

of their contract, and also a remedy to enforce the forfeiture. In the language then of Judge Story it is asked: "could a law compelling a specific performance, by giving a new remedy, be justly deemed an excess of legislative power."

By the act of 1818 the charters of the banks, are not, in consequence of having failed to pay specie for their notes, actually void. They are voidable; and may be forfeited if the public interest requires it. They are in this view of the case completely within the power of the Legislature, so far as it may deem proper to enlarge the remedy, or to provide a new tribunal to determine the question, whether the public interest demands a forfeiture of their charters.

In another aspect of the case, they are within the control of the Legislature. The obligation imposed upon them, and which forms the consideration of their charter, is that of acting up to the end or design for which they were created. If they cease to do this from negligence or inability, there is an end of the contract between them and the State. In such case their charters may be forfeited.

In the case of the Dartmouth College before referred to, Judge Washington, in speaking of corporations, and the right of the Legislature to interfere with their corporate privileges without their consent, remarks, "the rights acquired by other contracting parties are those of having perpetual succession, of suing and being sued, of purchasing lands for the benefit of themselves and their successors, and of having a common seal and making by-laws. The obligation imposed upon them, and which forms the consideration of the grant, is that of acting up to the end or design for which they were created by their founder. Mr. Justice Buller, in the case of the King versus Passmore, says, that the grant of incorporation is a compact between the Crown and a number of persons, the latter of whom undertook, in consideration of the privileges bestowed, to exert themselves for the good government of the place. If they fail to perform their part of it, there is an end of the compact. The charter of a corporation, says Mr. Justice Blackstone, may be forfeited through negligence, or abuse of its franchises, in which case the law judges, that the body politic has broken the condition upon which it was incorporated, and thereupon the corporation is void."

Again, Judge Story in the same case, page 675 says, "but an eleemosynary, *like every other corporation, is subject to the general law of the land.* It may forfeit its corporate franchises by misuser or nonuser of them. It is subject to the controlling authority of its legal visitor, who, unless restrained by the terms of the charter, may amend and repeal its statutes, remove its officers, correct abuses, and generally superintend the management of the trusts. When indeed the visatorial power is invested in the trustees of the charity, in virtue of their incorporation, there can be no amotion of them from their corporate capacity. *But they are not therefore placed beyond the reach of law.*"