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The introduction of the joint-stock company in English banking and monetary policy

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The introduction of the joint-stock company in English banking and monetary policy

Abstract

Following the passage of the 1826 Act, the joint-stock bank entered the English banking system and its dominance over the private bank is often thought to be a result of *laissez-faire* political ideology. This article shows that banking and monetary policy in the nineteenth century was far from liberal or permissive as regulators legislated with a clear idea of the intended outcomes of their actions. Yet, as policy-makers were often unsuccessful in their attempts to introduce change in the banking system, they became interventionist in an effort to rectify their mistakes. By placing regulation in its political context, we show that the emergence of a set of banks with shareholders, sleeping partners and investors as owners was both unexpected and unintentional. It reveals their subsequent attempt to repeal the 1826 Act and dissolve the offending companies through more legislation.

Keywords

Banks, nineteenth century, policy-making, legislation

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Introduction

> '[W]ith regard to Joint-Stock Companies and Speculation we are a nation of children who will not allow our nursery maids to govern us.'
>
> William Gladstone in a letter to A. S. Finlay, May 13, 1846.

Looking back on early statutes in corporate law, William Gladstone, who first became a Member of Parliament in 1832, served as President of the Board of Trade between 1842 and 1845, and was elected as the Prime Minister later in 1868, believed that legislation had interfered too much in regulating companies. Without other supervisory bodies, statute law was the principal external force monitoring the burgeoning joint-stock economy.[1] Gladstone complained that legislation did not embody the age-old principle of *caveat emptor* or free trade and so allow businessmen, promoters and investors to operate without interference from the state. Yet by 1846, banking was one of the industries where barriers to entry had been lifted, and the joint-stock form appeared most prevalent. The entrance of joint-stock banks from 1826 onward spawned new investors, provided greater access to credit, and their notes generated new waves of commerce in the provincial marketplaces. Gladstone's characterisation of regulators as 'nursery maids' or overbearing figures of authority is at odds with our understanding of banking and monetary policy in this period. This article examines these views in more detail.

Joint-stock banks were first permitted to form sixty-five miles outside of London following the passage of the Banking Co-partnership Act in 1826.[2] The 1826 Act has been considered by most financial historians to have been a precipice in the history of English and Welsh banking. It stands as the starting point for any discussion or analysis of the changes that took place in the banking sector during the nineteenth and twentieth centuries, such as the rise of share ownership, the end of private banking, and the relative stability of financial institutions. Indeed, its effects have been documented elsewhere (See Thomas, 1934, Neal, 1998, Bordo, 1998, Cottrell and Newton, 1999, and Turner, 2014). This article does not intend to retrace this well-trodden ground any further - except to say that by 1900, the joint-stock banks which formed first under the 1826 legislation had overtaken private banks in number and size.[3] Given that joint-stock banks

[1] Common law courts were the other external force. Yet, as they acted to primarily resolve disputes and decide between two litigating parties, their decisions did not apply directly to whole groups or classes of individuals in the same way that legislation might.

[2] It was later extended to London by statute in 1833. See Banking Co-partnership Act 1826 7 Geo. IV c. 46, Bank Charter Act 1833 3 & 4 Wm. IV c. 98.

[3] Collins (1988, p.52) shows that when joint-stock banking did not exist in 1826, private banks had 650 offices. Just a quarter of a century later in 1850, the two were about even in size: 327 private banks had 518 offices to the 576 offices of 99 joint-stock banks. By 1900, the number of private banks had fallen

eventually came to dominate the retail banking sector, it appears that policy-makers did not have a horse in the race. Their approach has previously been characterised as permissive or liberal and in this sense both outcome-neutral and value-blind.

Through a new examination of banking regulation and policy, and by placing it in context, this article reveals that bank regulators had, in fact, very specific aims and intended outcomes, as well as a horse or two in the race. In this analysis, it is revealed that politicians were not simply permissive and liberal – they were resistant and even openly hostile towards the introduction of joint-stock banking. When restrictions on the numbers of owners were lifted in 1826, policy-makers intended to curb the country banks' ability to expand and contract the supply of money while preserving the personal nature of their ownership structures rather than to end them. On discovering that the result of new legislation was the promotion of new banks, which did not resemble the private banks, the government opined a plan to repeal the 1826 Act and dissolve the entire cohort of freshly established joint-stock banks at the next opportunity. Although this proposal ultimately failed to pass, it shows that while the joint-stock banks survived at the expense of the private bank, this result was far from the objective of banking and monetary policy.

With a focus on policy-makers, this analysis highlights the role of unintended consequences in the history of a group which often claims to be responsible for the design of banking systems. This article shows that regulation was, as Gladstone believed, interventionist and protectionist at heart. Yet, policy-makers were, by and large, obliged to adopt a programme of market interference. They found themselves unable to set boundaries which were adhered to and so unable control the results of their own legislation. As politicians were rarely successful in their attempts to manipulate the banking system, they offered more legislation as a way to correct their mistakes. Overall, we show that changes in the financial system and the market had more of an impact on policy than the reverse.

This article begins by exploring the conditions of the Bank of England's charter which were established before 1826, as well as the restrictions it placed on share ownership and capital structures in other banks. This charter set the structure of the banking system in England and Wales prior to 1826. This is followed by a discussion of the 1826 crisis. In the third section, the article introduces the post-crisis proposals for reform. In the fourth and fifth parts, it examines the rights given to banks under the new legislation and ways in which policy-makers expected

dramatically to just 81 with 358 offices. At this point, 83 joint-stock banks had prospered with over 4,000 offices.

change to take place. Finally, the article focuses on the attempt to repeal the 1826 law and abort joint-stock banking in 1833, before drawing conclusions.

The Bank of England's charter

During the early nineteenth century, the Bank of England held a charter, and was the only bank within the English financial sector to possess one since its founding in 1694.[4] This situation was by no means strange given the general economic policy of the seventeenth and eighteenth centuries which saw parliamentary measures as a way of preventing widespread investment and speculation in the share market. Through a system of chartering, Parliament gave only those who it thought to be the most trustworthy promoters the use of the corporate form - often in exchange for granting long-term public credit.[5]

The Bubble Act prevented firms without charters from claiming that they had a separate legal personality, limited liability, and freely transferable shares.[6] These rights became the hallmark of a corporation, with the most important being the legal personality. When an enterprise had a separate legal identity from its owners, they were able to enter into contracts and own assets and debts in its collective name. The dividing line in law between the assets and debts of the company and assets and debts of its owners meant that owners were not responsible for the firm's debts in the event of its failure. In other words, investors could limit their liability to the amount they paid for the share. These provisions did not prevent the growth of joint-stock companies - that is to say within this legal matrix, if not a corporation, then a partnership – albeit without a separate legal personality or limited liability, but *with* ownership that could be divided into shares. In the courtroom, judges embraced these ideas, developing their own common law doctrines to the extent that some even thought that the Bubble Act could be enforced even after it was expressly repealed in 1825.[7]

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[4] Crump (2011 p.102) asserts that conditions of the charter and statutes were largely based on the example of the Amsterdamsche Wisselbank, but, as Richards's (1929 p. 136–37, 147) notes, that the two were formed in different circumstances with different functions. The right to issue bank notes was given expressly later in 1707.

[5] The Bubble Act of 1720 6 Geo I c. 18. For example, The Bank of England was established in 1694 in order to act as the government's banker and manager of its debt. Such a position placed it in a unique, and lasting, position of political power and influence. For a full history of the Bank of England see Clapham (1970a) and Roberts and Kynaston (1995).

[6] Repeal of the Bubble Act 1825 6 Geo IV c. 91. In the common law courts, the Act was upheld. See in the cases of *R v Dodd* (1808) 14 East. 406 and *R v Webb* (1811) 9 East. 516. In the equitable courts, such as the Court of Chancery, this case law was less persuasive and Eldon considered but rarely applied the Bubble Act e.g. *Carlen v Drury* (1812) Vesey & Beames 154.

[7] It was not until 1843 with the decisions in *Garrard v. Hardey* (1843) 5 M. & G. 471 and *Harrison v. Heathorn* (1843) 6 M. & G. 81 that the common law doctrines were firmly put to bed.

As only the King in Parliament could grant charters, create corporations and give away these rights they were hard to come by and some companies, like the Bank of England, did not have equivalent competitors and enjoyed state sanctioned monopolies in their sectors. From 1707, the government agreed that no other bank could use the corporate form.[8] Indeed, no other financial institutions were awarded charters in England and Wales. Without a charter of their own, all other banks were left to operate as private banks on the legal principles of partnership. Their owners acted with unlimited rather than limited liability, and the enterprise lacked the capability to find open investment through restrictions on ownership. Most importantly, the Bank of England's charter applied a constraint on the number of partners in private banks. They were prevented from having more than six partners, which restricted the amount of capital that could be brought into the bank. The agreement between the government and the Bank of England, as Grossman (2013, p.44) notes, did not exist in perpetuity and lasted between 11 and 33 years, although the exact duration depended on the terms of the bargain struck between the government and bank directors. Although the Bank of England's charter would not expire until 1833, the commercial distress in 1825/6 prompted the government to consider amending it earlier than expected. We now turn to discuss these events in more detail.

The 1825/6 crisis

The causes of the 1825/6 crisis were complex. Clapham (2009, p.271-2), Kindleberger (2000 p.217-8), King (1936, p.36-7), Neal (1998) consider that tight money policy by the London banks; over-issuing of notes; speculation in shares; a slump in agriculture; and an end to an economic boom resulted in panic and withdrawals from the banking system. A total of 93 banks failed across England and Wales during 1825/6 (Collins, 1988, p.9). As Table 1 suggests, this decline in the number of banks was sharp and unprecedented in comparison to the preceding years. Businesses found it hard to obtain credit and bankruptcies ensued (Turner, 2014 p. 62, Pressnell, 1956, p.491). The crisis left the country 'within twenty-four hours of barter' – a phrase which Taylor (1844, p.79) explained was meant to mean 'a state of anarchy… incompatible with the existence of national debt'. Eventually, Nathan Rothschild stepped in to offer his assistance and gold gathered through his commercial networks in Europe. He pledged a total of £10,000,000 to bail out the Bank of England and the government (Ferguson, 1998, p.137).

[8] Some of the main Acts and clauses relating to the Bank's monopoly, see 5 & 6 Wm & M c. 20 (1694), 8 & 9 Wm. III c. 20 s.28 (1697), 6 Anne, c. 22 s. 9 (1707), 7 Anne c. 7, s.61 (1708), 12 Anne c. 11 (1713), 16 Geo II, c. 13 s. 5 (1742), 21 Geo III, c. 60, s. 12 (1781), 39 and 40 Geo III. C. 28 s. 15 (1800) and further discussion in Richards (1929, p.189–92). It was not until 1707 that the Acts enclosed a clause restricting the number of partners in other banks.

Table 1: Number of private banks in operation in England and Wales between 1820 and 1826

Year	Number of Banks
1820	521
1821	526
1822	547
1823	547
1824	544
1825	554
1826	465

Source: An account of the number of private and joint-stock banks registered in each year from 1820-1842 (P.P. 1842, XXIII, 85)

Although the panic was first reported in November 1825 in the South West of England and had entered the London markets by December, there was a delayed political reaction as neither the House of Commons nor Lords was in session.[9] Anonymous articles in the London newspapers were, therefore, the first to comment and attacked the Bank of England's monopoly on joint-stock banking. *The Morning Chronicle* commented that the continuance of the Bank of England's monopoly was seen as an 'expense and hazard to the whole community'.[10] In other articles, the Bank of England's charter was considered to be the 'cause' of the convulsions in the money market, and its continued existence 'absurd'.[11] The demand for reform within the financial press looked to joint-stock banking as a more stable alternative, and it campaigned to end the Bank of England's monopoly and dominance over other banks. It clearly and uniformly placed the blame for crisis and instability at the feet of the Bank of England monopoly. In contrast, private banks were portrayed more like the innocent victims whose failure was almost pure happenstance.

The view of those in politics differed. When the King George IV opened the 1826 parliamentary sitting in February, his speech addressed the commercial distress. Reform to the banking and currency laws were, therefore, at the very forefront of the parliamentary agenda and work had already begun to draw up proposals for reform. Prime Minister Robert Banks Jenkinson, the Earl of Liverpool, who had been in office since 1812, offered his diagnosis of the crisis: he believed

[9] *The Morning Chronicle*, 28 November 1825

[10] *The Morning Chronicle*, 9 January 1826

[11] *The Morning Chronicle*, 12 December 1825

that it was the country bankers' fault - they had lent too much to others who invested in a 'spirit of mad speculation'. Liverpool noted that the amount of country bank notes increased from around £4,000,000 in the years of early the 1820s, to more than £8,000,000 by 1825. Liverpool absolved the Bank of England of blame as 'he did not deny that, during the same period, there had been some increase of the Bank of England paper' yet believed that 'it bore no proportion whatever to the increase in the general circulation of the country banks'.[12] The Chancellor of the Exchequer, Frederick John Robinson, repeated these points the same day in the House of Commons.[13] The two most powerful figures in politics thus apportioned the most blame to the country bankers rather than the Bank of England. The following section examines Liverpool and his Chancellor's proposals for reform.

The proposals for reform in the banking sector

Although the crisis was over and panic quelled, for the time being, Liverpool put forward a set of reforms with three distinct agendas:

1) to withdraw small denomination notes in favour of using a metallic currency.
2) to extend the circulation of Bank of England's notes to the major cities and towns in the provinces by allowing them to either branch or use agents to do so.
3) to alter the Bank of England's charter with respect of its monopoly and to remove restrictions on the number of partners in other banks within the English system.

Liverpool and his cabinet fleshed out the plan. The first two propositions related to monetary policy. Changes to the currency laws were intended to ensure that the supply of money could not be expanded and contracted so easily. The perception was that the £1 and £2 notes, because of their low value, were issued more often and more frivolously than notes or credit for larger amounts. This practice, thought to be carried out mostly by the country banks, could be prevented by replacing small denomination notes with coin. The other way to place the currency under the control of the government was to limit the numbers of banks who could produce notes. Here, Liverpool harked back nostalgically to an earlier time where transactions around the country took place with a single bank's notes. The money was printed in London by the Bank of England.[14] Allowing the Bank of England to expand physically via the opening of branches in the provinces would mean that its notes could be issued, accepted and redeemable outside of

[12] Parliamentary Debates, series 2, vol. 14, 2 February 1826 col. 16-7 (House of Lords)
[13] Parliamentary Debates, series 2, vol. 14, 2 February 1826 col. 49 (House of Commons)
[14] Parliamentary Debates, series 2, vol. 14, 2 February 1826 col. 19 (House of Lords).

London once again. The logical result of such a policy was that the Bank of England's notes would triumph over other bank's notes. If these proposals were adopted, it was thought that the currency would be less elastic, and its expansion and contraction could be directed and controlled by the government and Bank of England. Thus, the government believed, there would be less risk of resurgent panic.

The proposal to switch to a metallic currency moved through both Houses of Parliament quickly.[15] The Promissory Notes bill, read for the first time in February, was passed by the end of March, notwithstanding some disagreement. Some attempted to push back and postpone the discussion.[16] Others petitioned for it to be abandoned altogether as they saw it as a move that would only harm the poorer classes.[17] The most powerful argument against Liverpool's bill was that it stood as a purely punitive measure on the country banks. This criticism seemed to have credibility, especially given the attacks on the Bank of England's monopoly in the popular press. As a result, those in government felt it necessary to back pedal somewhat on their original arguments – to hold private banks less at fault – so that they might meet the objective of getting approval for the bill.

Canning, who served as the Secretary of State for Foreign Affairs, was forced to clarify the government's position. With the restatement, the focus of discussion shifted from claims of over-issuing and frivolous lending by private banks to a more blameless rationale of systemic failure, thereby undoing some of the damage to the country banks' reputation. Canning announced that he was:

> [s]o far, Sir, from wishing to disparage the country bankers, I think they have been of great and essential service to the country. I believe them to have been the medium of communicating a wholesome stimulus to industry, and of directing into useful and legitimate channels, the industry and enterprise of the country. I believe that, if they have acted unadvisedly—if they have done any thing amiss—it is to be attributed to the nature of the system.[18]

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[15] It did not occur without intense debate. To put this into content, Hansard reported that debates to the Promissory Notes bill and Bank Charter Amendment bill consisted of over 250,000 words. This was an exceptionally long debate and much longer than was usual.

[16] Baring prepared an amendment to postpone the discussion because he thought that the reforms were an 'ill-advised measure' as 'the state of the country at the present moment was an unfit one for making experiments'. Parliamentary Debates, series 2, vol. 14, 13 February 1826 col. 342-3, 354 (House of Commons)

[17] One notable but unsuccessful petition came from proprietors, farmers, and others, resident in and near Cirencester. Parliamentary Debates, series 2, vol. 14, 14 February 1826 col. 358 (House of Commons)

[18] Parliamentary Debates, series 2, vol. 14, 13 February 1826 col. 318 (House of Commons). For a similar speech given by the Chancellor of Exchequer, see Parliamentary Debates, series 2, vol. 14, 09 February 1826 col. 152 (House of Commons).

With a softening of the argument, those in Parliament approved the Promissory Notes bill without much alteration from Liverpool's original announcement.[19] The first item on the government's agenda had been achieved.

The second and third part of Liverpool's plan for reform, the expansion of the Bank of England through branches and the revision of its charter, required more attention and negotiation to find a workable agreement. It is often pointed out that the proposals to alter the Bank of England's monopoly in 1826 coincided with the Repeal of the Bubble Act just a year earlier in 1825 (Calomiris and Haber, 2014, p.98). The two statutes, Repeal of the Bubble Act and its predecessor, the Bubble Act, while applying to most types of enterprises, did not readily apply to banks. The regulation of other industries could be used as a useful guideline for the banking sector, even if not directly applicable. But in reality, the more natural comparator was other banking systems, and with Scotland in particular. The banking system in Scotland did not suffer so extremely in the 1825/6 crisis (Clapham, 2009, p.272). One of the noticeable differences was that, as Scotland experienced free banking without legal restrictions, it did not have an equivalent to the Bank of England. One usually followed the other (Grossman, 2001). Several banks in Scotland, such as the Bank of Scotland, the Royal Bank of Scotland and the British Linen Company, held charters and possessed limited liability. The question that remained was: would the English system adopt a Scottish system of chartered banks? The following section examines the result of this debate and the arguments surrounding the renegotiation of the Bank of England's charter.

Chartered banks and corporations or unincorporated partnerships?

The discussion of changes to the regulation of banking companies proved much more divisive than the debates over currency laws. As Cooke (1951, p.111) has noted, some members of Liverpool's party, such as William Huskisson, the President of the Board of Trade and a member of the cabinet, in addition to Alexander Baring, another Tory Member of Parliament and private

[19] There was a major alteration to the bill's geographical scope. It proposed changes to the currency in all quarters of the United Kingdom. Those based in Scotland in particular objected as they claimed that smaller denomination notes were important to the economy but not likely to be over-issued. A Committee was called to determine the validity of this claim, to collate and offer opinions on Scottish and Irish bank notes but its verdict would come too late for a bill to be passed in this session. This part of the bill was therefore agreed to be removed so that discussion could take place after the Committee had published its results.

banker, advocated the introduction of a Scottish-style arrangement.[20] Joplin, a campaigner for reform, served as a fervent advocate of the Scottish and Irish model (Crick and Wadsworth, 1936b, Riley, 1961). The result would have been to offer the corporate form and limited liability to banks in England and Wales, and consequently to enact relatively radical changes to the financial system. This course of action was, however, rejected outright by the Bank of England, and therefore it could not be achieved. The Bank of England would negotiate with the government and accept some changes, but not such a far-reaching reform and shift in its position.

The Bank of England had enough bargaining power to play a major role in framing the conditions of its new charter and also the restrains on other banks. Before Liverpool had announced his plans for reform and presented bills for scrutiny and debate, the terms of the agreement were first thrashed out in formal correspondence with the Bank of England, as was customary. The Chancellor of the Exchequer, Frederick John Robinson, engaged in negotiations alongside Lord Liverpool with the Governor of the Bank of England.[21] The form of negotiations demonstrated the strength of the Bank of England to shape the system in which it operated. Liverpool admitted that 'they [the government] had not the power of granting charters… unless the Bank of England were to [agree to] give up its charter'.[22] This comment suggested that Liverpool may well have agreed with Huskisson and Baring and he would have pursued the introduction of chartered banks if not for the Bank of England.

The terms that were agreed upon by the Prime Minister, his Chancellor and the Bank of England essentially replicated an arrangement that had been reached in principle between Liverpool and the Bank of England in 1822.[23] The proposal also copied the exact terms of the Bank of Ireland's charter which was passed in 1821.[24] While the Bank of England's directors and its proprietors

[20] In the debates, Huskisson said that 'it would be a great improvement, if, under a proper system, chartered banks were established, with only a limited liability. It would, no doubt, induce many persons of great credit and fortune, to invest their money in shares of such banks. But the Bank objected to the extension of this limited liability, and had stipulated that the banks of Scotland and of Ireland should not possess this privilege'. Parliamentary Debates, series 2, vol. 14, 10 February 1826 col. 243 (House of Commons). He did not call for an amendment to the bill or for a vote on the introduction on chartered banks in this debate but said that he would do so later on. Parliamentary Debates, series 2, vol. 14, 27 February 1826 col. 892 (House of Commons).

[21] A copy of the correspondence was produced at Parliamentary Debates, series 2, vol. 14, 06 February 1826 col. 103-11 (House of Commons).

[22] Parliamentary Debates, series 2, vol. 14, 17 February 1826 cols. 462 (House of Lords).

[23] Its terms included an extension to the Bank of England's charter to 1843, ten years after its natural expiry date of 1833. Parliamentary Debates, series 2, vol. 7, 29 April 1822 col. 160-2 (House of Commons).

[24] Copley, the Attorney-General, explained that some parts 'had been copied verbatim from an Irish act, which had been in force for some years'. Parliamentary Debates, series 2, vol. 15, 14 April 1826 col. 239-

had approved the Liverpool's offer in 1822, he had failed to submit the plan to Parliament as a bill and the charter was never renewed. The agreement was, however, resurrected after the 1825/6 crisis. Given that it had been approved by the Bank of England only a few years earlier, it was likely that the institution would again look favourably upon it.

The Chancellor of the Exchequer explained that renewal of the deal would 'place the banking system of this country upon the same footing as in Ireland'.[25] The Bank of Ireland was able to restrict a bank with more than six partners 'from borrowing, owing, or taking up any sum or sums upon their bills or notes' within a fifty-mile radius of Dublin, thus protecting a considerable sphere of operation from rival competitor banks. As fifty Irish miles equalled sixty-five English miles, the Bank of England bargained that its exclusion zone should be sixty-five miles from London.[26] The Bank of England offered to let go of its right to maintain the six partner restriction outside of this area.

While Liverpool and his cabinet may have harboured plans to allow chartered banks, they did not push to change what had been agreed upon in 1822. Liverpool wished instead to persuade the Bank of England to branch and expand the circulation of its note issue beyond London.[27] The government duly put pressure on the Bank of England to establish branches in the provinces, as it was not one of the Bank's ambitions (Ziegler, 1990, p. 5). The Bank of England obliged begrudgingly to Liverpool's request, and the Chancellor conceded that 'no direct proposition to establish branch banks… had been advanced in writing by the Bank'.[28] As Lord Liverpool aimed for transactions in paper money to occur with the Bank of England's notes, it logically followed that it should retain its privileges and position as the only chartered bank. Indeed, it was in both

245 (House of Commons). Bank of Ireland Act 1821 1 & 2 Geo. IV, c. 72, s. 6 and 7. See also Bank of Ireland Act 1821 1 & 2 Geo. IV, c. 27, Relief of Bankers (Ireland) Act, 1824 5 Geo. IV, c.73.

[25] Parliamentary Debates, series 2, vol. 14, 2 February 1826 cols. 52 (House of Lords).

[26] See the Irish Bank Act 1824 1&2 Geo VI c.72. Ireland was less densely populated than England. Therefore the exclusion zone was, in reality, not directly comparable. A claim of difference between the three federations of England, Scotland and Ireland extended the Bank of England's advantage. Ireland in the British Isles was, to some degree, accepted in relation to the currency laws, and a similar challenge did not appear on the exclusion zone. The sixty-five mile exclusion zone in England offered a wide radius of protection for the Bank of England as it extended as far as Oxford to the north west, Cambridge to the North and down into the English Channel in the South. Crick and Wadsworth (1936a, p.16) state that five million people out of a total population of 36 million in England and Wales were included in this radius.

[27] Indeed, English law did not expressly prohibit the Bank of England to conduct branch banking. As the Banking Co-partnership Act 1826 expressed that the Bank of England would establish branches, it thereby clarified an issue that was not in doubt and appeared more as a binding term, such as an instruction or obligation. Banking Co-partnership Act 1826 7 Geo. IV c.46 s. 15.

[28] Parliamentary Debates, series 2, vol. 14, 09 February 1826 col. 151 (House of Commons). See also the account written by William Reid (1832 p. 60) from the perspective of the Bank of England. In it, he wrote that branch banks were a 'burden', 'like all young families'.

Liverpool's and the Bank of England's interests to ensure that its superior position as the only corporation remained unchallenged.[29]

Outside of political circles, Thomas Tooke, a London-based merchant, founder of the Political Economy Club and well-respected political economist, noted that the Bank of England's agreement to any proposal was paramount. He (1826, p. 120-1) wrote that:

> If the Bank of England would consent to give up so much of its exclusive privileges as would admit of the establishment in England of banking companies, on the footing of the chartered Companies in Scotland, the present country banks might be entirely replaced by banks on a different footing, and of unquestioned stability.

While Tooke admired the establishment of chartered banks, others thought their creation would be a step in the wrong direction. Indeed, the introduction of chartered banks and adoption of limited liability was too much even for the renowned free banker, Henry Parnell. Parnell (1827, p. 129) thought it was a:

> point of fact, [that] the fortunes of all individuals belonging to a bank is the highest security that can be taken for diligence, fidelity, and honesty, in the management of a bank; and, therefore, it would be extremely unwise for the legislature to make it a part of a new system of banking to relieve partners from this liability.

However, although Parnell disagreed with giving banks limited liability status, he did favour a bank in which the number of partners was beyond six. Parnell (1827, p.121) believed that the 1825/6 crisis had been caused merely by a capital problem, commenting that it was 'scarcely possible for any but a very numerous body of partners to furnish a capital sufficiently large for carrying … on [the business of banking] advantageously'.[30] Thus Parnell agreed with the parts of Liverpool's plan to alter the capital structures and the restriction on the number of partners.

Likewise, John McCulloch, an influential political economist in Scotland, endorsed this particular point in Parnell's pamphlet. He stated (1826, p. 285) that he believed that there was no 'good reason why the same privilege that is given to an association of six should not be given to one of six hundred individuals'. In an updated edition of this article later published in a revised copy of Adam Smith's *Wealth of Nations*, McCulloch (1828, p.274) argued, that removing the six-partner restriction would prevent the problem of contagion as it had 'a powerful tendency to prevent runs'. This point was broadly agreeable with those writing at the same time.

[29] For a full discussion of the development of Bank of England branches see Ziegler (1990).

[30] Such a paucity of capital was likely given that most private banks had fewer than six partners. In 1822, of the 552 private banks licensed to issue notes, two thirds had three partners or less and only 26 had the legal limit of 6 partners (Ziegler, 1990, p. 4).

Tooke (1826, p.120–1) thought that '[e]very country banker ought to be called upon to give some pledge of his ability to pay on demand the notes which he may be permitted to issue'. Yet, he doubted that removing the six partner restriction would give banks a better pledge of liquidity or solve the problem of having enough gold to pay notes on demand.

Despite criticism, banks promoted under the 1826 Act were not permitted to possess a set of corporate rights which were associated with a government issued charter – a separate legal idenity, limited liability and the ability to issue shares which were freely transferrable. They would, however, be permitted to extend their partnership to beyond six. In the two relevant bills and the legislation's final form, chartered banks were not expressly ruled out.[31] Rather, the linguistics of the bill, which regulated corporations and partnerships, suggested that it was intended to cover all bases. It was written to be flexible enough to be extended in future if a chartered bank might later be promoted. Thus the legislators appeared to be hedging their bets.

The question as to whether any bank other than the Bank of England could be granted a charter was thus kicked down the road for a future debate. A discussion about granting charters appeared to have occurred in 1830 with Thomas Joplin, who had longstanding ambitions to promote such a chartered bank in London. He (1832 p.322, 316) considered that 'whereas, they [joint-stock banks] in general have been formed with very small capitals, depending for their credit upon the personal responsibility of their shareholders' and that 'these are the worst description of Joint Stock Banks'. Like others, he hoped that limited liability would attract a better class of shareholders – a view which Turner (2009) has shown reappeared throughout the nineteenth century. Several of the joint-stock bank's deeds of settlement also contained clauses indicating the internal process which should be followed before attempting to obtain a government issued charter, as shown in Table 2. The table demonstrates that this decision tended to be a matter that was for shareholders or directors to decide, although it does not detail the majority needed to pass the motion, shareholders' voting rights nor process of voting. The lawyers who drafted these documents believed that a charter could well be on the horizon and so enclosed a clause detailing the internal process which should be followed by the bank's owners. They did so even though the negotiations between Liverpool and the Bank of England in the 1820s made it fairly clear that the government believed that it did not have power to grant charters. If asked by one of these banks, it was likely to feel it was honour-bound by the terms of its agreement with the Bank of England.

[31] See sections 1, 2 and 3 which also discuss corporations in a bill, intituled, an act for the better regulating copartnerships of certain bankers in England (99) 7 Geo. IV. Sess. 1826., A bill, [as amended by the committee] intituled, an act for the better regulating copartnerships of certain bankers in England (240) 7 Geo. IV. Sess. 1826.

Table 2: Clauses on agreement for a charter

Bank	Charter
Ashton, Stalybridge, Hyde, and Glossop Bank	With consent of majority of proprietors
Bank of Liverpool	Not specified
Bank of Manchester	Not specified
Bank of Westmoreland	Agreement at two successive Special General Meetings
Bilston District Banking Company	Agreement at two successive Special General Meetings
Birmingham Town and District Banking Company	Agreement at two Board of Director meetings
Bury Banking Company	Agreement at two Board of Director meetings
Carlisle City and District Banking Company	Agreement at two successive Special General Meetings
Carlisle and Cumberland Banking Company	Not specified
Derby and Derbyshire Banking Company	Agreement at two successive Special General Meetings
Glamorganshire Banking Company	Agreement at two successive Special General Meetings
Halifax Commercial Banking Company	Not specified
Herefordshire Banking Company	Not specified
Leamington Banking Company	Agreement at two successive Special General Meetings
Liverpool Commercial Banking Company	Agreement at two Board of Director meetings
Liverpool Union Bank	Agreement at two successive Special General Meetings
Saddleworth Banking Company	Yes if at a GM or a Board meeting
Shropshire Banking Company	Agreement at two successive Special General Meetings
Stockton and Durham Country Bank	Agreement at two successive Special General Meetings
Stourbridge and Kidderminster Bank	Agreement at two successive Special General Meetings
Stuckeys Banking Company	Directors may apply for charter
Surrey, Kent and Sussex Joint Stock Bank	Directors may apply for charter

A charter and the associated corporate rights were not given away but potentially available to banks, in theory at least, on a one to one basis. What was given out for new banks to use without the need to seek parliamentary approval? The only right was the use of a public officer. This privilege was awarded to companies that were partnerships and unincorporated through an Act of Parliament which was an expensive and time consuming process (Harris, 2000, p.271-2). As ordinary partnerships without a public officer did not have a shared name to use in legal transactions, they used all names of their individual owners, e.g. they held property, entered into contracts, sued and were sued in the names of all their partners. Specifying all parties was a cumbersome task, but it ensured that all benefitted and also suffered from the operation of the business as a collective or group entity.[32] Partnerships with public officers, on the other hand, could be represented in just the name of their public officer.[33] In addition to this right, the new banks were obliged to follow new accounting requirements. Banks formed under the new legislation followed a different reporting process to that of other banks. The Act required that they submit a record of the number and names of their partners on promotion and then an updated copy annually.[34]

Neither the public officer nor the reporting requirements were revolutionary ideas. As other partnerships had to petition Parliament to be granted a public officer, one objector thought that it 'seemed to be a little invidious towards other companies, to whom the same power had been refused'.[35] In the Lord Chancellor's reply, he pushed back with the same argument of parity as he explained that a 'similar clause was inserted in the Irish Banking Act, and it was only on the insertion of such a clause that the Bank of England consented to waive the privileges of its charter'.[36] Once again, the importance of getting the Bank of England to approve of such changes was clear. Both the public officer and reporting requirements appeared in the Irish legislation.[37]

The bill thus proposed new legal obligations and benefits for those banks with more than six partners than those with six or fewer partners. The use of a public officer and greater reporting requirements were a minor advantage and modified what was still considered to be part of the partnership form, in law at least. Policy-makers did not allow banks in England and Wales to have free access to a set of corporation rights, such as freely transferable shares, a separate legal personality and the limitation of liability which traditionally went with a charter. The reason for upholding the Bank of England's position as the only chartered bank owes much to its

[32] This was sometimes avoided through the use of a trustee. Even so, it was not clear how internal disputes should be presented in a litigation. Partners would sue another partner - generally in an effort to transfer losses from the collective to one individual (or set of individuals). This created difficulties when multiple individuals were involved as neither side could act as "the partnership" and as such, name all of those involved in the concern. Common sense dictated that a group divided could not unite so that it could then sue itself. While some judges simply questioned how many partners one side needed to represent the whole group, other lawyers improvised and created the role of the public officer. This change, however, did little to help shareholders litigate against directors or employees. Public officers did not represent this group very well as they were often employees rather than shareholders.

[33] Public officers were also able to sue external and internal members, such as those who failed to repay a loan and also shareholders and directors on behalf of the bank. Banking Co-partnerships Act 1826 7 Geo. IV c.46 s. 9

[34] Banking Co-partnerships Act 1826 7 Geo. IV c.46 sch. A and B. Those in law argued that this rule should be rolled out to private banks and partnerships more generally.

[35] Parliamentary Debates, series 2, vol. 15,14 April 1826 col. 241-2 (House of Commons).

[36] Parliamentary Debates, series 2, vol. 15, 14 April 1826 col. 242 (House of Commons).

[37] While additional requirements were suggested at various points, nobody pushed on these issues and suggested amendments to the bill. Huskisson also thought that banks should 'make a public record of their capital, and to balance their books once a year'. Parliamentary Debates, series 2, vol. 14, 10 February 1826 col. 209 (House of Commons).

relationship with the state. The next section examines the anticipated impact that the new law would have on private banks. It explores to what extent banks with more than six partners (new banks) were supposed to differ from those which were limited to a maximum of six (private banks).

Share ownership

In its ideology, language and concepts, policy-makers linked what would become new joint-stock banks with more than six partners to their private predecessors that operated with six partners or less. In the eyes and minds of those convening legislation, banks with more than six partners were indelibly tied to the existing legal concept of partnership. As George Canning, Foreign Secretary, explained, reforms to ownership would merely enable existing private banks to 'add a seventh, or an eighth, or even a tenth partner' rather than to 'create new establishments all over the country, to rival and extinguish the old'.[38] With only eight or ten partners, these organisations would not have shareholders nor would be sufficiently large enough to warrant new corporate governance systems. Canning accepted that the result of the reform could be that 'new banks would be created all over the country, or that the ancient and long-established ones would widen their foundations by coalescing with new partners'.[39] Via the latter option, he assumed, continuity not change, would take place.

This idea of extending the existing banks through increasing the number of partners beyond six, but not into the hundreds, seemed to resonate and appear popular, especially among the private bankers based in the House of Commons. Baring thought that by removing the six partner restriction 'the sum [of capital], from ten men, would be £100,000; an amount, in his opinion, quite adequate to support the respectability of the ordinary run of such concerns'.[40] Indeed, the perception that the 1826 legislation should just extend the capital base of those existing partnerships came through in the final Act. Its formal legal name, the Banking Co-partnership Act, was derived from the Act's long title, which (in part) described it as 'an Act for the better regulating [of] Co-partnerships of certain Bankers in England'.[41] The language used in the legislation tended to refer to and conflate the new banks possessing more than six partners as partnerships, with uniformity among proprietors. They did *not* use language that referred to a corporation, which was an entity comprising of hierarchy of shareholders, managers, directors or boards. Thus, the presumption that the new banks would merely be an extension of the private

[38] Parliamentary Debates, series 2, vol. 14, 2 February 1826 cols. 69-70 (House of Lords).
[39] Parliamentary Debates, series 2, vol. 14, 2 February 1826 col. 69 (House of Commons).
[40] Parliamentary Debates, series 2, vol. 14, 2 February 1826 col. 81 (House of Commons).
[41] See the preamble in the Banking Co-partnership Act 1826 7 Geo. IV c.46.

banks by introducing more partners was clear in the letter of the written legislation and in the discussions in Parliament.

The notion of slightly extending the private bank's capital base seemed palatable to many. By comparison, the thought of wide share ownership and a new wave of investors proved much more objectionable. Maitland, the Earl of Lauderdale, commented when asked to become a shareholder in a joint-stock company, that he 'could not lend it the sanction of his name, and… induce others to do so'.[42] Within Parliament, the move from a system of banks owned and managed by a few individuals to a different system of banks owned by many was a radical and unwanted development. Leycester, of Toft Hall in Cheshire and Member of Parliament for Shaftesbury, articulated this point with little difficulty as he 'thought, that the greater the number of partners in banks, the less security there would be for the respectability of their character, or the solvency of their circumstances'.[43] He explained, a few months earlier, that 'a larger number of partners would not necessarily imply a better character' as 'there would be more black sheep among twenty persons than among six'.[44]

The most vocal opposition to share ownership, however, came from the private bankers. The problem was competition, as noted by John Smith, a private banker, in Nottingham.[45] Alexander Baring of the bank, Baring Brothers, 'did not imagine that country gentlemen would be fools enough to part with their money, in order that they might become the sleeping partners in such concerns'. He labelled the idea as 'ridiculous'.[46] Hudson Gurney, from Gurney's bank in Norwich, went further to mock the governance structures of one of the recently proposed joint-stock banks. He read from a prospectus which had also been sent to other Members of Parliament.[47] The prospectus encouraged them to join and to assist with the formation of the joint-stock bank with shares worth just £2. The prospectus invited them to 'become one of the vice-presidents of this national association'. It went on to explain that 'the appointment being merely honorary,

[42] Parliamentary Debates, series 2, vol. 14, 17 February 1826 cols. 475 (House of Lords). This was also a dig at various members of the government, who had become directors of a silk company. Parliamentary Debates, series 2, vol. 14, 2 February 1826 col. 44 (House of Commons)

[43] Parliamentary Debates, series 2, vol. 15, 14 April 1826 col. 240 (House of Commons).

[44] Parliamentary Debates, series 2, vol. 14, 13 February 1826 col. 258 (House of Commons).

[45] He hoped that no advantage or provide would be given to any new competitors. Parliamentary Debates, series 2, vol. 14, 2 February 1826 col. 63-4 (House of Commons)

[46] Parliamentary Debates, series 2, vol. 14, 2 February 1826 col. 81 (House of Commons)

[47] The Chancellor of the Exchequer received the same prospectus. 'The proposal was', he said, 'that if he would allow himself to be set down as an honorary member, he might, if he pleased, dispense with taking any shares, and he might have nothing to do with the concern'. He confessed 'that this latter part of the proposal was the only part which he approved of'. Parliamentary Debates, series 2, vol. 15, 14 April 1826 col. 239 (House of Commons)

will not require the least sacrifice of your time or attention'. Afterwards, Hudson Gurney quipped, and '[s]o much for "solid banking!"'.[48]

It is unsurprising that those such as Baring and Gurney endorsed the notion of new law as making adjustments to the established partnership format rather than leading to more fundamental reforms. Private bankers would be the principal individuals to be affected by new legislation if it resulted in increased competition which could have an adverse impact on their businesses. When Liverpool and his cabinet proposed to keep banking as a closed profession, and the reform as a project which would extend the capital structure of private banks to include another member or two, private bankers supported the plan somewhat optimistically. The proposals also found favour with others who believed that, like usury (making money through the payment of interest), investment in shares was undesirable. Yet their predictions and Liverpool's plan did not pay off. Their legislation did not result in the formation of banks with several owners but, rather, in the promotion of banks with several hundred owners. The close and intimate bonds which tied owners together in private banks became looser in the new banks. They were stretched to the extent that those in commerce did not term these organisations as partnerships or an expanded private bank as policy-makers had done. The following section examines the reactions to the emergence of banks that were called joint-stock banks – an entity with unlimited liability but known for issuing shares. It also considers the attempts to halt the development of these joint-stock banks through repealing the 1826 legislation.

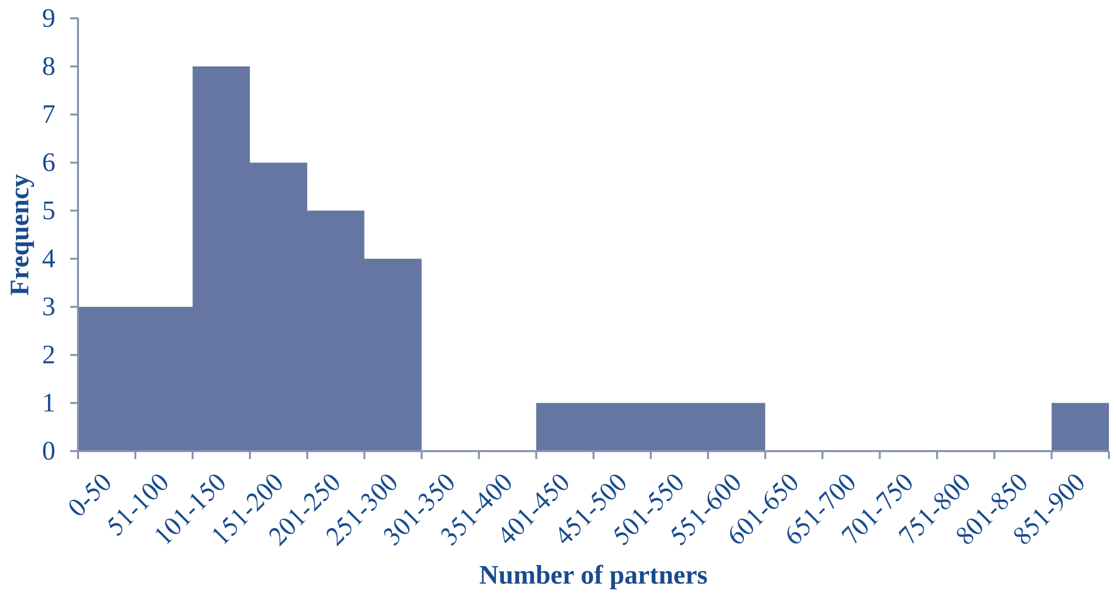
The attempt to repeal the 1826 Act and remove joint-stock banking

After the passage of Banking Co-partnership Act 1826, the promotion of new enterprises began quickly and a total of thirty-four were established in England and Wales by 1833, as Figure 1 shows. The information used to construct the table derives from the 1833 parliamentary sitting as a product of evidence gathered in 1833 by the new reporting requirements. The table demonstrates that, despite the assurances given by policy-makers, the belief that the 1826 Act would only lead to expanded or better-capitalised private bank was false. The majority of new

[48] Parliamentary Debates, series 2, vol. 15, 14 April 1826 col. 237 (House of Commons). Such discussions linked into broader anxiety with regard to the reliability of shareholders (with either limited or unlimited liability) that took place in this era of the burgeoning corporate form. Baring was essentially articulating concerns over a separation of ownership and control within a bank. Conversely, Joplin hoped that limited liability would lead to a better quality of shareholder (see above). The debate would continue throughout the nineteenth century, as Taylor (2014) has indicated.

banks issued their own notes and did not resemble the private banks that had gone before them. The number of partners in these organisations far exceeded the seven, eight or even nine projected. Only three banks were owned by less than fifty partners. These were the Bristol Old Bank, a private bank which added another few partners, Leith Bank, a Scottish bank with a branch in England, and Stuckey's Banking Company, which was formed through an amalgamation of three private banks. As Figure 1 indicates, most the other banks which were registered in 1833 had between 100 and 200 partners. The data revealed that the legislation had resulted in the breakdown of close bonds between owners and the loosening of the very fibre of the partnership that it had tried to hold together.

Figure 1: The number of banks established under 7. Geo. IV c.46 and their partners in 1833



Source: An account of places where united or joint-stock banks have been established under the act 7 Geo. IV. c. 46 (P.P. 1833, XXIII, 351)

When the results of the 1826 Act had become clear, the next opportunity to revise bank regulation was in 1833 when the Bank of England's charter was due for renewal. By 1833, political power had shifted to a different party and different set of actors. Most of the key authors of banking and monetary policy in 1826 died shortly afterwards, and the cabinet disintegrated. While Liverpool had won the general election for the Tory party in the summer of 1826, he suffered a stroke in 1827, never to return. Canning was chosen as his replacement, and he formed a coalition with some members of the Whig opposition. Yet Canning died shortly after and Robinson, previously Chancellor of the Exchequer who had been elevated to Viscount

Goderich, took over. But he could not maintain what had become an increasingly fragile government. Robinson resigned in 1830 to be replaced by another Tory, the Duke of Wellington. William Huskisson, who had been President of the Board of Trade in Liverpool's government, died in 1830 after he was run down by a steam engine although, by this point, he was no longer in political favour as he had quarrelled with Wellington and resigned from his cabinet. Even though Wellington won a general election, it did not cement his position and he too could not hold the premiership for long. Earl Grey began his term as Prime Minister and leader of the Whig party in the winter of 1830. His term would last until 1834.[49]

While the players had changed, the game remained the same. Policy-makers continued to believe that the currency would be susceptible to jolts and rapid expansions if left under the control of a multitude of note issuers. Shareholders in companies that had not been approved by Westminister were still thought to be generally problematic. These views left those in Grey's government looking even more longingly at the prospect of chartered banks. Unhappy with the joint-stock banks that had formed after 1826, the new political elite pursued another legal solution. During Grey's premiership, Lord Althorp was chosen to become the Chancellor of the Exchequer. Althorp had been largely uninfluential in the 1826 debate.[50] Yet, by 1833, he led banking and monetary policy and presided over the negotiations for further legislation with the Bank of England. He declared that he would remove the problem of joint-stock banking and revive the old method for company promotion.

As contemporaries were quick to point out, Althorp announced that the process of formation would be both *prospective* and *retrospective*.[51] It would mean that, although existing joint-stock banking companies had already formed successfully, found enough investors and begun trading, Althorp would remove them. To remain active, Althorp insisted that joint-stock banks must meet certain criteria. Under these proposals, joint-stock banking companies would, henceforth, possess a minimum of one-fourth capital paid up, issue shares of a £100, and cease to issue their own notes.[52] In exchange, joint-stock banks would have corporate status but not have free

[49] Peel, as one of the survivors of Liverpool's cabinet, went on to lead the Tory and Conservative party, as it became known, for most of the next two decades. In the 1840s, Robinson served under him as President of the Board of Trade. William Gladstone, acted first as Robinson's deputy before becoming his successor.
[50] His most notable contribution was that he supported greater reporting. He voted for an amendment to clause so that it would require the country bankers to send a return detailing the number of bank notes issued on a monthly basis. The amendment did not get enough votes to pass and Althorp was in the minority. Parliamentary Debates, series 2, vol. 14, 7 March 1826 col. 1190 (House of Commons)
[51] Macardy (1842, p.108), who had been involved in the promotion of a number of joint-stock banks in the North West, was outraged. Althorp clarified that joint-stock banks would be given some time to decide as a sort of a transition period. Parliamentary Debates, series 3, volume 18, col. 180-5, 31 May 1833 (House of Commons)
[52] Parliamentary Debates, series 3, volume 18, col. 186-8, 31 May 1833 (House of Commons)

access to it; they would still have to petition Parliament to be granted a charter and obtain these rights.

The bill for banking reform was much broader than this single narrow objective. It gave the Bank of England's notes the status of legal tender and also confirmed that joint-stock banks could exist within London if they did not issue notes– a rule that already existed within the common law.[53] The proposal to alter the existing cohort of joint-stock banks formed under the 1826 Act was only the sixth of eight propositions.[54] Althorp explained that the impetus for revising the 1826 Act was that it did not protect the commercial public, respresented by depositors and note holders, effectively. Specifically, he believed that the formation of banking companies with a small proportion of paid-up capital to be problematic. He argued that 'no one would say, that such a bank ought to be permitted by the Government; yet, under the present state of the law, such a link might exist... It might, to be sure, be said, that people ought not, and would not, trust banks which were in such a situation'.[55]

The plan to force the joint-stock banks to re-apply to the government so that they could continue to operate failed to become law. Despite the concerns about widespread instability and inadequate capital, Althorp's fears were not shared by most in the House of Commons. Mr. Richards, Member of Parliament for Knaresborough, failed to see the threat from banks with a small level of paid up capital.[56] He stated that a local banking company, probably the Knaresborough and Claro Banking Company, had been 'of the greatest benefit to the neighbourhood. They were content with small profits, and were willing to do the public business at a cheap rate; but was that any reason for the Government destroying the establishment?'[57]

Indeed, the retrospective nature of the legislation proved to be an obstacle. Although retrospective acts were not unusual within this area of commercial law,[58] it seemed to worry the

[53] See Bank Charter Act 1833 3 & 4 Wm. IV c. 98 s.3. Clapham (1970b, p.121–30), Thomas (1943, p.101), Grossman (2010, p.179), Anderson and Cottrell (1974, p.280–81) and Gregory (1936, chap. 1) provide a full analysis of this clause and its construction.

[54] Parliamentary Debates, series 3, volume 18, col. 186-8, 31 May 1833 (House of Commons)

[55] Parliamentary Debates, series 3, volume 18, col. 1325-6, 28 June 1833 (House of Commons)

[56] Richards also appeared to be responsible for compiling or presenting the list of banks and their partners as shown in Figure 1. The task was normally undertaken by the President of the Board of Trade of by a civil servant from the Stamp and Taxes Office as part of their ordinary duties.

[57] Parliamentary Debates, series 3, vol. 18, 28 June 1833 col. 1333-4 (House of Commons)

[58] In 1837, legislation was passed to allow clergymen to own shares. This legislation was passed retrospectively. Hitherto, it was against the law for clergymen to own shares. If new legislation had not been passed retrospectively in this way, it was feared that all the contracts that the bank entered into would be unenforceable and so the bank unable to be sued or sue in court. For the debate about the need for retrospective reform in this instance, see Mirror of Parliament (1837-8) 6 February, 1610. More generally, as Smead (1935) indicates the bias against retrospective legislation has been seen to be an ancient one.

private bankers – those who had first campaigned most actively against the introduction of joint-stock banks. Mathias Attwood, a private banker, thought that Althorp's 'plan which avowedly went to extinguish…….all our country banks, but [also] those joint stock banks which were established in 1826'.[59] With the plan to make the Bank of England notes legal tender, the fate of private banking now seemed to intertwine with that of the joint-stock banks against the Bank of England. Attwood also questioned the indecisiveness of policy, along with its ever changing nature and its intervening and swerving direction. He saw that the banks which had 'been adopted as an improvement… were called upon to change that system and adopt another improvement. Was there to be no end to those changes? Was the currency perpetually to be tampered with?'[60] Attwood did not support Althorp because if he did and if this proposal were to become law, he feared where it would end as banking and monetary policy followed a slippery slope - his business could be the next to lose if another round of changes were announced.

Unlike private bankers, joint-stock bankers, on the other hand, were unrepresented but not voiceless in Parliament. They applied as much pressure as could be expected. On hearing Althorp's plans, a joint-stock bank based in Manchester asked Henry Parnell to read their petition which called for the introduction of free banking. Althorp replied to it by stating that the bankers had already had their say in the Secret Committee in 1832. This Committee had been called to advise the government on the renewal of the charter.[61] However, its hearing of views was unbalanced. From 20 witnesses, only two were joint-stock bankers.[62] Indeed, the lack of involvement with joint-stock banks was the very reason for the failure of this proposal.

Althorp endeavoured to remove the infantile banks, but he did not succeed. There was little evidence from the Secret Committee of 1832 which supported his policy. By 1832 no bank formed under the 1826 Act had failed. Sir Robert Peel, Home Secretary in Lord Liverpool's government in 1826 but now on the opposite side of the benches, summed up the general sentiment with a simple suggestion. He said that he had 'no desire to make a long discursive speech upon every topic which the Resolutions embraced, and therefore he should postpone, for the present, any reference to the manner in which they might affect country bankers, and

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[59] Parliamentary Debates, series 3, volume 18, 28 June 1833 col. 1327-8 (House of Commons)

[60] Here, he also described the Chancellor as "meddling", "hasty" and "blundering". Parliamentary Debates, series 3, volume 18, 28 June 1833 col. 1327-8 (House of Commons)

[61] Parliamentary Debates, series 3, vol. 18, 28 June 1833 col. 1300-2 (House of Commons)

[62] Both Stuckey and the directors of the Bank of Manchester, joint-stock bankers, supported the idea of chartered banks. Stuckey supported a system of chartered banks in general while the Bank of Manchester was more specific and favoured closer checks on the quality of shareholders, specifically on share price and number of shareholders. Report of the Committee of Secrecy on the Bank of England charter (P.P. 1832, VI), 90, 314-5, 324

joint-stock banking-companies now established'.[63] And so the issue was left on the table for a time when a future parliament could be convinced.

In sum, the plan to extend partnerships and bolster the capital base of private banks had not come to fruition. With far more than ten owners, the majority of joint-stock banks did not resemble private banks in terms of their ownership nor governance. Yet, Liverpool's successors found that despite their attempts, they could not remove these new banks just yet. Parliament, unlike those in government, wanted to wait for a clearer sign that joint-stock banks were unstable before it would support changes to their regulatory framework.

Conclusion

This article has shown that while changes in statute law preceded a revolution from private to joint-stock banking, the transformation which took place was not the aim or objective of those who authored policy. The solution to the 1825/6 financial crisis, offered by Lord Liverpool and his cabinet, and the Bank of England, was to remove the six partner restriction and allow private banks to expand their partners by one, two three or four in number and therefore broaden the input of capital into their institutions. With this aim, policy makers gave away the power to promote a partnership and expand the capital base of private banks. Their openness did not extend to the ability to form chartered banks with freely transferable shares, a separate legal personality and limited liability, nor to did it stretch to the promotion of unchartered banks with large numbers of owners and sleeping partners.

The adoption of these policies should, the government hoped, create minimal changes in the structure of banking. The private interests of those in Parliament modulated the ideas put forward. In some corners of the political establishment, especially within the cluster of private bankers, there was a clear understanding of what the joint-stock enterprise entailed, together with its propensity to issue shares and apply new systems of management. Yet, for this self-interested contingent of private bankers, competition and divergence from the partnership model was undesirable and therefore to be rejected. As regulation was devised to achieve a government agenda - to protect private interests and achieve stability - any legislation passed could not be underpinned by free trade ideology and allow economic actors to behave as they pleased.

In the subsequent years, it became clear that Liverpool's policy and his legislation had failed. The result of the Banking Co-partnership Act 1826 was not as had been expected; private banks did

[63] Parliamentary Debates, series 3, vol. 1, 28 June 1833 col. 1337 (House of Commons)

not add a few extra partners to their number. Instead, a group of new joint-stock institutions rose with their own bank notes, large numbers of shareholders and sleeping partners. In light of these new and largely unwanted developments, policy-makers proposed to repeal the Act which allowed joint-stock banking to take place at the next opportunity. They aimed to return to a system in which government controlled entry more directly through the parliamentary process and by granting charters. The proposal to repeal the 1826 Act ultimately failed at its first hurdle in parliament. It was to the credit of the new joint-stock banks and those that ran them that they had been able to demonstrate their worth in a short period of time. The ever-changing course of banking and monetary policy meant that even those who had initially opposed joint-stock banks did not support legislation that would destroy them.

When policy-makers legislated in 1826, they did not foresee the introduction the joint-stock banking system as it is understood today. Yet, they were not permissive; they were far from content with any outcome of legislation and not afraid to admit their mistakes. Determined to protect the commercial community from the dangers of multiple note issuers and share ownership, the incumbent political elite of the 1820s and 1830s, such as Lord Liverpool, George Canning, Robert Peel and Lord Althorp, intervened repeatedly, while others, like Gladstone, who went on to become part of the next generation of political leaders, would later balk at their heavy-handed manner. Gladstone lamented their refusal to allow individuals to make bad bargains and, essentially, their reluctance to let the market to govern itself. It was the missteps and misapprehensions in banking and monetary policy in the first part of the nineteenth century that would teach later politicians that it might be easier to leave investors and the market alone.

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