when it can be judiciously expended, for the promotion of the wise and benevolent purposes contemplated by the founders of our government. The sparseness of our population presents great, perhaps, insuperable difficulties. When, as the result of a wise and liberal system of legislation, the inlets upon our coast shall receive the improvement of which they are susceptible; when our great natural highways, the rivers connected with them, shall assume that condition, in which Providence designs they shall be placed by our hands; when these channels of communication shall be intersected by Rail Roads and Canals; and as the natural consequence of this state of things, agriculture shall receive her appropriate reward, we will have laid the foundation of a school system, as extensive as our limits, and as enduring as our prosperity. A few individuals will not have been selected and cherished as the peculiar objects of public patronage; but the general character of the country will be elevated, and thousands now too poor to afford the blessings of education to their children, will find this, though the most important, but one of many advantages incident to an improved condition of life. Extended commercial facilities will stimulate to agricultural exertions;—increased production afford the means of education; and the diffusion of knowledge operate as the most certain preventive of crime. A more liberal scheme would be better suited to the condition of older and richer communities, and I trust the day is not very distant when it will be so to ours.

From the phraseology of the act establishing the Literary Fund, doubts are entertained whether the intention of the Legislature was to transfer to that corporation, the proceeds of the vacant and unappropriated swamp lands, or the lands themselves. Acting upon the latter impression, the Directors have prepared a plan, by which it is proposed to drain and bring into market, a particular tract of country, and thus test by experiment, the propriety of entering upon a general system of improvement.—This plan will accompany the Report before alluded to, and the importance of the subject, will ensure for it a favorable consideration.

This region of marshes is represented by the engineers who have explored it, as spreading over a surface of two millions and a half of acres, three-fifth of which is the exclusive property of the State. Some of the most intelligent, enterprizing and well governed members of the Confederation, have their little republics confined by narrower limits. It constitutes a twentieth of our own soil in extent, and perhaps an eighth in fertility. It is not only without productive value in its present condition, but is probably more than all other causes, the source of disease, rendering life uncomfortable and insecure; and thus blighting the prosperity of the fairest portion of the State. I believe that no doubts exist among those acquainted with the subject, of the practicability of reclaiming these pestilential wastes, and rendering them abodes of plenty and comparative healthfulness. The effect of all our previous legislation, has been to lock them up from individual appropriation, without making any effort to improve them.

In compliance with the provisions of the act passed at the last session of the General Assembly, to establish the Bank of N. Carolina, books of subscription were opened at the several places, and at the periods designated by the third section of the Charter. The result is known to you, and is strong evidence, that individual subscriptions of stock cannot be obtained to any banking institution in this State, the direction of which cannot be controlled by the stockholders. Thus the subject, which occupied so much time at the last Session, returns upon you with renewed and increased claims to your attention. The regulation of the currency of the country, is at all times a delicate subject of legislation, but is at present peculiarly so. The dividends which have been declared during the present year, of the capital stock of the State Bank and Bank of Newbern, amount to nearly one-third of the entire banking capital of the State. The objections which exist to the charter of the Bank of North-Carolina, have had the effect, it is understood, to induce a portion of the stockholders to seek investments for their money in other sections of the Union. A great diminution of the circulating medium, has of course taken place. In addition to this, it is now regarded as at least probable, that the Bank of the United States will not be re-chartered. It will require the exercise of all your wisdom and prudence, to preserve the community from the evils which these combined causes threaten to produce.

Whether the original establishment of banking institutions in this State, was the result of wise legislation, is matter rather of curious speculation, than useful enquiry. The currency of the country is now, and must continue to be a paper currency; and the only alternative presented, is the choice between bills entitled by our own citizens within our own limits, and subject to our laws; or by the citizens of other States, entirely exempt from our influence and control. As Banks are indispensible, all will prefer a domestic to a foreign institution. The important question to be determined is, what shall be the character of the corporation. Shall a Bank be created, founded upon public funds, and governed by public officers, with a capital sufficiently large to supply a circulating medium commensurate with the wants of the community?—or shall several Banks be chartered, in which the State may subscribe such portion of the stock as she chooses, the government and direction being confined to the individual stockholders?

I shall submit my views upon this subject with great deference to the opinions of those more conversant with it. I have had no experience in the management of monied corporations, and except upon an occasion when some investigation of the constitutionality and expediency of a Bank of the State became a public duty, such inquiries have rarely attracted my attention. At that time, I entertained doubts with regard to both, and my subsequent reflections have had no tendency to remove them. I doubt the constitutional right to establish such an institution, because it seems to me that its issues, though termed Bank notes, are substantially bills of credit. I forbear entering into the discussion of this proposition, and will state very briefly some few of the objections which suggest themselves to the expediency of the measure. Of the power of the General Government to establish a Bank of this character, perhaps no scruples need be entertained. The ability of the nation to maintain such an institution, is vastly greater than ours; yet the experiment has never been tried, and at the present period receives encouragement from no class of politicians. If successfully managed, as it might be for a time, I think there is too much danger, that it would ultimately connect itself with the politics of the country, and have a tendency to corrupt the people and their representatives. Finally, if, contrary to all experience, individuals should be found, who having no interest of their own to sharpen vigilance, should yet bring to the management of such a corporation the requisite attention, skill and integrity, it may then be prudent to enquire whether a general state of indebtedness on the part of the governed to the government can be free from the dangers here, that have attended it elsewhere? If it be a blessing incident to a public debt, that the creditor has a direct pecuniary interest in the maintenance of the Government, does not the converse of the proposition follow that when the Government is the creditor, the debtor has a direct pecuniary interest inducing the destruction of the Government? Why are the public lands sold for cash rather than on a credit? The experience acquired at our Public Treasury upon this subject is entitled to consideration. The head of that department, has not always found it an easy matter to reduce into possession the few debts which have at various times been due to the State from her citizens. Success has more rarely attended his efforts in such cases, and when successful, it has been after longer intervals than ordinarily characterize the transactions of individuals. Would it be otherwise if the debts really due to the State were nominally due to a Bank?

The great error, I apprehend, which prevails on this subject, is that we are disposed to establish a Bank, rather as an expedient to relieve us from taxation, than with a view to the great object to be attained by such an institution, a sound circulating medium. In the management of public as of private affairs, we are sometimes tempted to neglect that system of policy which finds its appropriate reward in patient industry, and hope to secure prosperity by some scheme of speculation which is the most alluring when the least understood. We forget that the Public Treasury must at last be replenished from the pockets of the community; and that *the indirect* is frequently the most unequal and oppressive species of contribution. Bank stock is certainly a legitimate subject of revenue; but the stockholder should pay for the privileges conferred upon him, just so much as he receives over a fair rate per cent. on his investment, in the ordinary course of dealing, and no more. A greater exaction has a tendency, either to impede the operations of the Bank, or give rise to the opposite evil, excessive issues. In the former case, a scarcity of circulating medium is produced; in the latter, the community for the use of a depreciated currency pay an indirect tax, greatly larger in amount than the actual revenue flowing into the Treasury. It is impossible to ascertain with precision the amount of losses sustained, since the establishment of the existing Banks, by the depreciation of their notes. I think, however, that an attentive examination will satisfy every one, that it must exceed the entire revenue, which has been derived from all these institutions.

I venture therefore to recommend the establishment of Banks at such places as the business of the country may require, the aggregate amount of capital not to exceed three millions of dollars, and the direction to be confided to the individual stockholders. The dividends never to exceed such rate per cent. as may be regarded a fair equivalent for the use and hazard of the investment. The average amount of public monies on deposite, to be considered as capital stock, and the Public Treasurer to be entitled to dividends accordingly.

Among the various subjects which will come before you, the revision of the whole body of our public statute laws may be mentioned, as deeply interesting to the community. The earlier statute in force in this State, was enacted in the year 1235, in the reign of Henry the third. Our Revised Code, as it is termed, commences with the provincial laws passed by the General Assembly which sat at Little River in 1715, omitting the entire legislation of the mother country with regard to this State during a period of four hundred and ninety years, and embracing more than a hundred entire statutes or parts of statutes. Of these many relate to the criminal law of the country, several create capital felonies, or punish capitally, offences that were previously subject to a milder penalty; and yet, it is believed that complete copies of these enactments are not to be found in half a dozen libraries in the State. A part of those in force and many not in force, were published in Newbern, thirty years since, but the work did not equal public expectation, and is now out of print. The lives, the liberty and property of our citizens, are thus subject to the enactments of a government widely dissimilar from ours, which few have read, or had it in their power to read. The legislation of nearly five centuries is a sealed book to the great body of the community, and in some degree even to the profession whose interest and duty render the study of the Law the business of life. It is but a short time since the question whether a statute regulating the trial of an individual for a capital felony, was in force in this State, became the subject of solemn argument before the Supreme Court, and called forth directly opposite opinions from the Judges. The truth is, that not only the source but the very existence of our statute Law, is, as remarked by an elegant writer, with regard to the common Law, "as undiscoverable as the sources of the Nile." In such a state of things, the expounder of the Law alone is safe. The Executive and Legislative Departments of the Government cease to be co-ordinate with the Judiciary, since the latter has not only the right to construe the whole body of legislation, but the privilege of declaring the existence within this State of any portion of the immense mass of British Statutes enacted anterior to the period at which we began to legislate for ourselves. I intend no disrespect to the Judiciary—the difficulty does not arise from a disposition on their part to encroach upon the other departments of the Government; but from an omission of the Legislature to perform its own functions. The task of revising and expense of publishing this Code, would be of little moment in comparison with its importance.—The laws and journals of a single session are much more voluminous than such a work would be if properly executed.

A judicious legal reform should, however, extend to all the subsequent enactments, by which we are governed. Competent judges entertain the opinion that the bulk of our statute book might be lessened at least one third, by a repeal of statutes which are in effect obsolete, and others, the object of which has been attained by subsequent enactments. The whole of the legislation from 1775 to 1777, with the exception of the Statutes of Limitation, the Registry Acts, and a few others, might with propriety be expunged from our Code, as surplusage. Many subsequent acts, and some of them connected with the criminal law, should share a similar fate. It is a capital felony, for instance, to counterfeit the notes of the Bank of North America, which have no circulation within this State. Various laws encumber the pages of the Revisal, providing for the punishment of counterfeiting our revolutionary bills of credit, the necessity of which ceased years since with the existence of the bills themselves. An antiquary would at present be much more disposed to trace out their similitude than a counterfeiter.

Is it not strange, that our Revisal should exhibit to the citizen, various enactments to punish offences which cannot be committed, and conceal from his view innumerable penalties attached to actions, which he does not know to be wrong? It is submitted to your wisdom to determine whether a legal system so perplexed, intricate and uncertain, is suited to the genius of our institutions, and the character of our citizens.

The Public Treasurer in his last annual Report, called the attention of the Legislature to the fact, that for several years past the disbursements at the Treasury, had exceeded the revenue, and suggested that a revision of the laws regulating the assessment of lands, would probably have the effect of supplying the deficiency.—By the law as it now stands, the tax paid upon real estate, depends quite as much upon the integrity of the citizens as the value of his property, the greatest burthen is of course imposed upon the most meritorious portion of the community, and the State is deprived of one third of the revenue which should accrue from this source. It seems to me that the whole series of legislation upon the subject of revenue, requires revision and amendment. There is perhaps no tax which can be devised less equal in its operation, than a poll tax, and none more so than an income tax. By our system more than a third of our entire revenue is derived from the former, while no supplies are drawn from the latter source. Real estate contributed to the support of the Government, an amount nearly equal to the poll tax, while a compartively small sum is levied upon every other species of property and none upon monied capital.

If we examine another branch of the system, the inequality is still more glaring. Three fourths of the taxes paid by the people of this State, are imposed by the County Courts, and so far as my information extends, the burthen is sustained exclusively by the polls and by real estate. Why should this radical difference exist between the system of State and county taxation? Under the former the capitation levy is the same in amount with that paid by the three hundred dollars value in land, under the latter a different rule exists in practice in almost every country. The result is that nothing like system or uniformity can be said to prevail in the arrangement of our fiscal concerns.

It is a fundamental principle of the Government "that the people ought not to be taxed without the consent of themselves or their representatives in General Assembly freely given."—A proper regard for this article of the Declaration of Rights may prompt the enquiry, whether the virtual surrender by the Legislature, to the Justices of the County Courts of three fourths of the power to lay taxes, is in exact accordance with the spirit of the provision. I call your attention to this subject, with less hesitation, because we can entertain no hope of success in any attempt to improve the condition of the country, without a substantial change of the policy hitherto pursued. The burthen of taxation should be equalized, its range must be enlarged, and the aggregate amount increased, if we expect to sustain the character and credit of the State, in the promotion of any liberal enterprize.

I beg leave to recommend to your consideration the accompanying correspondence of James Wyche, Esquire, Superintendant of Public Works, with this Department, relative to the duties and compensation of that officer. It will be perceived, that further legislation is necessary to secure the services of any individual competent to the correct discharge of that important trust.

In compliance with the Resolution passed at the last Session of the General Assembly, I have purchased, and transmitted to the Executive Department of each State and Territory in the Union, a copy of MacRae's Map of this State. I cannot permit myself to allude to this subject, without venturing to suggest, that if a copy were procured at the public expense, and forwarded to each of the Clerks of our Superior Courts, to be placed in their respective court-houses, it might have a tendency to diffuse more generally among our citizens correct knowledge of the geography of our State, and discharge in some degree the obligation which the community is under to the enterprising publisher.

I transmit in file marked A, the Ordinance and Report of the Convention of S. Carolina;—Resolutions of the Legislatures of Maine, Massachusetts, N. Jersey, Delaware, New York, Mississippi, Indiana, and Illinois, approving the Proclamation of the President of the United States, and reprobating the proceedings of the people of South Carolina;—from Connecticut and Maryland, approving the Proclamation and the Tariff, and disapproving the doctrine of Nullification;—from Alabama, disapproving the Tariff and reprobating Nullification;—from New Hampshire, approving the Proclamation, and commending the exercise of the Veto;—and from Virginia, recommending to the people of South Carolina, to rescind their Ordinance, and to Congress to modify the Tariff Laws. The file marked B., contains Resolutions of the Legislature of South Carolina, recommending the call of a Convention to determine questions of disputed power between the States and the General Government; and Resolutions from Massachusetts, Delaware, Ohio and Mississippi, dissenting from the proposition. In the file marked C., will be found Resolutions of the Legislatures of New Hampshire, Delaware and Illinois, recommending the passage of a Law by Congress for the more perfect and uniform organization of the Militia;—from Massachusetts and Pennsylvania, requesting the Governor of the several States to recommend to their respective Legislatures, the adoption of such measures as may be necessary to ensure a speedy and entire abolition of Lotteries; and from New Hampshire, Resolutions proposing an exchange of Law Reports. These papers will doubtless receive the respectful consideration to which they are entitled, by the importance of the principles discussed, and the high sources from which they emanate.

My Private Secretary will lay my Letter Book before you, together with such resignations of Militia Officers and Justices of the Peace as have been received since the adjournment of the last General Assembly.

The death of Chief Justice Henderson, the last of the three illustrious men who constituted the first Supreme Court held under the present system, has caused a vacancy in the high office which he filled for so many years with such distinguished ability, integrity and usefulness. The election of a successor, is among the many important duties which demand the attention of the Legislature at the present session.

In this annual Message, I have deemed it proper to direct your attention to the more important subjects of Legislation only. Various matters of less general interest, but which are nevertheless worthy of your consideration, will be communicated in due time.

In the remarks which I have deemed it my duty to submit to you, I have endeavored to unite that frankness which is of the essence of our free institutions, with the respect due to the immediate representatives of the people. If I have failed in either, I trust it will be attributed to no want of disposition to discharge with fidelity the obligations imposed upon me by the station I occupy. My opinions have been expressed with an earnestness inspired by a conviction of their correctness, unaccompanied, however, by any vanity that can be pained by the detection of their fallacy. I have no other ambition than to unite with you in the adoption of such measures as shall be best calculated to develope and improve our physical and intellectual resources, to promote the prosperity, and advance the character of the State.

I have the honor to be, Gentlemen,
With high consideration,
Your obedient servant,
DAVID L. SWAIN.

Executive Department, North Carolina, November 18th, 1833.

GENERAL ASSEMBLY.

SENATE.

Monday, Nov. 18.—A quorum being present, the Senators produced their credentials, were qualified, and took their seats.

Mr. Montgomery moved that William D. Moseley, the Senator from Lenoir, be appointed Speaker; which motion was unanimously agreed to. Whereupon, on motion of Mr. Skinner, of Perquimons, the Speaker was conducted to the Chair; from whence he made his acknowledgements to the Senate in an appropriate address.

On motion of Mr. Mathews, Samuel F. Patterson was appointed Principal Clerk, and William J. Cowan, Clerk Assistant.

On motion of Mr. Vanhook, Thomas B. Wheeler was appointed Principal Doorkeeper.

Mr. Vanhook also moved that Green Hill be appointed Assistant Doorkeeper; when Mr. Howell moved that the name of Henry S. Spain be added to the nomination.—Whereupon a balloting took place; which resulted in the election of Green Hill.

On motion of Mr. Martin, of *Rockingham*, ordered that a message be sent to the House of Commons, informing that House that the Senate is duly organized and ready to proceed to business.

Tuesday, Nov. 19.—The Speaker laid before the Senate the resignation of Joseph A. Hill, the Senator elect from the county of New-Hanover; which was read and accepted, and, on motion of Mr. Hinton, ordered that a writ of election issue to the Coroner of New-Hanover county, commanding him to hold an election on the first day of December, to fill said vacancy.

A message from the House of Commons, proposing to ballot immediately for three Engrossing Clerks, and stating that William Hall, John W. Covington, Thos. L. West, Alfred Lancaster, Thomas J. Ward, Thos. F. Jones, Henry S. Clark, Daniel Coleman, Charles Mock and Whitmel Hardy are a nomination; which proposition was agreed to, and a message returned, informing that House that the name of Thos. Matthews is added to the nomination. Messrs. Clayton and Skinner of Perquimons were appointed to conduct the balloting on the part of the Senate. A message was received from the House of Commons, stating that Messrs. Marsteller and Guthrie are appointed superintendents of the balloting on their part.

A message from the other House, proposing the appointment of a joint select committee, to wait on the Governor, and inform him of the organization of the Legislature, and stating that Messrs. Barringer and Long compose the committee on their part. The proposition was agreed to, and Messrs. Skinner of Perquimons and Hinton were appointed the committee on the part of the Senate.

Messrs. Kerr, Beard, Jones, Montgomery and Edwards were appointed a committee to prepare Rules of Order for the Government of the Senate during the present Session.

Mr. Clayton, from the committee appointed to conduct the balloting for three Engrossing Clerks, reported that Daniel Coleman and John W. Covington were duly elected; and that no other person in nomination had received a majority of the votes. The votes stood thus:

Coleman	135	West	31
Covington	110	Mock	16
Ward	64	Lancaster	14
Hall	63	Hardy	5
Clark	30	Mathews	5
Jones	31		

An ineffectual balloting then took place for the Engrossing Clerk yet to be elected; when the votes stood as follows:

Ward	68	Mock	5
Hall	64	Matthews	4
Jones	25	Lancaster	4
West	13	Blank	1

A message from the other House, communicating the annual message of the Governor, and proposing that the message be printed, three copies for each member of the Legislature; which proposition was agreed to.

Mr. Sherard, from the committee appointed to conduct the balloting for the Engrossing Clerk yet to be elected, reported that, on counting the ballots, there appeared to have been 170 votes given in; of which number William Hall had received 90, which is a majority of the number thus counted; but that the Assistant Clerks had reported the number of votes to be 180, of which number 90 is not a majority. A discussion arising thereon, it was ordered, on