keep the bills *up* to par with specie; because they could, at pleasure, be converted into either PRODUCTIVE STOCK, or specie.

On the other hand, the facts, that the bankers may, if they please, redeem their bills with specie, rather than by PRODUCTIVE STOCK, and that they will have the right, at any time, to buy back the PRODUCTIVE STOCK, from the *Secondary Stockholders, by* paying its face in specie, will generally keep the bills *down* to par with specie. <fn3>

So long as the banking business shall yield sufficient profit to pay expenses, and the PRODUCTIVE STOCK shall remain in the hands of the *original* owners, there will be no necessity for the interest on the mortgages being paid; because what would be paid in by each Stockholder as interest, would come directly back to him as dividend. The payment of the interest *to* the bank, and of the dividends (so far as they shall be made, up of such interest) *by* the bank, will therefore be merely nominal transactions on the books of the bank, without either being actually made.

If an original Stockholder should *sell* his PRODUCTIVE STOCK outright, it would then be necessary that he should pay his interest. [*Inserted Page]

Although the banks make no absolute promise to pay specie *on demand,* the system nevertheless affords a much better *practical* guaranty for specie payments, than our present system; for these reasons, viz.

1. The banks would be so universally solvent, and so universally known to be solvent, that no runs would ever be made upon them for specie, through fear of their insolvency. They could, therefore, maintain specie payments with much less amounts of specie, than our present banks can.

2. In ninety-nine times in a hundred, the alternative redemption would probably be preferred to specie, by the bill-holders. This would still further lessen the amount of specie necessary to be kept on hand.

3. The banks would probably find it for their interest, as promoting the circulation of their bills, to pay, at all times, such *small* amounts of specie, as the public convenience might require.

4. Whenever specie should not be paid on demand, no dividends could be paid to the bankers, until all claims for specie, with interest, should have been paid in full; that is to say, until all *Circulating Stock,* presented for redemption, and not redeemed by PRODUCTIVE STOCK, should have been redeemed by specie; and all PRODUCTIVE STOCK, that should have been transferred in redemption of circulation, should have been repurchased, by specie, and restored to the original holders. (For particulars on this point, see Articles of Association, especially Articles 13, 20, 23, 24, *25,* 26, 27, 28, and 29.)

5. If there should he any suspensions of specie payments, they would be only temporary ones, by here and there a bank separately. and not by all the banks simultaneously, as now. No general public inconvenience would therefore be felt from that cause. [*13]

If, when any PRODUCTIVE STOCK shall have been transferred, in redemption of the bills, the banking profits should not be sufficient to pay the dividends, .to which such *transferred Stock* will always be entitled, it will be necessary for the original Stockholders to pay interest *pro rata* on their mortgages, sufficient, with the banking profits, to pay the dividends on such transferred Stock.

If any original Stockholder (mortgagor) should wish, at any time, to take his capital out of the bank-that is, release his estate from the mortgage - he has only to request the Trustees to cancel an equivalent amount of *his own* PRODUCTIVE STOCK, and also an equivalent amount of *Circulating Stock.* They can then discharge his mortgage, without injustice to any one; and his rights in, and liabilities to, the bank are at an end; he having first paid all dues that may have previously accrued.

Minor details of the system will be seen in the Articles of Association.

N. B. In the Articles of Association, the system appears much more clear, simple, and exact, than it can be made to do in any brief description of it. [*14]

CHAPTER II.

ADVANTAGES OF THE SYSTEM.

1. THE system would furnish, at all times, an abundant currency. It would furnish currency equal to one third, or one half, the value of all the real estate in the country - if so much could be used.

2. The currency would be *stable in value.* The system is Capable of furnishing so much currency, that a large demand could be supplied as easily as a small one, and without causing any variation in the market value of the currency, or raising the rate of interest.

The presence or absence of specie in the country, would have no effect, either upon the amount of currency, or upon the stability of its value.

The prices of property would be stable, so far as their stability should depend upon the stability of the currency.

3. The currency would be *solvent.* It would be absolutely incapable of insolvency; for there could never be a dollar of the currency in circulation, without an invested dollar (Productive Stock) in bank, which *must* be transferred in redemption of it, unless redemption be made in specie. All losses, therefore, fall upon the bankers, and not upon the bill holders. If the original Stockholders should all fail- that is to say, if they should be compelled to transfer *all* their Productive Stock in redemption of their circulation - the result would simply be, that the original capital (Productive Stock) would pass, *undiminished,* into the hands of a new set of holders, *who would proceed to bank upon it* (re-issue the bills, and redeem them, if necessary, by the transfer of Productive Stock) *in the same way that their pre-* [*15] *decessors had done.* And if they, too, should lose *all* their Productive Stock (capital) by the transfer of it in redemption of the circulation, the Stock itself would pass, *unincumbered and unimpaired,* into the hands of still another new set of holders, who would bank upon it, as the others had done before them. And this process would go on indefinitely, as often as one set of bankers should fail (lose *all* their Productive Stock). The holders of the Productive Stock, for the time being, would always be the bankers, for the time being. And whenever one set of bankers should have made such losses as to compel a transfer of *all* their Productive Stock, that Stock would pass into the hands of a new set of holders, and the bank, *as a corporation,* would be just as solvent as at first. So that, however badly the banking business should be conducted, and however frequently the *bankers* might fail, (if transferring all their capital, or Productive Stock, in redemption of their circulation, may be called failing,) the bank itself, as a corporation, *could not foil.* That is to say, its circulation could never fail of redemption. Its capital would forever remain intact; forever equivalent to the circulation; and forever subject to a compulsory demand in redemption of the circulation. In this way all losses necessarily fall upon the bankers (in the loss of their Productive Stock) and not upon the bill holders. (See Article XXI, of the Articles of Association.)

4. The solvency of the currency will be *known* by all, both in the neighborhood of the place of issue, and at a distance from it (if the bankers should choose to make its solvency known at a distance). These results will be accomplished in this way.

The mortgages, composing the capital of the bank, will be matter of public record, and every body, *in the neighborhood,* will have the means of judging for himself of the sufficiency of the property holden. If the property should be insufficient, the bank would be discredited at once; for the abundance of solvent currency would be so great, that no one would have any induce-[*16] ment to take that which was insolvent or doubtful. In this way the credit of a bank would be established *at home.*

Its credit *abroad* would be established in this way,-

Suppose a bank, at Chicago, should wish to establish the credit of its bills in New York. All that would need to be done would be to make arrangements with some bank in New York to redeem them. <fn4> And to induce the New York bank to redeem them, it would not be necessary,

as now, that the Chicago bank should keep a deposit of specie in New York. All that would be necessary would be to satisfy the New York bank of its (the Chicago bank’s) solvency - that is, of the sufficiency of the property holden. This could be done by the New York bank’s sending a commission to Chicago to investigate the question. And when the New York bank should have once become convinced of the solvency of the Chicago bank, the credit of the latter is established *forever*. The New York bank would not need to be continually investigating the condition of the Chicago bank; because, under this system, a bank, once solvent, is forever solvent.

It would, therefore, be perfectly easy for banks, in remote parts of the country, to make their bills redeemable in the great commercial centres, or any where else they might please, *without keeping deposits of* specie *at those points*.

One important result, among others, of this system would be, that when a merchant, from Chicago, for example, should come to New York to make purchases, he would not buy on his own Credit; but would get his credit, at bank, in Chicago; bring Chicago bank bills to New York, and make his purchases with them. Or else the bills of New York banks would be so abundant at Chicago, that he would there exchange his Chicago bills for New York bills, and bring the latter home, and exchange [*17] them for goods. Thus all the jobbing business of the country would be done for cash, instead of on credit, as now.

5. The currency would be *cheap* (afforded at a low rate of interest) and for two reasons. 1. Because the capital costs nothing: That is, its use as banking capital costs nothing; because its use as banking capital, does not interfere with its use for other purposes. 2. The system admits of competition limited only by the real property of the country. These two facts would bring the rate of interest, *at all times,* down to the lowest point, at which the simple business of banking could be profitably done.

6. The basis of the currency could not, like specie, be carried out of the country, so as to leave our own people destitute of a currency.

7. The system stands wholly on common law principles; requiring no aid from the government, in the way of charters of incorporation; amid (in the United States) constitutionally admits of no prohibition from the government. <fn5>

8. It gives the Stockholders all the benefits of an act of incorporation, so far as to shield them from individual liability. At the same time, it avoids all necessity for privileged legislation. It also avoids all injustice to, and all liability of throwing any losses upon, the bill holders, because they are certain to get the [*18] precise thing they bargained for; that being set apart, and made legally incapable of being applied to any other purpose.

9. The system would be a free one. That is, the right of furnishing currency, instead of being made a legalized monopoly, would be open equally to every man, who had the necessary property.

10. The system would be adapted to distribute credit equally as possible through the community.

11. Currency and bank credits would be so abundant, cheap, and generally diffused, as nearly or quite to supersede all other forms of temporary credit between man and man, and introduce a general system of cash payments. This would be the result, for this reason. The banks could generally, if not always, afford credit cheaper than individuals engaged in trade. The banks would be so numerous, that a man deserving of credit at all, could generally obtain it at bank. And the result would soon come about, that nearly all temporary credit would *be* obtained at bank, and cash payments would be made in nearly all transactions between individuals. The hazards of trade would thus be greatly diminished; every man’s business would stand on its own basis; his solvency or insolvency would be an independent matter, instead of being complicated, as now, with the solvency or insolvency of so many others.

12. It would tend to diversify industry to the greatest possible extent, by affording the best possible facilities, which a mere currency system can furnish, for engaging in the production of all new commodities as fast as they should be invented.

13. The system would liberate specie for the uses of international commerce.

14. The system would greatly enhance the value of real estate, not so much by reason of the banking profits derived from it, as of the activity it would give to agricultural, manufacturing, and commercial industry.

15. The proposed system would tend to graduate the prices of property throughout the country, according to one common [*19] standard. To illustrate this point, we will suppose that, in Massachusetts, an acre of land, which yields a net income of six dollars per annum, over all charges, is worth $100. Why is it worth $100? Because the rate of interest, in Massachusetts, is six per centum per annum. The acre of land, therefore, yields the same annual income as $100, at interest. But, in Illinois, we will suppose, an acre of land, that yields $12, or $18, net income per annum, (two or three times as much as the acre in Massachusetts,) is worth but $100, the same as the acre in Massachusetts. Why is it worth no more? Because the rate of interest, in Illinois, is twelve or eighteen per centum per annum; two or three times more than in Massachusetts. The acre of land, in Illinois, therefore, although it yields two or three times as much income as the acre in Massachusetts, brings only the same price in the market, because it will yield no more annual income than $100, at interest, in Illinois. But the proposed system, by making currency abundant, and reducing the rate of interest, in Illinois, to nearly or quite the same rate as in Massachusetts, would raise lands, in Illinois, to a price corresponding the income they yield. It would raise them to substantially the same standard of price with the lands in Massachusetts; so that, if an acre of land yielded $12, or $18, net annual income, the market price of the land would be $200, or $300, instead of $100, as now.

In this way, this system, by making currency abundant, and the rate of interest low, throughout the country, would tend to graduate the prices of property by one common standard throughout the country, according to the net income, or real value, of the property.

16. It would benefit the condition of poor men in various ways, to wit: *First,* those wino should labor for wages, would receive their wages promptly, and in money (currency). They would thereby be enabled to make their purchases with cash, and thus make them more advantageously than now. *Secondly,* there would be no stagnations in business, by which they would [*20] be thrown out of employment, and compelled to consume their accumulations, and perhaps fall in debt. *Thirdly,* there would be a much greater diversity of industry than now, and as a consequence, all labor would be better paid than now. *Fourthly,* those who should wish to hire capital, and establish themselves in business of their own, would be much better able to do so than now, because when all traffic should be done for cash, it would be much more safe to loan capital to a poor man, than it is now, when he is obliged to give, as well as to get, credit. *Fifthly,* men of wealth would retire, earlier than now, from active business, and make way for, and loan their capital to, younger men; because they could certainly loan their capital more safely than now, and probably more advantageously. By loaning their capital first on mortgage, and thus getting one income from it; and then converting the mortgages into bank capital, and thus getting another income from it, they would probably do better with their capital, than to remain in business. At any rate, the management of their capital would thus be attended with less anxiety and risk, than if they were to remain in business themselves.

17. As a standard of value, the currency would be much more uniform than it is now, because a dollar, invested for twenty or thirty years, where it is sure to yield, say, six per cent. income each year - never more, and never less - would obviously maintain a more uniform value than the dollar now does, which brings, say, four per cent. income this year, and ten, fifteen, or twenty next year. [*21]

CHAPTER III.

SUPPOSING the property mortgaged to be ample, the system, as a system, is absolutely secure. That is to say, the currency is absolutely sure of redemption. Thee capital cannot, in any possible event, be reduced below the amount necessary for the redemption of the entire circulation.

The only question, then, is - what assurances have the public, that the property mortgaged will always be ample?

The answer is, that they have abundant assurances, as follows:

1. The mortgages will all be on record, where any body interested can examine them, and judge for himself whether the property holden is sufficient.

2. Each bank will find it expedient to print a large number of copies of its Articles of Association, including copies of its mortgages. Appended to these copies, may be copies of the certificates of appraisers, as to the value of the property. These certificates, if they come from men of known character and judgment, will be entitled to confidence. Certificates also of the assessed value of the property, on the tax lists of the town, may be appended; and these, coming from disinterested and honest men of good judgment, as the assessors of taxes usually are, will be worthy of reliance.

Copies of the Articles of Association, with these certificates appended, will be sent, by the bank, to other banks, and given to individuals, with whom the bank wishes to establish its credit.

3. The Trustees of a bank will be generally known as men of character and judgment - for otherwise a bank would be discredited at once. If they are thus known, their acceptance of [*22] the office of Trustees, will be a reasonable guaranty for the sufficiency of the property holden; for such men would not be likely to become Trustees, except for a solvent bank.

4. The abundance of undoubted currency would be such, that the public would be under no necessity to take doubtful currency; and therefore doubtful currency could get no circulation at all.

5. Mortgages upon the real property of the country, at one third, or one half, its value, would probably furnish a great deal more currency than could be used. No one company, therefore, could expect to get out a circulation of more than one third, or one half; the value of the property mortgaged. It would be of no use for them, therefore, to mortgage their property for more than that amount. If they should mortgage their property for more, and attempt to get out more circulation, they would thereby discredit their bank, and thus either fail of getting any circulation at all, or certainly fail of getting as much circulation as they might have got, if their property mad been mortgaged only for a proper amount. It, therefore, would not be for the *interest* of a banking company to mortgage their property at a higher rate than one third, or one half, its value. And at this rate, the mortgages would be safe for a long series of years, (unless in very extraordinary cases,) because, under a system of abundant currency, real estate would always be rising in value, rather than falling. The mortgages, therefore, would be growing better all the while, instead of growing worse.

6. By the Articles of Association, all the mortgages, which make up the capital of a bank, are made mutually responsible for each other; because, (see Articles XXIX and XXXVII,) if any one mortgage proves insufficient, no dividend can afterwards be paid to any PRIMARY STOCKHOLDER, until that deficiency has been made good by the company. The effect of this provision will be, to make all the founders of a bank look carefully to the sufficiency of each other's mortgages; because no man will be willing to put in a good mortgage of his own, on equal terms with a bad mortgage of another man's, when he knows that his [*23] own mortgage will have to contribute to make good any deficiency of the other. The result will be that the mortgages, that go to make up the capital of any one bank, will be *either all good, or all bad.* If

they are all good, the solvency of the bank will be apparent to all *in the vicinity;* and the credit of the bank will at once be established, *at home*. If the mortgages are all bad, that fact also will be apparent to every body *in the vicinity;* and the bank is at once discredited, *at home.*

From all the foregoing considerations, it is evident that nothing is easier than for a good bank to establish its credit, *at home;* and that nothing is more certain than that a bad bank would be discredited, *at* home, from the outset, and get no circulation at all.

It is also evident that a bank, that has no credit at home, could get none abroad. There is, therefore, no danger of the public being swindled by bad banks.

7. It would be easy for a *good* bank to establish its credit abroad - for it could do it by establishing its credit with other banks. This it could do, partly by means of its credit at home, and partly by making arrangements with other banks to redeem its bills. In order to do this, it must be at the necessary expense and trouble of satisfying these other banks of its solvency - that is, by furnishing them satisfactory evidence of the sufficiency of the mortgaged property; a thing, that is obviously very easy to be done, if the mortgaged property be really sufficient.

8. In addition to the security of each individual mortgage, and of the mutual responsibility of the mortgages for each other, there is the still further security of all the debts due to the banks; debts a little more than equivalent (by the amount of interest on the loans) to the amount of bills in circulation.

In this connexion it may be added, that under the system proposed, the banking business will be a much safer business than it is now; and consequently the debts due *to* the bank will be a much better security for the solvency of the bank, than such debts now are; because, under a system, which furnishes, at all [*24] times, a constant and ample supply of currency, industry and trade will be subject to none of those revulsions and stagnations, which cause extensive or general bankruptcies; the debtors of banks will all make their sales for cash, instead of giving credit. For these reasons the credits, given by the banks, will obviously be much more uniformly safe than they now are; and consequently the debts, due the banks,, will afford a much better security, than they now do, for the solvency of the banks themselves.

9. The banks themselves would act as guardians to the public against frauds by each other. This would be done in this way. Bank A (a solvent bank) would not receive the bills of bank B, unless bank B had first satisfied bank A of its solvency. And bank A would be satisfied only by personal examination of the mortgages of bank *B.* In this way any unsound bank would be discredited by the surrounding banks, and thus discredited in the eyes of the community.

But it has been said that under the New York free banking law, mortgages are deposited with the State Comptroller, (or Superintendent of Banks,) as security for the redemption of the currency; and that when these mortgages come to be sold, the lands often fail to bring the amount of the mortgage. And the question Inns been asked, whether, under the system here proposed, the mortgaged property might not prove insufficient, as~ well as in New York?

The answer is, that the mortgages in New York may have proved insufficient for either or both of two reasons.

1. They may have proved insufficient, because the lands, being sold *for specie, at a time when specie had mostly left the country, could not bring what was not to be lead - that is, specie*. But this is no proof that the lands were not, *in ordinary times,* and under an abundant currency, a sufficient security; but only that, when specie has gone out of the country, lands are affected like all other property, and will not, any more titan other property, bring their true value *in specie.* [*25]

But under the system proposed, the absence of specie would occasion no contraction of the currency, and no depression in the price of lands. And therefore a mortgage, that was sufficient at

one time, would be sufficient at all times. *No forced sales would be made;* but the mortgages would run (if only the *interest* were paid) until the final winding up of the bank. If the interest were *not* paid, the bank would take possession, and apply the rents to the payment of the interest. Or, at worst, they would sell the property. And it could always be sold advantageously, because, there never being a scarcity of currency, property in general would never be depressed.

2. The other reason, for the failure of the New York mortgages, may have been *fraudulent appraisals.*

The facilities for fraudulent appraisals are much greater under the New York system, than they would be under the system proposed, and for these reasons.

Under the New York system, all that is necessary to get a bank in operation, is, that mortgages, satisfactory to the State Comptroller, or Superintendent of Banks, should be deposited with him. And he accepts the mortgages on the simple appraisal of men, appointed by himself; or satisfactory to himself. This being done, the currency is then issued, and the public receive it, *because the State has thus virtually certified that it is well secured.*

Now, it is evident that all that is necessary to get up a swindling bank, under this system, is simply to secure the approval of *one man* the Comptroller, (or Superintendent of Banks,) who knows nothing of the land himself- to the appraisal of the land mortgaged. If but this one man can either be cheated, or be induced to become himself a cheat, all the other consequences follow; because the currency is then issued under his authority, and is received by the public, on the strength of his virtual indorsement.

Now, as it cannot be a very difficult matter to cheat this one *man,* or perhaps to induce him to become himself a cheat, in [*26] such a case as this, it is evident that the system affords little security for the sufficiency of the mortgages.

But under the system proposed, no such facilities for fraud would exist, because the credit of the bank would not rest upon the certificate of any one man, nor upon any indorsement of the State. The State would not indorse the currency at all, any more than it now indorses the notes or mortgages of private persons. Each bank would, therefore, have to stand on its own merits, subject to the scrutiny of the whole community.

CHAPTER IV.

PRACTICABILITY OF THE SYSTEM.

THE system is plainly practicable, *provided the currency will pass.*

The only question, then, is, whether the currency will pass? Whether men, if left to do as they please, will buy and sell it, in exchange for other commodities, as they now buy and sell gold and silver coin, and bank notes, in exchange for other commodities?

To answer this question, it is necessary to ascertain what it is, that makes *any hung* pass as a currency.

What, for example, is it, that makes gold and silver coin pass as a currency?

The answer is, that *five* conditions are necessary to make any thing pass readily as a currency. *First,* that the thing should have much value, and yet be of small bulk and weight; *secondly,* that it should be divisible into small, parcels; *thirdly,* that the quantity and quality of each of these parcels should be accurately measured, and then reliably marked upon the parcels themselves; *fourthly,* that these parcels should be convenient for being manipulated, counted, transported, &c. ; and, *fifthly,* that the currency should have a *publicly known market value*. <fn6>

These are the *only* conditions, that are necessary to make *any thing* pass readily as a currency.

The paper currency proposed - the mortgage stock currency- fulfils all these conditions. *First,* it would have much value in small bulk and weight. *Secondly,* it would be conveniently [*28] divisible into small parcels, that is, parcels as small as one dollar. *Thirdly,* the quantity and quality of these parcels would be accurately measured, and reliably marked upon the parcels themselves. *Fourthly,* the parcels would be convenient for being manipulated, counted, transported, &c. And, *Fifthly,* the currency would have a *publicly known market value*. Its market value, in comparison with other commodities, would certainly be as well known, as is the market value of gold and silver coins, or bank notes.

There is no reason, then, why it should not pass, as a currency - *at its market value* - whatever that may be.

Its market value may be greater or less than that of gold and silver; but this would not prevent its passing, *at its market value*. Indeed the *market* value of any thing is only that value, at which the thing *will* sell *readily* in the market. So that, to say that a thing has a *market* value - a *publicly known market* value - is equivalent to saying that it w*ill* pass as a currency, provided it be *convenient* in all other respects.

Secondly.

But would this paper currency be *as much in demand,* in the market, as gold and silver coins now arc? That is, would it *sell* as *readily* as the coins now do, in exchange for other commodities?

To answer this question, we must ascertain *why it is* that the coins are in demand at all, as currency; *why it is* that they have a market value; *why it is* that every man will accept them in exchange for any thing he has to sell.

The solution of these queries is, that thee *original, primal source* of all the demand for them, *as currency* - the essential reason why they have a market value, and sell so readily in exchange for all other commodities - is because they are wanted, *to be taken out of circulation, and converted into plate, jewelry, and other articles of use.* [*29]

If they were not wanted, *to be taken out of circulation,* and wrought into articles *of use,* they could not circulate at all, *as a currency*. No one would have any motive to buy them; and no one would give any thing of value in exchange for them.

The reason of this is, that gold and silver, *in the stale of coin, cannot be used.* <fn7> Consequently, in the state of coin, they *produce nothing to the owner.* A man cannot afford to keep them, *as an investment,* because that would be equivalent to losing the use of his capital. He must, therefore, either exchange them for something that he can *use* - something that will be productive - yield an income; or else he must convert them into plate, jewelry, &c., in which form he can *use* them, and thus get an income from them.

It is, therefore, only when gold and silver coins have been wrought up into plate, jewelry, &c., that they can be said to be *invested;* because it is only in that form, that they can be *used,* be productive, or yield an income.

The income, which they yield, *as investments* - that is, the income, which they yield, when *used* in the form of plate, jewelry, &c., - is yielded *mostly* in the shape of *luxurious pleasure* - *the pleasure of gratified fancy, vanity, or pride*.

The *amount* of this income we will suppose to be six per centum per annum, on their whole value. That is to say, a person, who is able, and has tastes that way, will give six dollars a year for the simple *pleasure of using* one hundred dollars worth of plate, jewelry, &c.

This six dollars worth of pleasure, then, or six dollars worth of gratified fancy, vanity, or pride,

is the *annual income* from an *investment* of one hundred dollars in gold and silver plate, jewelry, &c.

This, be it noticed, is the *only income,* that gold and silver are capable of yielding; because plate, jewelry, &c., are the *only* forms, in which they can be *used.* So long as they remain [*30] in coin, they cannot be *used,* and therefore cannot yield an income.

It is, then, only this six per centum annual income - *this six dollars worth of pleasure* - which gold and silver yield, *as investments,* that is really the cause of all the demand for them, in the market, and consequently of their passing as a currency.

This fact may now be assumed to be established, viz. that the origin of all the demand for gold and silver, *as a currency* -the essential reason why they have a market value, and sell so readily in exchange for other commodities - is because they are wanted, *to he taken out of circulation, and converted into plate, jewelry, &c..,* in which form *only* they arc capable of being *used,* or of yielding an income.

By this it is not meant that every man, who takes a gold or silver coin, *as currency,* takes it because he *himself* wants a piece of gold or silver plate, or jewelry; nor because lie *himself* intends or wishes to work it into plate or jewelry; for such is not the case, probably, with one man in a thousand, or perhaps one man in ten thousand, of those who take the coin. Each man takes it, *as currency,* simply because he can sell it again. But he can sell it again solely because some other man wants it, or because some other man will want it, in order to convert it into articles for *use,* lie can sell it, solely because the goldsmith, the silversmith, the dentist, &c., will *sometime* conic along amid buy it, *take it out of circulation,* and work it up into some article*for consumption - that is, for use.*

This *final consumption, or use,* then, is the mainspring that sets the coins in circulation, and keeps them in circulation, as a currency.

It is solely the consumption, or use, of them, *in other articles than currency,* that creates any demand for them, in the market, *as currency.*

It is, then, only the value, which gold and silver have, *as productive investments, in articles of use, in plate, jewelry, &c.,* that creates any demand for them, and enables them to pass, *as a currency*. [*31]

This fact, then, being established, the following proposition is an inevitable deduction from it, viz. : that the *activity* of the demand for gold and silver coins, *as a currency,* depends wholly upon the activity of the demand for them, *to be taken out of circulation,* and converted into plate, jewelry, &c.

To illustrate this point, let us suppose a community of one million of people, shut out from the rest of tire world, having among them one million dollars of gold and silver coins, and having no gold or silver among them, except in coins. If but *one dollar* of these coins were to be taken out of circulation each year, and converted into plate, jewelry, or other articles of use, the demand for all the remaining coins, *as a currency,* would wholly, or substantially, cease. And why? Solely because the stock of coins on hand, (or the stock of gold and silver on hand,) would be equal to a million years' consumption. The consequence obviously would be that gold and silver would have no value in the market; any more than cotton or iron would have a value in the market, if there were a million years' stock on hand.

But if, instead of one dollar, an hundred thousand dollars were annually taken out of circulation, and converted into plate, jewelry, or other articles of use, (even though their place were annually supplied by an equal amount taken from the mines,) this demand for the coins, *to be take out of circulation,* would create a corresponding demand for them, *as a currency*. And why? Solely because the stock of gold and silver on hand, would be equivalent only to ten years'

consumption. This would give them a value, where before they had none; and enable them to circulate, as a currency, where before they could not.

Thus it is evident that the whole demand for gold and silver, *as a currency,* depends upon the demand for them for consumption, *as plate, jewelry, &c.* And consequently the *activity* of the demand for them, *as a currency,* depends upon the *activity* of the demand for them, *for consumption.* In other words, the activity of the demand for the coins, *as a currency,* depends upon the activity of the demand for them as *investments,* in articles of use. [*32]

And what is true of the coins, would be true also of the paper currency proposed. The activity of the demand for the Circulating Stock, *as currency,* would be just in proportion to the demand for the mortgages, or Productive Stock, *as investments.* As the coins would be in demand, as a currency, solely in proportion to the demand for them, to be *invested* in plate, jewelry, &c., so the paper currency would be in demand, as currency, solely in proportion to the demand for it, to be *invested* in mortgages, or Productive Stock. The demand for these two different kinds of *investments,* would govern the demand for the two different kinds of currency.

Now, in order to determine whether the paper currency proposed *would be in as much demand,* in the market, as the gold and silver coins circulating in competition with it, we have only to determine whether the community at large would wish to make annually as many *investments, in the mortgages proposed, as they would in plate, jewelry, &c.* Or, perhaps, rather, the true question is, whether as *large a proportion* of the whole stock of paper currency, in the market, would be annually taken out of circulation, and invested in the mortgages, as of the gold and silver coin in plate, jewelry, &c. If such would be the case, then one kind of currency would be just as much in demand as the other.

To illustrate this point, suppose that, in this country, one hundred millions of coin, and one hundred millions of the proposed paper currency, were in circulation, in competition with each other. And suppose that ten millions of the coin - that is, ten per centum of the whole stock of coin - were annually wanted to be taken out of circulation, and *invested in plate, jewelry, &c.,* and that, ten millions also of the paper currency - that is, ten per centum of the whole stock of paper currency- were annually wanted, to be taken out of circulation, and *invested in the mortgages,* the market demand for these two kinds of currency would be precisely alike.

Or suppose that *one hundred millions* of coin, and *five* [*32] *hundred millions* of the paper currency, were in circulation, in competition with each other; and that *ten millions* of the coin (ten per centum of the whole stock of coin) were annually wanted, to be taken out of circulation, and *invested* in plate, jewelry, &c., and that fifty *millions* of the paper currency (ten per centum on the whole stock of paper currency) were annually wanted, to be taken out of circulation, and *invested* in mortgages, the demand, in the market, for each of the two kinds of currency would still be precisely equal, in point of activity. That is to say, one kind of currency would circulate just as readily as the other.

On this theory, it is very easy to settle the question of the comparative demand for the two different kinds of currency; for, although the amount of paper currency might perhaps be fifty or an hundred times greater than the amount of gold and silver, yet the demand for the mortgages (Productive Stock) as *investments,* would probably be fifty or an hundred times greater than the demand for plate, jewelry, &c., *as investments.*

The reason, why there would be this greater demand for the mortgages, *as investments,* is, that they would yield their income, *in money, or currency,* which could be appropriated to the supply of any and all the various necessaries, wants, comforts, and pleasures, which money can buy; while the plate, jewelry, &c., as *investments,* yield their income mostly in the shape of a luxurious pleasure, which most persons do not highly appreciate, and which few persons can indulge in, to any considerable extent, without being compelled to pinch themselves in the matter of common necessaries and comforts.

Mankind, therefore, desire to have the great bulk of their property invested so as to yield an income in money; and only a very small portion of it in such articles of fancy as plate, jewelry, &c.

Under these circumstances, it is probable that if the paper currency were in circulation in competition with the coin, in the proportion of fifty or an hundred to one, the paper would be just [*33] as acceptable a currency as the coin; would be just as much in demand; would exchange just as readily for other commodities; and would equally well maintain its value in the market.

Thirdly.

Would the mortgages, or *Productive Stock,* be so desirable a form of investment, as to invite capital into it, and thus create a demand for the currency, with a view to having it redeemed by *Productive Stock?*

The answer is, that the *Productive Stock* would be a desirable investment, for the various reasons of security, profit, and convenience.

1. As regards security, no kind of investment would exceed it.

2. As regards profit, the *Productive Stock* would pay two different dividends - one to *Primary* holders, and the other to *Secondary* holders.

The dividends to *Primary Stockholders* would be made up of the interest on the mortgages, and the profits of the banking. The rate of these dividends, therefore, will depend upon the rate of interest on the mortgages, and the amount of banking profits.

Probably the best rate of interest for the mortgages to bear, would be *seven* per centum. This would probably be sufficient to make the *Productive Stock,* in the hands of *Primary* holders, *worth more than par of specie,* even though there should be no profits at all from the banking business. But if there should be profits from the banking business, they would go to swell the dividends. So that the dividends to *Primary* Stockholders would never be less than *seven* per cent. so long as the banking business should simply pay expenses; and they would rise above that rate just in proportion to the banking profits. There can, therefore, be no doubt of the desirable character of the *Productive Stock,* as investments, in the hands of *Primary* holders. [*34]

In the hands of *Secondary* holders, the *Productive Stock* would pay an unvarying rate of dividend, fixed by the Articles of Association.

The currency would represent the *Productive Stock,* in the hands of *Secondary* holders, and not in the hands of *Primary* holders; because the holders of the currency, by returning it for redemption, could generally expect to make themselves only *Secondary* holders of the *Productive Stock.* They could rarely expect to become *Primary* holders; and, therefore, would not return the currency for redemption, with that view.

Probably *six* per centum would be the best rate of dividend, to be fixed for the *Secondary* Stockholders to receive; for that is probably the rate, that would put the currency most nearly on a par with specie. If the rate were fixed at *seven* per cent., the *Productive Stock,* in the hands of *Secondary* holders, would be worth *more than par of specie;* and the consequence would be, that the currency would be returned for redemption, in the hope to get *Productive Stock, rather than specie.* And thus the currency could not be kept in circulation. On the other hand, if the rate of dividend, for the *Secondary* Stockholders, were fixed at only *five* per cent., that might prove insufficient to make the currency worth par of specie. Therefore *six* per cent. is likely to prove a better rate than either *five* or *seven.*

Supposing, then, the rate of dividend, for *Secondary* Stockholders to receive, to be fixed at *six*

per cent., the investment would be sufficiently inviting to make the currency worth par of specie. It would certainly be sufficient to attract much capital, as every day' s observation attests. As a six per cent. stock, it would stand on a par with United States stocks, and State stocks, (bearing six per cent. interest,) which are, at nearly all times, worth par of specie, and oftentimes more than par of specie, in the market.

3. As regards convenience, the *Productive Stock* would be equal to any in the market; especially in the hands of *Secondary* holders. It being in shares of, say, one hundred dollars each, [*36] and its income (in the hands of *Secondary* holders) being precisey fixed, its value is precisely known. The stock is, therefore, in as merchantable forum as capital can be invested in. It is in as merchantable form as United States stocks, or State stocks, (bearing fixed rates of interest,) whelm arc nearly or quite as merchantable as bank bills themselves.

The objections, heretofore entertained against mortgages, as an investment, have no application whatever to stocks of this kind. Those objections have been as follows:

1. The inconvenience of making the investment, owing to the necessity of investigating titles, making valuations, &c., all of which processes are attended with delay, and with some danger of mistakes or frauds. In these bank stock mortgages, these delays and dangers would all be avoided; because the soundness of the titles, and the moderation of the valuations, would be notorious. It would be a necessity, on the part of the banks, to make them. so, as a condition precedent to the banks' getting any circulation for their currency.

2. A second objection, to mortgages heretofore, has been, that each mortgage was in bulk, and could not be broken. It was, therefore, in a great degree, *an unmerchantable article;* because it was not always, nor even often, an easy timing to find a person wishing to make all investment of that particular amount. This objection, too, which was really a very serious one, is entirely obviated in time case of the *Productive Stock;* for here the mortgages are divided into shares of $100, or any other amount that may be desired; and thus put in as merchantable form, as any investment can possibly be in.

3. A third objection, to mortgages heretofore, has been, that neither the interest nor the principal of the investment could be realized from them (unless the debtor should choose to pay) without a tedious delay; taking possession of the premises; looking after rents and profits; giving the mortgagor the (perhaps a long time) for redemption; or incurring delay, expense, and trouble in advertising the premises, and selling them. In [*37] the case of the *Secondary* holders of *Productive Stock,* every objection of this kind is obviated, for substantially the whole resources of the bank (which are morally certain to be ample) are pledged to the payment of the dividends promptly. And even as to the *Primary* holders, they are not likely to be personally troubled in the matter, for the Trustees attend to all business matters in relation to the mortgages. The only one, of the inconveniences just mentioned, that the *Primary* Stockholders are ever likely to be subjected to, is a delay in receiving some portion of their dividends, if the mortgagors should not be prompt in the payment of interest. But this would so rarely occur as to prove a very slight objection, if any, to the investment.

The result, then, obviously would be, that these stocks would be of the very first class, as investments. Their safety, their profit, and their merchantable character, would all conspire to make them preeminently desirable. And the consequence would be that the demand for them would be sufficient to make the currency constantly in demand, as a means of obtaining them.

Under an abundant currency, such as the system would furnish, and Under the low rates of interest that would follow, the *Productive Stock* would probably be much more in demand than stocks, paying similar dividends, now are; because now, a very large amount of loanable capital is kept invested in promissory notes, and other personal securities, on account of their paying a better interest than stocks. But under the system proposed, the banks would be so numerous, and the rate of interest at them so low, that temporary loans would all be obtained at the banks, rather than in the street; and the capital, which is now loaned in the street, would then, as the best alternative,

seek investment in bank stocks. [*38]

Fourthly.

The next question is, would the paper currency proposed, maintain a par value with specie?

This question has already been discussed somewhat; but a few more words need to be said.

We have already seen that the paper would circulate, *at its true value, whatever that might be.* It is, nevertheless, an important question, whether its value, in the market, would be equal to that of specie?

The answer is, that if the rate of dividend, paid to *Secondary* holders of *Productive Stock,* should be six per cent., that would be sufficient to make the currency, *at most times,* if not at all times, worth par of specie. If it should not be at all times, it would be because the market value of specie would fluctuate more than that of the paper; thereby proving that the paper was the most uniform standard of value.

The paper currency could never rise *above* the value of specie; because the banks would have the right to redeem their circulation with specie, if they should so please.

If, therefore, there should ever be a difference between the value of the paper, and that of specie, it must be either because the specie would stand *constantly* above the paper, or because it would *occasionally* rise above it.

Whether the value of specie would stand *constantly* above that of the paper, would depend upon the rate of dividend secured to the *Secondary* holders of the *Productive Stock.* If this rate should be six per centum, that would certainly be sufficient to make the currency worth as much as specie, *at times;* because there are times, when there is plenty of specie to be loaned at that rate.

The only remaining question, then, is, whether the specie would *occasionally* rise in value above the paper? The answer is, that it would very rarely, if ever; and for this reason, viz.: [*39] that the supply of paper would always be so abundant and constant, that it is probable, if not certain, that *none* of those scarcities or contractions, in the currency, which alone cause a rise in the price of specie, would ever occur. And if they never should occur, the paper would *always* be on a par with specie. If, however, the specie should ever stand above the paper, that would only prove, not that the paper had fallen, but that the specie had risen. In other words, it would prove that the fluctuation was in the specie, and not in the paper; and, consequently, that the paper was the least variable standard of value.

Under these circumstances, the paper would constitute nearly all the currency in circulation (unless for sums below one dollar). It would be the only currency loaned by the banks. It would be a legal tender in payment of all debts due the banks. And it would be sufficient for all cash purchases and sales between man and man. And if an individual should want specie for any extraordinary purpose - as, for exportation, for example - he would buy the specie as merchandize, paying the difference between that and the paper.

Still, specie would probably, *at all times,* be more abundant, *as a currency,* in proportion to the demand, than it is now; because it would be so much less needed. The supply would be greater, in proportion to the demand, than now, because the greater supply of paper would supersede the necessity for, and the use of specie, as a currency.

If the proposed paper currency should be introduced throughout the world, (as it sooner or later would be, if found to be essentially better than any other system.) the coins would become superabundant, unless a greater proportion of them should be consumed in the arts, than now. And gold and silver, whether in coin or not, if they now stand above their value for uses in the arts, would fall *to* that value, and there remain, as they ought. [*40]

Fifthly.

Could the proposed system be introduced in competition with the existing system?

Yes, for various reasons, as follows : -

1. The proposed system would meet with no material opposition from any quarter, unless from the stockholders in the existing banks. Would it from them? No; because it would probably subserve the interests of four fifths, or nine tenths, of them, better even than the existing system. Let us see.

The stockholders of the present banks are made up of two classes, viz. : those who hold their stock in order to lend money, and those who hold it in order to borrow money.

Both of these classes would *probably* be benefitted, rather than injured, by the adoption of the new system.

Those, who have money to lend, could probably do better with it, by investing it first in a mortgage, and thus getting one income from it; and then using the mortgage as bank capital, and thus getting another income from it.

Their capital would thus be more *safely* invested than it is now; and would probably yield a larger income.

Those, who own bank stock, in order to borrow more than they lend, would probably do better than they do now, because, *first,* they would keep their own capital wholly in their own business; and, *secondly,* if they needed more, would easily borrow it (if worthy of credit) on account of the abundance of banks, that would be seeking borrowers. Thus they would be as well supplied with capital as now, and with less risk and trouble; because they would borrow only what they needed over and above their own capital; and this they would do directly, and without complicating their business, as now, with that of a bank, by becoming stockholders, and being compelled to look after, and take the risks of, all the business of the bank. [*41]

Another reason, why the stockholders in the present banks would be benefitted by the new system, is, that very many of these stockholders are large owners of real estate. The new system, by enabling the owners of real estate to get an income from it, as banking capital, and still more by furnishing increased facilities for agriculture, manufactures, and commerce, would greatly increase the value of real estate in general. This increased value, given to real estate, would be of more importance to the owners thereof, than any income or advantage, derived by them from the present system of banking, over those to be derived from the proposed system.

The opposition to the new system, then, (if any there should be,) on the part of stockholders in the present banks, would be an opposition of prejudice, and not of interest; for there are few or no stockholders in the present banks, who would not derive greater advantages from the new system, than from the present one.

1. The new currency could be introduced (brought into circulation) in competition with the existing paper currency, for the further reason, that, if the existing banks should receive the currency of the new banks, *at par,* the currency of the new banks would thus be enabled to circulate, in the community, on a par with that of the present banks. On the other hand, if the present banks should not receive, *at par,* the currency of the new banks, the new banks and their friends would systematically, and to the extent of their ability, run upon the existing banks for specie; and thus compel them to suspend payments in specie. And when the existing banks should have suspended payment in specie, the new banks would stand better than the present ones, in the estimation of the community; because the existing banks would then offer no redemption of their bills, except by receiving them in payment of debts; whereas the new banks would not only offer

that redemption, but also a further redemption in *Productive Stock*.

If the new banks, and their friends, should systematically run [*42] upon the existing banks for specie, the existing banks could not retaliate; because the new banks could redeem with *Productive Stock,* instead of specie, if they should so choose.

Thus the new banks, by drawing specie from the existing banks, could pay specie, *to the public,* as long as the existing banks could pay it; and thus the new banks would put themselves on a par with the existing banks, so far as paying specie, *to the public,* should be concerned. But the difference between them would be, that the present banks would be *compelled* to pay specie to the new banks; but the new banks would not be compelled to pay specie to the existing banks.

This advantage, which the new banks would have over the existing ones, would enable the new banks to coerce the existing ones, either into a suspension of specie payments, (when the new ones would stand better than their rivals,) or else into receiving the currency of the new banks at par - in which case the new banks would stand at least as well as the existing ones.

3. The new banks would have an advantage over the existing ones, in introducing their currency into circulation, by reason of the fact that, inasmuch as their capital would cost them nothing, (they not being obliged to keep any considerable amount of specie on hand,) they would be able to lend money at a lower rate of interest.

4. The currency of the new banks would go into circulation, for the further reason, that every body would prefer it, (the currency,) on account of its superior safety, convenience, and merchantable character, *to the credit of private persons*. This preference would be sufficient to bring it into use in substantially all those purchases and sales, which are now made on credit. And if the currency were to go into use *only to that extent,* it would be a success. But if it were to go into use to that extent, it would obviously go into use to a still greater extent, and supersede, wholly or partially, the existing currency, even in those purchases and sales, which are now made for cash.

Doubtless nine tenths, and perhaps nineteen twentieths, of all [*43] the persons, who now get credit, get it elsewhere than at the banks; in fact, never go to a bank for credit. Yet these persons are worthy of credit, as is proved by the fact that they get it of private persons, by purchasing commodities on credit. It would be far better for them to get their credit at bank, and make their purchases for cash, for they would then make them much more advantageously. All this class of persons, therefore, could be relied on to introduce the new currency. And they would have no difficulty in introducing it - that is, in making their purchases with it - because it would be preferred to their private credit, even by those who now give them credit.

5. Under the existing system, when the banks suspend specie payments, we see that their bills not only continue to circulate, but that they maintain a value, in the market, *very nearly on a par with specie.* Why is this? It is principally, if not solely, because the bills of each bank are a legal tender in payment of any debts *due to that ban/c*. Inasmuch as the public always owe a bank more (by the amount of interest on loans) than the bank owes the public, there is sure to be a demand for all the outstanding bills of a bank, to pay the debts due to the bank - provided the debts due to the bank be solvent. It is this fact, that keeps the bills of the bank so nearly on a par with specie. That is, the bills are worth *very nearly* dollar for dollar, *because they will pay debts to the banks, dollar for dollar, which would otherwise have to be paid in specie.*

This fact, in regard to the circulation of the bills of suspended banks, under the existing system, sufficiently demonstrates that the paper currency now proposed, would not only circulate, but that it would maintain a value very nearly, if not quite, on a par with specie; because it would not only be a legal tender, dollar for dollar, for all debts due to the banks, but would also be redeemable in *Productive Stock,* which would always maintain, very nearly or quite, a par value with specie, in the market. In this latter respect (of being redeemable by *Productive Stock)* the proposed currency would have a clear, and very important, [*44] advantage over the bills of

suspended banks, which now circulate, and maintain their value nearly on a par with specie. There is, therefore, no ground for saying that the new currency would not circulate, if it were offered, when we see that a far less safe, less redeemable, and less desirable currency, to wit, the bills of suspended banks, under the present system, do not only circulate, but maintain their value so nearly on a par with specie.

6. It may be supposed, at first view, that merchants, especially importers, might reasonably object to the proposed currency, on the ground that their interests require that the currency of a nation be such as can be converted into specie, whenever they (the merchants) may have occasion to export specie.

Admitting, for the sake of the argument, that the merchants might suffer some inconvenience of this kind, the effect would only be to make them more careful to keep the imports within the exports of the country. And this benefit to the country would counterbalance a thousand fold any inconvenience to the merchants.

The merchants have no claim that the whole country shall depend, for a currency, upon a commodity, or commodities, like gold and silver, which the merchants can at pleasure carry out of the country, leaving the nation destitute of a currency. And it is nothing but suicide for a people to depend upon such commodities for a currency.

Under the present system, whenever the balance of trade is much against us, the merchants export specie in such quantities as to cause sudden and severe contractions in the currency, a great reduction in the price of commodities relatively to specie, (that is, a great rise in the price of specie,) general bankruptcy among persons in debt, general stagnation in industry and trade, and immense distress and ruin on every hand. This state of things checks importations for a while, until the balance of trade turns in our favor; when the specie returns, currency expands, credit revives, industry and trade become active, and, for a time, we have what we call prosperity. But in a few years, the [*45] merchants again export the specie, and the same catastrophe is acted over again. And such must continue to be our experience, until our present vicious system of currency and credit shall be corrected. This no one seems to doubt.

Certainly such evils are not to be endured by a whole nation, from no motive but to maintain a currency, which the merchants can export, whenever they shall have imported more goods than the legitimate exports of the country will pay for.

It is the proper function of merchants to conform their business to the interests of the people, in the matter of currency, as much as in the commodities bought and sold with and for it. And it would be as legitimate for the merchants, instead of supplying the people with such commodities as the latter desire, to dictate to them what they may, and may not, buy, as it is for them (the merchants) to dictate to the people what currency the latter shall use.

It is the legitimate function of merchants to buy such commodities as the people have to sell, and to sell such as the people wish to buy. So far as merchants do this, they are a useful class. And the principle applies as well to the currency, that is to be bought and sold, as to any other commodities. And, as matter of fact, whatever this principle requires of merchants, they readily acquiesce in. They adapt themselves at once to any system of currency, that happens to prevail for the time being. And certainly no class will more eagerly welcome any system of banking, that will furnish them, at all times, with abundant credit, and abundant currency, and cash payments in trade; for such a system would be a guaranty, to them, of a safe, constant, and profitable traffic, in the place of the present fitful, chaotic, and perilous one, in which so many of their number are being continually wrecked.

So far as the export of specie is concerned, probably not one merchant in a hundred - perhaps not one in a thousand - has the least interest in it. A currency, that will pay their bank notes, is substantially all that, as a class, they demand, or desire. [*46]

But, in truth, the system would favor, instead of injuring, the interests even of those few merchants who occasionally do export specie; for it would put at their disposal nearly all the gold and silver of the country, for exportation, or any other purpose. That is to say, the merchants could export nearly all the gold and silver, without affecting our home currency; and consequently without disturbing industry and trade. And this is one of the great merits of the system. The presence or absence of specie in the country would not be known by its effects upon the general body of currency.

If the paper currency, now proposed, were introduced throughout the world, gold and silver would enter very little into the internal commerce of nations. They would go back and forth between nations, to settle balances; and would be found, in large quantities, in seaports as merchandize. And merchants would purchase them for export, as they would any other commodities.

7. The system proposed would obviously tend to the concentration of specie, in large quantities, in the seaports. This would enable the banks, in the seaports, to pay specie, if it should be at all necessary. And this would enable the banks, in the seaports, to furnish a specie paying currency *for the interior of the country,* when the banks themselves, in the interior, would not pay it. The advantage of circulation, which the seaport banks might thus obtain *over* the banks of the interior, would ho great enough to compensate for any little trouble it might be for the former to pay specie. In fact, this interior circulation might very probably become so extensive, as to be a source of great profit to the seaport banks.

If the seaport banks should send their currency, in large quantities, into the interior, the banks of the interior would have little need to redeem their currency with specie. It would be sufficient for them to redeem it with the seaport currency.

8. The system is practicable for the further reason, that it can be introduced without the aid of bank charters, or special legislation of any kind. It stands wholly on common law principles; [*47] and companies can go into business under it - as they go into mercantile, manufacturing, or any other business - when it suits their interest or pleasure, without asking the consent of a body of ignorant, conceited, tyrannical legislators, who assume to know what business it is, and what business it is not, best for men to engage in; instead of leaving the wants of mankind to give direction to their industry and capital.

The banks, too, when established, would be free of all special control, oversight, taxation, or interference by the government. As the banks would ask no favors of the government, in the way of charters, monopolies, or otherwise, the government would have no more excuse for specially taxing them, or for sending Commissioners to pry into, investigate, or report their affairs, than it now has for specially taxing the capital, or for sending Commissioners to pry into, investigate, or report the affairs, of merchants, manufacturers, or any other class of persons.

The fact, that the existing system requires special legislation in favor of the banks, (in the shape of charters and monopolies,) and special legislation against them, (in the shape of restrictions of various kinds, the espionage of Commissioners, &c., &c.,) - in short, the fact, that the banking business cannot be left subject only to those general laws, which are applicable to all other kinds of business, is sufficient evidence that the system is a vicious one, and ought to be abolished. [*48]

CHAPTER V.

LEGALITY OF THE SYSTEM.

ADMITTING, for the sake of the argument - what is not true in fact - that the State governments have constitutional power to forbid private banking, their statutes *for* that purpose, being contrary to natural right, must be construed to the letter; and the letter of few, if any, of them is such as to prohibit the system here proposed.

Thus Maine prohibits " any drafts, bills, or promissory notes, or other evidences of debt."

New Hampshire prohibits " bills, notes, checks, drafts, or obligations."

Massachusetts prohibits " any note, bill, order, or check."

Rhode Island prohibits " any note, bill, order, or check."

Connecticut prohibits " any bill of credit, bond, promissory writing, or note, bill of exchange, or order."

New York prohibits " notes, or other evidences of debt."

New Jersey prohibits " bills, notes, or other evidences of debt."

Pennsylvania prohibits " ally promissory note, ticket or engagement of credit in the nature of a bank note."

Ohio prohibits " any note, bill, or other evidence of debt."

Michigan prohibits " any bills, notes, due bills, drafts, or other evidences of debt."

Illinois prohibits " any note, or bill."

Wisconsin prohibits " any bills, or promissory notes, or other evidences of debt."

Mississippi prohibits " notes, bills, certificates of deposit, or evidences of debt." [*49]

Georgia prohibits " any bills, or promissory notes of private bankers."

The currency proposed - the *Circulating Stock* - comes within the letter of none of these prohibitions. It consists neither of " notes," " promissory notes," " orders," " checks," " drafts," " bonds," " certificates of deposit," " bills of credit," " bills of exchange," " due bills," nor " tickets or engagements of credit in the nature of bank notes."

Although, if it should come into circulation, it may, very likely, in common parlance, and from motives of convenience, be denominated " bills," yet it is not " bills," in any legal sense, *in which that word was used at the times these statutes were enacted.*

It cannot be called " evidences of debt" - that is, of personal indebtedness - in the sense, in which this description is evidently used in these statutes.

It is not an " obligation," in the sense, in which that word is legally used. That is to say, it is not a personal " obligation," in the nature of a debt, as the term debt is now understood.

It is, in law, simply *bona fide* certificates of *bona fide* stocks; as really so as are any certificates of railroad stocks, or of any other stocks whatever. It is *bona fide* certificates of~ or evidences of title to, veritable property in land, as really so, as are deeds, mortgages, leases, or any other written instruments for the conveyance of title to, or rights in, real estate. As such, it obviously comes within the letter of none of the preceding prohibitions. The holders of the certificates are the *bona fide* owners of the stocks, or property represented; and in selling the stocks themselves, they pass the certificates, or evidences of title. And this is the whole matter. in a legal point of view.

The statutes, however, of some of the States are in somewhat different terms from those already cited.

Thus Vermont prohibits " any bill of credit, bond, promissory writing or note, bill of exchange, order, *or other paper."*

Whether this prohibition of " *any other paper,"* as a currency, [*50] can, in law, be held to prohibit the sale of *bona fide* stocks, or property in land, and passing the certificates thereof, or the titles thereto, is, to say the least, very doubtful.

New Jersey, in addition to the preceding prohibition of " bills, notes, or other evidences of debt," prohibits " any *ticket* of any denomination whatever, intended to circulate for the payment of debts, dues, or demands, in lieu of; or as a substitute for, bank notes or bills, or other lawful currency of the State."

What may be the legal meaning of a " *ticket,"* we will not now undertake to settle; nor whether this prohibition interdicts the sale of *bona fide* stocks, and the transfer of the paper titles thereto.

Virginia prohibits " any note, or other security, purporting that money or other thing of value is *payable by, or on behalf of,* such person" (the person issuing).

This statute clearly would not interdict the currency proposed.

The letter of the statutes of Missouri, Kentucky, Tennessee, Alabama, North Carolina, and of the constitution of Texas, his, *perhaps,* comprehensive enough to prohibit the proposed currency.

In the statutes of Indiana, Iowa, Arkansas, Maryland, and Delaware, I have found nothing, that seemed to me to prohibit the proposed currency.

If this currency should evade the interdict of these statutes against private banking, it would also evade the interdict of the State laws against usury; for the issue of the currency by the banks, in exchange for the promissory notes of individuals, is, in law, a mere sale of *bona fide* stocks, or property, on credit, like the sale of any other stocks, or property, on credit, and at a price agreed on. And if these stocks should happen to sell for more than their nominal value, that would be a matter of no more legal importance than for railroad shares to sell for more than their par or nominal value.

But, admitting that the language of *all* the foregoing prohibitions *are* sufficiently comprehensive to embrace the currency [*51] proposed, the statutes themselves, so far as they should be applied to that currency, would nearly all of them be unconstitutional and void, as being in conflict with the " natural right to acquire and dispose of property;" a right, that is either expressly or impliedly recognized and guaranteed by most, or all, of the State constitutions, and bills of rights. This " natural right to acquire and dispose of property," includes a right to buy and sell, as well as to produce and give away, property. The issuing of the currency proposed, and the passing of it, from hand to band, as a currency, would, in law, be merely a buying and selling of the property it should represent - that is to say, the buying and selling of *bona fide* property in land - like any other property. The only difference between it and other property, would be, that it would be bought and sold more frequently than other property.

But not only all these State laws against private banking, but all State laws against usury, and all other laws whatsoever, that assume either to prohibit, invalidate, or impair any contract whatsoever, that is *naturally* just and obligatory, are unconstitutional and void, as being in conflict with that provision of the constitution of the United States, which declares that " no State shall pass any law impairing the obligation of contracts."

This provision does not designate what contracts have, and what have not, an " obligation." It leaves that point to be ascertained, as it necessarily must ho, by the judicial tribunals, in the case of each contract that comes before them. But it clearly implies that there *are* contracts that *have* an

"obligation." Any State law, therefore, which declares that such contracts shall have *no obligation,* is plainly in conflict with this provision of the constitution of the United States.

This provision also, by implying that there are contracts, that *have* an "obligation," implies that men have a right to enter into them; for if men had no right to enter into the contracts, the contracts themselves would have no obligation.

This provision, then, of the constitution of the United States, [*52] not only implies that certain contracts *have* an obligation, but it also implies that the people have the right to enter into all such contracts, and have the benefit of them. And any State law, conflicting with either of these implications, is necessarily unconstitutional and void.

Furthermore, the language of this provision of the constitution, to wit: "the obligation [singular] of contracts" [plural], implies that there *is one and the same "obligation" to all "contracts" whatsoever, that have any legal obligation at all.* And there obviously must be some one principle, that gives validity to all contracts alike, that have any validity.

The law, then, of this whole country, as established by the constitution of the United States, is, that all contracts, in which this one principle of validity or "obligation?' is found, shall be held valid; and that the States shall impose no restraints upon the people's entering into all such contracts.

All, therefore, which courts have to do, in order to determine whether any particular contract, or class of contracts, are valid, and whether the people have a right to enter into them, is simply to determine whether the contracts themselves have, or have not, this one principle of validity, or obligation, which the constitution of the United States declares shall not be impaired.

State legislation can obviously have nothing whatever to do with the solution of this question. It can neither create, nor destroy, that "obligation of contracts," which the constitution forbids it to impair. It can neither give, nor take away, the right to enter into any contract whatever, that has that "obligation."

But here a formidable difficulty arises. It is no less a one than this, viz. : that neither legislatures, lawyers, nor courts, know, nor even pretend to know, what "the obligation of contracts" is. That is to say, there is *no one principle,* known or recognized among them, by reference to which the validity or invalidity of all contracts is determined. Consequently it is not known, in the case of any single contract whatever, that is either [*53] enforced or annulled, in a court of justice, whether the adjudication has really been in accordance with "the obligation" of the contract, or not. Startling, and almost terrifying, as this statement is, in view of the number and importance of the contracts, in which men's rights are involved, and which courts are continually annulling or enforcing, the statement is nevertheless true.

The question - what is "the obligation of contracts?" has been several times before the Supreme Court of the United States; but has never received any satisfactory answer. The last time (so far as I know) that it was brought before that court, was in 1827, in the case of *Ogden vs. Saunders* (12 *Wheaton,* 213). Several among the most eminent lawyers in the country, to wit: Webster, Wirt, Wheaton, Livingston, Ogden, Jones, and Sampson, were engaged in the cause. But they all failed to enlighten the court.

The court consisted, at that time, of seven judges. Among these *seven* judges, *four* different opinions prevailed as to what "the obligation of contracts" was. Three of the judges said it was one thing; two of them said it was another; one said it was another; and one said it was another. No one opinion commanded the assent even of a majority of the court. And thus the court virtually confessed that, *as a court,* they did not know what "the obligation of contracts" was.

The reasonable presumption is, that no one of these opinions was correct; for if either had been correct, it would have been likely to secure the assent of the whole court, or at least of a majority.

But, although the court could not agree as to what the obligation of contracts was, four of the justices did agree in declaring that the insolvent law of New York did not impair the obligation of any contracts, that were made, in New York, subsequently to the passage of the law. To appreciate the farcical character of this conclusion, we have only to consider that, among these *four* justices, *three* different opinions prevailed as to what " the obli [*54] gation" was, which they said the law did not impair. And from that time until now, this ridiculous opinion of these four justices, who virtually confessed that they knew nothing of the question they assumed to decide, has stood as law throughout the country, and been received by legislatures and courts, as sufficient authority for the State legislatures to fix, prescribe, alter, nullify, or impair, at their discretion, the obligation of any anti all contracts entered into subsequently to the passage of their laws. This fact is sufficient to show that the ignorance of the Supreme Court of the United States, as to the obligation of contracts, is abundantly participated in by the legislatures and courts of the States.

The writer of this will not attempt, at this time - although he may, perhaps, at some future time - to define this constitutional " obligation of, contracts," any further than to say that it must necessarily be the *natural* obligation. That is, it must be the obligation, which contracts have, on principles of natural law, and natural right, as distinguished from any arbitrary, partial, or conditional obligation, which legislatures may assume to create, and attach to contracts.

This constitutional prohibition upon any law impairing the obligation of contracts, is analogous to those provisions, in both the State and National constitutions, which forbid any laws infringing " (lie freedom of speech or the press," " the free exercise of religion," and " the right to keep and bear arms."

" The freedom of speech and the press," which is here forbidden to be infringed, is not any merely arbitrary freedom, which legislatures may assume to create and define by statute. But it is the *natural* freedom or that freedom, to which all mankind are entitled of natural right. In other words, it is such as each and every man can exercise, without invading the rights of others, and consistently with an equal freedom on the part of others.

If " the freedom," here forbidden to be infringed, were only such freedom as legislatures might, in their pleasure or discretion, [*55] see fit to institute, the prohibition, instead of protecting *any* " freedom of speech or the press," would of itself imply an authority for the entire destruction of all such " freedom."

The same is true of " the free exercise of religion," and " the right to keep and bear arms." All the rights, which, under these names, are constitutionally protected, instead of being the natural rights, which belong to all mankind, were only such rights as legislatures, in their pleasure or discretion, might assume to create, and grant to the people, the prohibitions themselves would impliedly authorize legislatures to destroy those very rights, which they now are commanded to hold sacred.

So, too, " the obligation of contracts," which the States are forbidden to impair, is the *natural* obligation; that obligation, which contracts have of natural right, and in conformity with natural justice; and not any merely arbitrary, fantastic, absurd, or unjust obligation, which ignorant, corrupt, or tyrannical legislatures may assume to create, and attach to contracts. Otherwise this very prohibition against " any law impairing the obligation of contracts," would allow legislatures, in their pleasure or discretion, to destroy the obligation of all contracts whatsoever.

That this constitutional " obligation of contracts" is the *natural* obligation, is proved by the language of the provision itself; which, as has already been said, implies that " the obligation [singular] of contracts" [plural] *is one and the same obligation for all contracts whatsoever, that have any legal obligation at all.* This obligation, which is the same in all obligatory contracts, must necessarily be the natural obligation, and not any artificial one prescribed by legislatures; because it would obviously be impossible for legislatures to create any one obligation, different

from the natural one, and prescribe it for, or attach it to, all contracts whatsoever. Certainly no such thing was ever attempted, or thought of.

This obligation, which the States are forbidden to impair, is proved to be the natural one, by still another fact, viz.: that it is, and necessarily must be, the same in every State in the [*56] Union; forasmuch as the prohibition mentions but *one* obligation, which the States are forbidden to impair; and the prohibition to impair that *one* obligation is imposed alike upon all the States. If this " obligation" were an artificial one, to be created by State legislatures, it would be liable to be different in every State, since the constitution does not authorize any one State, nor even Congress, to create any one artificial obligation, and prescribe it as a rule for all the States.

This obligation, which the States are forbidden to impair, must be the natural one, for the still further reason, that otherwise that large class of contracts - by far the largest part of all the contracts, which men enter into, and which courts recognize as valid, but in regard to which no special " obligation" has ever been prescribed by legislation - would, in the view of the constitution, have no validity or obligation at all.

Still further. Inasmuch as the natural obligation is necessarily the only *real* obligation, which, in the nature of things, contracts can possibly have; and inasmuch as all artificial or unnatural obligations are inevitably spurious, false, and unjust, that paramount rule of legal interpretation, which requires that a meaning favorable to justice, rather than injustice, shall be given to the words of all instruments, that will bear such a meaning, requires that " the obligation," which the constitution forbids to be impaired, should be held to be the natural and true obligation, rather than any one of those innumerable false obligations, which legislatures are in the habit of prescribing in its stead.

Finally. Inasmuch as the artificial obligations of contracts are innumerable; and inasmuch as this constitutional provision does not particularly describe (lie obligation it designs to protect, that obligation must be presumed to be the natural one, or else the provision itself; on account of its indefiniteness, must utterly fail of protecting any obligation at all.

The natural obligation of a contract, then, being the only one, which courts are at liberty to regard, their first duty, on this subject, obviously is to ascertain what the *natural* obligation of [*57] contracts is. When they shall have done this, they will have discovered an universal law for all contracts; a law, that must nullify all those State laws - absurd, vexatious, tyrannical, and unjust - with which the statute books of the States are filled, having for their objects to destroy or impair men' s natural right of making obligatory contracts, and to prescribe what obligations, different from the natural and true one, men' s contracts shall have.

Strictly speaking, courts have no rightful authority either to enforce or annul a single contract, of any name or nature whatever, until they shall have ascertained what this constitutional, or *natural,* obligation of contracts is. But, if they will continue to do so, it is manifestly sheer mendacity, or sheer stupidity, for them to declare that the contracts of private bankers, and contracts now termed usurious - contracts *naturally* obligatory as any that men ever enter into, or as any that courts ever enforce - have no obligation; or that, anybody can be lawfully punished for entering into such contracts.

Furthermore, if the *natural* obligation of contracts is the only obligation, which courts are at liberty to regard, they are bound to disregard all those State laws, or acts of incorporation, of any and every kind, whether for banking purposes or any other, which attempt to limit the liability of stockholders to any thing less than the natural obligation of their contracts.

In short, the only constitutional power, now existing in this country, to prohibit any contract whatever, that is naturally obligatory, or to impair the natural obligation of any contract whatever, is the single power given to Congress " to establish uniform laws on the subject of bankruptcies, throughout the United States." <fn8> [*58]

There is, therefore, no legal obstacle in the way of the immediate adoption of the banking system now proposed; nor any occasion to consult the State legislatures, or ask their permission, in the matter. Nor, in loaning the currency, will there be any occasion to pay any regard to usury laws.

NOTES

1. With a single exception, (provided for in Article XXVII, of the Articles of Association,) not affecting the general rule. Return

2. See Article XIX, of the Articles of Association. Return

3. Even if the rate of dividend, fixed for the *Secondary Stockholders* to receive, were such as to make their Stock worth more than par of specie, that would not be likely to make the *bills* worth more than par of specie; because a person, by returning his bills for redemption, would not be sure of getting PRODUCTIVE STOCK for them. He might be paid in specie, instead of PRODUCTIVE STOCK.

Furthermore, even if his bills should be redeemed by PRODUCTIVE STOCK, instead of specie, he would not be likely to hold it a very long time, before it would be bought back by the bank, by simply paying its face in Specie.

There would, therefore, he likely to be no scramble for bills (in order to get PRODUCTIVE STOCK for them) even though the rate of dividend, fixed for the *Secondary Stockholders* to receive, should be such as to make the PRODUCTIVE STOCK worth, in their hands (supposing they could retain It a *length of time)* more than par of specie. Return

4. The New York bank would not redeem them by paying specie for them, but by receiving them in payment of debts, and by giving its own bills in exchange. Return

5. The author does not concede the constitutional power of the State governments to prohibit any kind of banking, that is *naturally* just and lawful. And he fully believes all existing restraints upon private banking to be unconstitutional. But, be they so, or not, it seems plain enough that government has constitutionally no more power to forbid men's selling an *invested* dollar, than it has to forbid the selling of a *specie* dollar. It ins constitutionally no more power to forbid the Sale of it single dollar, invested in a farm, than it has to forbid the sale of the whole farm.

The currency here proposed is not in the nature of a *credit* currency, (as the word *credit* is now legally understood,) and could not be prohibited on that ground, even if any credit currency can constitutionally be prohibited.

The currency proposed consists simply of *bona fide* certificates of Stock, which the owners have the same right to sell, that they have to sell any other Stocks. Return

6. Diamonds would not answer well as a currency, because, although they have a market value, that value is known only to a few. Return

7. The sale of them, *as a currency*, is not a *use* of them; any more than the sale of a horse is a use of the horse. Return

8. Independently of the injustice of all laws impairing the natural "obligation of contracts," there was a very weighty reason why the *States* should have no power to enact bankrupt laws. If they had this power, each State might have the motive to pass such a law for the purpose of liberating her own citizens from their obligations to the citizens of other States; when, if the law were to operate only as between her own citizens, she aught not choose to pass the law. This power of passing bankrupt laws was, therefore, confided solely to the general government; and its laws were required to be "uniform throughout the United States."

In this connection, it may not be impertinent for the writer to say, that, if the *natural* "obligation of contracts" were known, lie apprehends there would be no occasion for any bankrupt or insolvent laws at all. He apprehends there is a natural limit to the obligation of contracts; that, in the case of ordinary credit contracts, *this* is an essential element of the contracts; that, if there be no other limit to the natural obligation of *such* contracts, the principle, that the law requires impossibilities of no one, fixes such a limit; and that, therefore, the most that the law can require, in the way of the fulfilment of a *time* contract, is that the debtor shall exercise due integrity and diligence during the time the contract has to run; and that, if he do this, lie can absolve himself from the obligation of his contract, by paying to the extent of his ability, when the contract becomes due.

This writer apprehends, however, that a more precise definition, even than this, may be given of the obligation of a contract. But this is not the place to attempt it. Return