

The consideration then, of the charters of the banks, is the end and design for which they were created, and which constitutes an obligation they are bound to perform. If they fail to perform their part of the contract, there is an end of the contract. If they are guilty of a *misuser* or *nonuser* of their corporate franchises, they forfeit them. They are not placed beyond the reach of the law.

The end and design for which the banks were created, was to secure a sound and redeemable paper currency; a paper currency at all times payable on demand, in specie. But this obligation they have failed to perform. Having failed to perform it, there is an end of the contract. They are not placed beyond the reach of the law. Their charters may be forfeited. The banks being in this condition, it is the duty of the Legislature to determine what the public interest requires to be done; whether to wind them up, or to modify their charters, so as to provide restraints against a recurrence of the evils which have recently afflicted the currency of the State. In addition to the provisions of the act of 1818 before recited, and the antecedent principles which bring the banks within the control of the Legislature, they are placed in the same situation by the act of 1837, chap. 315. By the 4th section, it is enacted "that the banks shall resume the payment of their issues in coin, on or before the 1st day of June, eighteen hundred and thirty-nine, or within thirty days after such a course shall have been adopted by the banks of New York, Pennsylvania and Virginia, should they resume specie payments previous to that day."

By the 5th section it is enacted "that no bank in this State shall from and after the the 1st day of May next, issue any bank note, certificate of deposite, or any paper intended to be used as a circulating medium, of a less denomination than five dollars."

By the 6th section it is enacted "that the Governor may direct the Attorney General to cause a scieri facias to be issued against any bank that may fail to comply with the provisions of this act; and in that case the same proceedings shall be had, in all respects, as are directed by the act of 1818, chap. 177, in regard to banks refusing to pay specie for their notes." The intention of the Legislature is manifest from the passage of this act. They designed to fix a day, to *compel* the banks to resume specie payments and to continue to redeem their notes in specie. It was not contemplated, that by resuming on the day fixed by the act, that the law would be complied with, and that they could suspend at any time thereafter without incurring its penalty.

By this construction it was only necessary for the banks to pay specie on the 1st day of January, eighteen hundred and thirty-nine. A suspension on the next day would have brought with it no penalty under the act of 1837. -- The language of the act is, "shall resume payment of their issues in coin," &c., that is to say: Shall begin again to perform a duty from which they had broken off. Such a resumption or beginning, necessarily implies a con-