

REPORT ON THE BANK.

[Concluded.]

The committee will now proceed briefly to notice the principal objection urged against the establishment of a STATE BANK, to wit: that it is UNCONSTITUTIONAL to establish such a Bank.

The cause of the Federal Constitution, which, it is alleged, prohibits the establishment of a Bank of the State, is in these words: "No State shall emit bills of credit." From this language it is very clear that no State can "emit bills of credit." But what are "bills of credit" in the sense used by the Constitution? Let Judge Marshall answer. In the decision of the Supreme Court on the question of the Missouri certificates, he uses this language: "At a very early period of our colonial history, the attempt to supply the want of the precious metals by a paper medium, was made to a considerable extent, and the bills emitted for this purpose were denominated bills of credit. During the war of our revolution, we were driven to this expedient, and necessity compelled us to use it to a fearful extent."

Justice Story, in his new work on the CONSTITUTION, says of "bills of credit," "the phrase (as we have seen) was well known, and generally used to indicate the paper currency issued by the States during the colonial dependence. During the war of the revolution, the paper currency issued by Congress was constantly denominated in the acts that body bills of credit, and the like appellation was applied to similar currency issued by the States. The phrase had thus acquired a determinate and appropriate name."

Mr. Madison, in his letter to C. J. Ingersoll in 1832, written on this subject, says, "The evil which produced the prohibitory clause in the Constitution of the United States, was the practice of the States making bills of credit, and, in some instances, appraised property, a 'legal tender.'" If the notes of State Banks, therefore, whether chartered or unchartered, be not made a legal tender, they do not fall within the prohibitory clause. This, he says, is the true meaning of the 44th No. of the Federalist.

It is very clear from this what is meant by "bills of credit." The States, as well as the old Congress, had been in the practice of issuing large amounts of paper money, called "bills of credit." These bills of credit were made redeemable at some future day, and no funds were set apart for their redemption even at that future day. The people were compelled to take them, for they were made "a legal tender;" and the holders of them had no remedy, for they could neither sue a State, nor Congress; so that the evil became very great, and it was to avoid the recurrence of this evil that the prohibitory clause was inserted in the Constitution. Hence, when the Legislature of Missouri attempted to supply that State with a currency by issuing certificates to circulate as a medium, the Supreme Court could not do otherwise than pronounce them unconstitutional. This, however, is a very different thing from what we propose to do. We propose to create a corporation to invest it with specific available funds; authorizing it, in its corporate name and capacity, to issue notes to a limited amount on the credit of its funds; make these notes (not a legal tender) convertible, at the pleasure of the holder, into gold or silver; and make the corporation, like individuals, liable for all its debts and responsibilities.

If any additional authority was necessary to show that the prohibitory clause does not apply to the notes of a State Bank, we may find it in the decision of the Constitutional Court of South Carolina, where the point is brought directly in question, and decided, unanimously, that the law of South Carolina establishing the State Bank, is not unconstitutional. See M'Cord's Report, 2 vol.

The Constitution of Alabama contains a clause restricting the Legislature to the establishment of a State Bank, with branches. The Federal Government, with this clause staring them in the face, without a single mark of dissent, admitted Alabama into the Union. If they believed that a State had no right to establish such a Bank, would they have admitted her into the Union until that clause had been expunged?

But, by the opponents of this measure, the creation of a corporation, in its instance, is merely an evasion, and we cannot do indirectly what we are forbidden to do directly. That a State can do more "emit bills of credit" indirectly, than she can directly, is very clear; but we say that the notes of the Bank of the State will be bills of credit. The bills of credit which occasioned the prohibitory clause in the Constitution, were declared to be money, and were made "a legal tender;" but the bank notes to be issued by the Bank, are not declared to be money, nor made a legal tender. They are not money, but only the representative of money. The opponents of this measure admit the power of the Legislature to incorporate Banks, to be owned by individuals, with the privilege to issue notes. But if the notes of the Bank of the State be bills of credit, will not the notes of individual Banks be the same? If the notes of the one be unconstitutional, how can the notes of the others be constitutional? They both are issued by corporations. If it be unconstitutional to establish a corporation to bank on the funds of all the people of North Carolina, where do you find the power to create a corporation to bank on the funds of a part of the people of North Carolina? Will it be said that the circumstances of the funds belonging to the State makes the Bank unconstitutional? If so, then it must follow that the conjoint Bank, allowing to the late half of the stock, must, at least, be half unconstitutional; otherwise it amounts to this, that the State may constitutionally own all the stock in the conjoint Bank except one dollar; but the moment she buys that dollar, the whole becomes unconstitutional.

If it were necessary any further to advocate the right of a State to establish this Bank, we might do so under the power to tax—the taxing power. A short quotation from an able paper of Alexander Hamilton, will place this idea in a striking point of view: "A Bank relates to the collection of taxes in two ways: Indirectly, by increasing the quantity of circulating medium, and quickening circulation, which facilitates the means of paying; directly, by creating a convenient species of medium in which they are to be paid. To designate or appoint money or thing in which taxes are to be paid, is not only a proper but a necessary exercise of the power of collecting them."

The next ground on which the opponents of this measure object to it, is, that of expediency. It is contended that the Legislature, from the nature of its organization, is wholly unqualified to select those who are to administer the Bank; and that this can be well done only by those whose senses are quickened by private interest. The committee need not consume time in exposing this objection; for the experience of the past few years sufficiently does so. No Bank worthy of the name, under the control of any State, has ever yet failed, or ever been involved in serious danger; while it is a notorious fact that no fewer than 150 Banks, owned and managed by individuals, have failed in the United States since the close of the war.

In remarking on this subject, Mr. Gallatin says, "On a total capital of \$5 millions, the failures have amounted to twenty-four and a half or about two-elevenths of the whole." He further remarks, "We believe that the pecuniary loss sustained by the government on the loans raised during the suspension, and from Bank failures, exceeded four millions of dollars." These facts require no comment. They plainly show who are the most competent to manage a Bank—those whose character and salaries depend on good management, or those whose cupidity and thirst of gain impels them into illegal and corrupt practices.

But this objection to the fitness of the Legislature to make selections so good in the case of the Bank, it must be equally good in all other appointments; and then we are brought to the anti-republican conclusion that the Legislature is not fit to make any appointments; otherwise we are driven to this absurdity, that the Legislature may be fit to choose Senators to Congress, Judges of the Su-

perior and Supreme Courts; Governor and Public Treasurer; but it is not fit to elect a president and five directors to manage a Bank!

The committee might present the various branches of this subject in many other lights; but they have already extended their report beyond what they could desire, and will, therefore, now submit the whole subject to the consideration and decision of the Legislature. Respectfully submitted.

CHS. FISHER, Chairman.

REPORT OF THE COMMITTEE ON EDUCATION AND THE LITERARY FUND.

The Committee on Education and the Literary Fund, to whom was referred so much of his Excellency the Governor's message as relates to that subject, and also the report of the President and Directors of the Literary Fund, report:

That they have examined the law establishing the Literary Fund of this State, and considered of the question presented in the Governor's message, with much care and attention; and your committee are all clearly of the opinion, and well satisfied, that whatever might have been the intention of the framers of the law of 1835; still the law itself does give, and has transferred, not only the proceeds of the vacant and unappropriated swamp lands in this State to that fund, but that the land itself is, by law, conveyed, and is now the property of the Literary Fund, set apart, by law, for the establishing of common schools.

Your committee perceive, by a reference to years past since the said fund was created, that there has been a slow and gradual increase of the same; and in no three years together has the increase from all sources been so great as that of the past year, which has been entirely owing to a dividend of a part of the stock in the Bank of Newbern and the State Bank of North Carolina, on shares belonging to the Literary Fund.

Your committee were anxious to recommend some method both by which the number of children in the State, now without the means of education, could be properly ascertained, and also, if possible, to devise some plan by which a course of common schools should be commenced throughout the State, for the benefit of those who are unable to procure a common education. But in viewing the extent of territory within our limits, and the population it contains, with a due regard, not only to the amount of available funds, but also to a proper and prudent management of the same, so as to answer the wise and benevolent purpose intended by the law creating the fund, your committee believe they would be doing injustice to the intention of the framers of the law and the object they had in view, to recommend any plan or course of expenditure, so as to diminish the principal sum in the support of schools. Although your committee believe there is an anxious solicitude on the part of all (and on the part of none more than each member of your committee) to impart instruction from the bounties of the State to those unable to obtain the benefit of schools, and to strive, as it were in broad cast, the benefits of education into every cottage throughout the country, and to bring the means within the reach of every poor man's door; still your committee are constrained to say that the only wise and safe course the Legislature can pursue, is to forbear engaging in any general plan of establishing common schools, until any course which may be adopted can be supported by expending the interest, and no more, in carrying on the same; otherwise the influence and benefits of the system must be partial in its effect and short in its duration.

Your committee have duly considered the plan recommended by the President and Directors of the Literary Fund, in their report, in regard to the vacant and unappropriated swamp lands of this State, with reference also to the quantity mentioned in the Governor's Message; and as one great object and desire on the part of your committee is, if possible, to devise ways and means to increase the amount of the Literary Fund, until the annual interest arising therefrom will be sufficient to justify an undertaking so desirable, of so much importance, and of so much general usefulness to the younger classes of society, hundreds of whom, though poor, are children of much promise, your committee are therefore of the opinion that the most probable means of increasing the principal amount of the fund is to effect the draining some of the lakes or swamp lands in this State, and thereby become enabled to bring into market a considerable quantity of the most valuable property now belonging to the Fund, and which must remain wholly unavailable and worthless until some such enterprise is accomplished; and your committee are induced to believe, from information derived in various ways, that the lands, when thus drained, will be of a highly fertile character and will command the highest prices for cultivation; perhaps from five to fifteen or twenty dollars per acre. Your committee have, therefore, been brought to believe, that, although it might be far better to adopt the plan recommended by the President and Directors of the Literary Fund, rather than suffer those extensive bodies of vacant and unappropriated swamp lands to remain untouched by public, and placed as they are beyond individual enterprise; but your committee think that, from the examinations and surveys already made, the prospect of success in an attempt to drain those lands is now clothed with a sufficient certainty, or at least probability, to render it unadvisable for the State to part with so large a portion as one half of all the lands which might be drained by the plan recommended; and, therefore, your committee, under all the circumstances, believe it the far preferable course for the attempt to be made at the instance of the public, and at the expense of the Literary Fund at once, which, upon the lands being laid bare by draining, would increase the capital of that fund to an amount which, in the opinion of your committee, would well justify the hazard of the undertaking. Your committee, therefore, think the President and Directors of the Literary Fund, who, by law, consist of the Governor, Chief Justice of the Supreme Court, the Speakers of the two Houses, and Treasurer of the State, should be vested with power to appropriate any sum not to exceed \$30,000, to be expended in draining any of the vacant and unappropriated swamp lands in this State, which, in their estimation, may be deemed most advisable, and most likely to result to public advantage.

Your committee, therefore, ask leave to report the accompanying resolution upon the subject, and recommend its adoption.

GEO. C. MENDENHALL, Chairman.

RESOLUTION

Authorizing the President and Directors of the Literary Fund to drain the swamp lands. Resolved, That, in the opinion of this Legislature, all the vacant and unappropriated marsh and swamp lands in this State were, by the law passed in 1835, actually transferred, and do now belong to the Literary Fund of this State.

And whereas there are large tracts of marsh and swamp lands belonging to said Literary Fund, which, from their situation, cannot be of advantage, or become in any manner available, without draining the same, and the draining said lands being, by law, placed beyond the reach of individual enterprise; and whereas it is believed to be an act of justice to the citizens, and a prudent course to be pursued, that an attempt be made to drain said lands or a part thereof: Therefore it is further

Resolved, That the President and Directors of the Literary Fund be empowered, and they are hereby authorized to expend said Fund, any sum not exceeding thirty thousand dollars, in the draining of any of the vacant and unappropriated swamp lands belonging to said Literary Fund, which they may deem advisable.

ANNUAL REPORT

Of the Treasurer of the University of North Carolina. RALEIGH, 21st Nov. 1833.

To the President and Board of Trustees of the University of North Carolina:

GENTLEMEN: I have the honor to inform you that the receipts at the Treasury of the University, within the past year, embracing a period from the 20th Nov. 1832, to the 20th Nov. 1833, amount to the sum of

Table with 2 columns: Description and Amount. Rows include: \$29,972 26; \$155 59; The balance in the Treasury unexpended, on the last annual settlement, viz. on the 20th Nov. 1832, forms an aggregate of 33,127 85; That the disbursements within the same period amount to 29,970 00.

Leaving a balance in the Treasury, at the close of the said year, viz. on the 20th Nov. 1833, of \$156 85

Which balance is deposited and stands to the credit of the Treasurer of the University in the Bank of Newbern at Raleigh.

The receipts at the Treasury as aforesaid, consist of the following items, viz.

Table with 2 columns: Description and Amount. Rows include: \$8,864 00 received of Samuel Dickins, Esq. of Tennessee, on account of sales of western lands; 285 83 of Dr. James Webb, for lands sold in Orange county to sundry individuals; 73 00 of Rob't H. Burton, Esq., of Lincoln, for the sale of Unaught's land; 15,208 56 the proceeds of the sale of the balance of the Bank stock owned by the Trustees; 125 00 of John M. Jones, of Edenton, for the purchase of a lot in Edenton; 4,723 60 being the nett proceeds of a loan effected at the U. S. Bank at Fayetteville, for the purpose of discharging the balance of the judgment obtained against the Board by the State Bank of North Carolina; 280 00 of James A. King, Esq. of Iredell, being money belonging to the Trustees, and by him collected of David Ramsay, as administrator of Patrick Graham; 125 00 of Col. Wm. Polk, collected by him for the rent of the Girard lands in Tennessee; 285 25 of John M. Dick, Esq. of Guilford, for the sale by him of certain escheated property in Randolph county.

The expenditures at the Treasury as aforesaid, have been incurred in repaying the loan to the United States' Bank, and discharging the other Bank debts of the Board, in paying the salaries of the Faculty and other officers of the Board, and sundry other ordinary and contingent charges on the Treasury: all which said several items of receipts and disbursements, and how and when the same were received and disbursed, are more fully and distinctly exhibited in the annual account current and vouchers accompanying and forming part of this Report.

In pursuance of a resolution of the Board, the whole of the Bank stock held by the Trustees, being 241 shares of the capital stock of the Bank of Newbern, was, on the 1st of April last, sold at public auction, when Mr. John Sneed, of Newbern, became the purchaser of 50 shares, at \$62 63 per share, also of 81 shares, at \$63 26; Col. Wm. Polk of 100 shares, at \$63 26; and Mr. Alfred Jones of 10 shares, at \$62 60 per share; making a total sum, as before stated, of \$15,208 56; which sum was forthwith paid to the State and Newbern Banks, viz. \$10,084 50 to the State Bank, and \$5,124 06 to the Bank of Newbern. For the balance of the debt due the State Bank, a suit was instituted against the Board, in Wake County Court, and upon judgment being had, the sum before mentioned was borrowed of the U. S. Bank at Fayetteville, which, with other funds at that time in the Treasury, discharged the said judgment, and costs.

Upon the receipt, at the Treasury, of funds from Mr. Dickins, in October last, the U. S. Bank debt was fully paid off, and the Newbern Bank debt renewed and reduced; and the Treasurer has the pleasure of congratulating the Board upon the near approach of the institution to a total exemption from bank debts. The Board still owes the Bank of Newbern at Raleigh \$1,500, payable in April next.

I have the honor also to lay before the Board statements from the superintendents, at Chapel Hill, exhibiting the amount collected by them from the students for tuition and room rent. This sum, for the two sessions of 1833, amounts to \$3,112 50; which has been disbursed by the said superintendents among the Faculty in part payment of their salaries.

I received from Col. Wm. Polk, upon his late return from Tennessee, four several bonds of \$500 each, made by Benjamin Kelly, of Stewart county, Tenn. dated 3d Sept. 1833, and due in four annual payments. These bonds are all payable to Col. Polk, and have by him been endorsed to the Trustees.

It is understood that these bonds have been taken for the purchase of a part of the Girard lands belonging to the Trustees; all which will be fully explained to the Board by Col. Polk himself.

In obedience to a resolution of the Board, adopted at Chapel Hill in June last, a copy of which was forthwith communicated to Mr. Samuel Dickins, I have the pleasure of laying before the Board a very elaborate and satisfactory document from that gentleman, exhibiting the state and condition of the University lands and other funds of the institution in that quarter.

I have the honor also to lay before the Board a file of promiscuous papers, received during the past year, embracing memorials, reports and letters upon subjects connected with the institution under your care.

And am, gentlemen, With the highest consideration, Your obedient servant, CHAS. MANLY, Treas. Univ. N. C.

REPORT

Of the Joint Select Committee on Internal Improvement. Mr. HINTON, from the Joint Select Committee on Internal Improvement, submitted the following Report:

The Joint Select Committee, to whom was referred the Memorial of the Convention on Internal Improvement, have had the same under consideration, and respectfully submit the following Report:

They concur in the feelings and sentiments expressed by the memorialists, and believe that an economical system of Internal Improvement would promote the interests and elevate the character of North Carolina. With a fertile soil and a climate adapted to a great variety of valuable productions, with mineral resources entirely unequalled in any other portion of the continent, with an industrious and intelligent population, the State has lagged behind her sisters in every thing calculated to increase the happiness of the people or to throw a lustre on our institutions. At present, there is not a single class of citizens, which can be considered in a prosperous condition. A few are wealthy, and many are in comfortable circumstances; but the thrift displayed by other States is not visible in our borders; improvement in agriculture and the mechanic arts is not even attempted, and intellectual advancement is retarded by poverty and listlessness.

No section of the State enjoys a cheap and easy access to a good market. If the labors of the planter are blessed with a rich return, his profits are consumed by the time and expense of getting his crop to the merchant. In summer our rivers are too shallow for the smallest craft, and when swelled with the rains of winter, they are dangerous and uncertain in their navigation; so that the farmer is constrained to the expensive and wearisome transportation practised by our forefathers. The cost of this mode, in comparison with artificial means, (as canals and rail roads,) the committee are unable to estimate; they can only refer the General Assembly to the experience of other countries, and a few facts, far more instructing and eloquent than their own theories. The eastern part of N. Carolina is supplied with flour from the neighborhood of Lake Erie. When this country was a wilderness, that market was furnished by the farmers of James River and the more western counties, and the change must be attributed to the canals of New York. If similar works were constructed in this State, not only would the northern article be driven out of use, but our produce would compete with the New Yorker in the foreign market. The same remark will apply to other agricultural productions. Our soil is as good as that of the north, our climate much better, and our people as intelligent as their northern brethren. It then appears that the sum paid by the inhabitant of North Carolina, for reaching a place of sale, is not expended by the citizen of other States. This must inevitably create a great disproportion in the relative profits of industry, and cause a wide difference in the aspect of the opposite sections of country. But it has been said that the State is poor, and that her population is too scattered to sustain costly works. To this, it may be answered, that the western and northern canals have frequently traversed regions less populous than ours, and less productive. They kept the youth of the country from emigration, and the facility of attaining a ready market,

brought into existence thousands of free farms and hid the foundation of many flourishing villages. But the committee need not dwell on the advantages of artificial means of internal communication. The splendid results which have followed the bold enterprise of the other States, are well known, and will have their due weight in the Legislature.