

THE DAILY NEWS

RALEIGH, N. C. THURSDAY MORNING, FEBRUARY 27, 1873. NO. 281.

THE REPORT OF THE COMMITTEE OF THE W. N. C. R. - We understand that the report of the committee on the subject of the proposed railroad from Fayetteville to the Western North Carolina Railroad, has been submitted to the Legislature.

The Joint Select Committee appointed in pursuance of the following resolution, to-wit: That a Select Committee of five from the House and three from the Senate be appointed to investigate the indebtedness of the Western North Carolina Railroad that gave rise to a late decree of the sale of said road and to see if any means can be devised by the General Assembly, by which the sale of said road can be prevented, and report by bill to be introduced at the following session.

The committee have examined a large number of witnesses among them President Tate of the road, Mr. Mott, ex-president R. F. Simonon, R. Y. McAdin, N. W. Woodfin, T. L. Clingman, and several others, and they have elicited a great many facts in connection with the road which are rendered irrelevant in the report in view of the late action of the honorable the General Assembly, in directing the appeal from the decision of the Circuit Court of the United States for the Western District of this State, and the fact that such appeal has been taken, and while your committee is by supplementary resolution directed to consider and report of the grave propositions of laws involved in the matter, they have concluded to leave these questions to be reviewed and decided in the Appellate Court, which is not only learned but august.

Under color of said act, and possibly as a consequence of the provisions, bonds were issued to the extent of nearly one million and a half dollars, a mortgage was executed on the road in the full hope and expectation that the bonds would find ready purchasers at the money markets of the world. The untoward complications in Europe, resulting from the rupture of friendly relations between France and Prussia, shut up that resource of sale. The credit of the State was greatly impaired by excessive loans of bonds for like purposes as these, and in a short time whatever remained of that credit expired in the utter failure of the State to meet maturing interest on her bonds, and because of other facts which are painful enough without being paraded in this connection.

At this juncture the officers who stand at the head of the road reported the bonds as collateral security for the loan of money, supposing that at no distant day the pressure might lift and he would be enabled to negotiate the sale of the bonds upon more satisfactory and advantageous terms than were then feasible. He effected a loan of about \$250,000, for which he gave his notes, and by way of further assurance deposited about \$500,000 of the mortgage bonds then perfected, and perhaps, an equally large amount of the bonds not then or now perfected. The bonds were marketable then at about forty cents on the dollar, with some deduction for commissions. Your committee do not think that the hypothecation was excessive so far as the amount of bonds deposited was concerned, when we consider the fact that a large proportion of them were imperfect. The rate of interest and commissions, with contingencies, on this loan reached the crushing figure of 17 per cent. The rate of interest on the bonds was 10 per cent, and the life of the loan, on an enterprise more prosperous than the Western North Carolina Road. This loan and its security was negotiated by Mr. Mott, who was then President of the road, and in his language was concurred in by those officers of the road with whom he spoke and consulted. The receipts of the road were not such as to enable the officers to meet all expenses incident to the practical working of the road, and by the large part of these receipts the large part, if not all, of the loans, was used and expended among the contractors and such other creditors of the road whose wants were pressing and immediate. Pay day came at last and it was found necessary to contract another debt to pay this one. In other words, to change masters.

In the meanwhile Colonel Tate had become President of the road, and he finally contracted a new loan with Lancaster, Brown & Co., financial agents at that time in Fayetteville. It may be remembered here, that when Mr. Mott succeeded in the presidency of the road by Colonel Tate, he had the name of Colonel Tate put upon the notes for the loan in his own stead. Col. Tate, in negotiating the loan with Lancaster, Brown & Co., refused to take any personal liability in this matter, and his name from the notes. The rate of interest on this loan was 16 per cent, less, to be sure, than the first one, but sufficient to exhaust the resources of the most prosperous sort of enterprise in short order.

Colonel Tate entered into stipulations with the lenders that he would pay in 30 days, and in case of default, that the bonds deposited might be sold to meet the debt. Maturity came, but the condition of the road and its finances were such that there was a default in payment of each and every part of the loan, and the \$1,000,000 of the bonds bid in at the amount of the Lancaster, Brown & Co. debt and the charges for selling, total amount being about \$350,000.

The mortgage contained a stipulation that in case of default of the company to pay any installment of the interest which might be due, for three months after demand, or substantially to that effect, then the entire principal of the bonds should become due. Such a stipulation is said to obtain a conveyance of this description in use of late. Whether it was competent so to stipulate in the mortgage, without express authority to that effect in the act of Assembly, is a grave legal question upon which respectable lawyers are at variance, and your Committee have not answered in the Appellate Court in this case, as that question is one of the points sought to be reviewed.

The decree of the Circuit Court of the United States in the case which was appealed from, was in part made up of the principal and interest of the bonds issued by this road and embraced in the Lancaster, Brown & Co.'s claim. Of other claims computed in that decree, some of them have been refused by the company and are litigated now at the instance of some of the officers of the road. The total amount of the decree in the case was about \$1,500,000, some \$500,000 of which, consisting of imperfect bonds, have been canceled.

We cannot, in justice to the witnesses who have been examined, some of whom are or were officers of the road while these events were transpiring, close this report without saying that every witness who has been examined, and whose testimony has been given, has been given in a commendable dispatch, given their testimony with entire fairness, and as the committee can judge, and in our opinion, so far as the testimony adduced goes, the charge of fraud, collusion or other complicity between the officers and outsiders or any of these witnesses is unfounded in fact, and upon the evidence as adduced we are of opinion that there is no good ground for such accusations should longer continue against these gentlemen. It is a striking fact that a man's hind-sights are better than his fore-sights. It is easier to look back and tell how errors could have been avoided than to point them out in advance and suggest their cure. The scope of the resolution under which the committee is acting is of so broad a character that we feel it incumbent on us to make such suggestions for the action of the Legislature as are consistent with the interest of the people of the country through which the road is to pass, and the parties to the record in the suit now pending.

The appeal already taken from the decision of the Circuit Court operates as a supersedeas of further action in the direction of the sale of the road under the judgment of the Court, except by consent. The crowded state of the docket of the Supreme Court of the United States, which consisted at the beginning of the present term of several hundred cases, renders the hope of an early decision on the stage feebly. In the meantime the counties through which the road is to pass are deprived of the facilities which, its completion would offer at their doors, all action is suspended and the best interest of the people of that section is ignored, if we fold our hands and await the "law's delay."

Your committee suggest, with the view of accommodating the interests of the State, that it is competent for the Circuit Court, notwithstanding the appeal to the Supreme Court, to order a sale of the road by consent, and all its property on such terms, by such persons under such regulations and restrictions as they see meet and proper. They are of opinion that the Court could require guarantees for the completion of the road. To this and your committee recommend that the General Assembly pass a resolution asking the Judge of the Circuit Court to appoint three persons in addition to those already named for that purpose, and that the five constitute commissioners to sell the road; the Court makes an order in the sale, the term of purchase to be credit of eighteen months or two years; at all events such time as will insure the payment of the Supreme Court on the appeal. Title to be retained and the purchasers to be put under compulsion to build the road.

And lest the honor of the Court may accord with these suggestions in consequence of supposed want of power in the premises or other cause, your committee recommend the passage of a bill or resolution appointing His Excellency, Tod B. Caldwell, George Davis, of Wilmington, J. M. Wilson, of Charlotte, M. E. Manly and Walter L. Steele as commissioners, who, acting in concert with the representatives appointed by the stockholders, will be required to give guarantees for the immediate and prompt completion of the work of building and pushing forward the uncompleted part of the road, and that the money arising from the sale, or the notes or bonds to secure it, be applied to the claims of such persons as submit to the jurisdiction of the commission or otherwise establish their claims, and in case there be an excess that it be paid to such persons as are in law entitled to it. That this commission, or a majority of them, be placed and stand of the Legislature in this particular. And in order that any failure to act may be cared in advance, and provided for the following alternatives to take the place of the commissioners in the order in which they may be appointed, to-wit: W. C. Stronach, W. H. Battle, W. H. Battle, James A. Lank, and Alfred M. Scales.

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road be pushed forward to an early completion. Your committee herewith submit the testimony taken in the investigation, and beg to be discharged from further consideration of the matter.

THE CALDWELL BOARD TAKES POSSESSION OF THE INSANE ASYLUM - The following correspondence is in reference to the control of the affairs of this institution explained itself.

DEAR SIR - The Supreme Court having decided the Board of Directors appointed by Gov. Caldwell for the Insane Asylum to be the lawful Board, you will do me the honor to suggest, if you so desire, to-day, or to-morrow, will you go to take the control of the said institution over to said Board.

W. WHITAKER, Chairman Board Directors Insane Asylum of North Carolina.

W. WHITAKER, Esq., Chairman Board Directors Insane Asylum of North Carolina.

DEAR SIR - I take pleasure in handing you above a resolution adopted by the Insane Asylum. This Board, over which I have been presiding, will, through me, deliver over to you, at the Citizens Bank to-morrow, (the 27th), at 12 o'clock M., the entire possession and control of the Insane Asylum.

Very Respectfully, Your Obedient Servant, CHAS. E. JOHNSON.

MASONIC - A special communication of W. M. G. Hill Lodge, No. 218, will be held this evening at 7 1/2 o'clock, for work in the third degree.

MARRIED - CLARK-TOMPkins. - Married, on the morning of the 26th inst., at the residence of the bride's mother, by Rev. T. H. Pritchard, D. D., Mr. CHAS. H. CLARK, of Goldsboro, and Miss MARY A. TOMPKINS, of Norfolk. Journal please copy.

LEGISLATURE OF NORTH CAROLINA. SENATE. TUESDAY, February 26, 1873. Senate called to order at 7 1/2 o'clock. [Our report yesterday morning did not conclude the Senate proceedings of Tuesday night.]

Bill to organize the fire department of Wilmington was discussed at some length and recommitted. A message was received from the House transmitting a resolution approving the centennial celebration in the city of Philadelphia, in 1876, and urging the co-operation of our people, and asking the concurrence of the Senate. Concurred in.

Bill to amend an act to establish a turnpike road from the town of Statesville, Irredell, to the town of Mount Airy, in Surry county. Bill to authorize the Commissioners of the city of Charlotte to sell its present jail and lot, &c., passed its second reading.

Bill to authorize the Commissioners of Franklin county to levy a special tax, passed its second reading. The Senate concurred in the House amendment to the bill to incorporate the Bank of Fayetteville, restricting interest to the legal rate.

A message was received from the House transmitting sundry engrossed bills which were appropriately referred. Bill to incorporate the North Carolina classes of the Reformed Church of the United States. This exhausted the calendar of private bills.

HOUSE OF REPRESENTATIVES. TUESDAY, Feb 26th, 1873. NIGHT SESSION. By Mr. JOHNSON, a resolution relative to the celebration of the centennial anniversary of the Mecklenburg Independence, on 20th May, 1875, which was adopted.

By Mr. LUCKY, a resolution relative to the appeal in the United States Circuit Court, in the case of Henry Clews, Sibley, and others, against Eastern Division of the Western North Carolina Railroad. By Mr. BENNETT, a resolution in relation to the celebration of Centennial Anniversary of the Union, on the 4th July, 1876, at Philadelphia, which was adopted.

The Amnesty bill was postponed until to-morrow. Special Order. House bill to incorporate the Cincinnati and Great Western Railway, passed its second reading.

Calendar. The calendar was placed at the disposal of the Speaker, and the following bills were disposed of: House bill to allow the Commissioners of Hertford county to levy a special tax, passed its third reading. A resolution in favor of A. M. Lewis, Jr., was introduced by Mr. McGehee and referred to an appropriate Committee.

This resolution empowers the Commissioners named, Joseph H. Wilson, Matthew E. Manly and Walter L. Steele, to confer with the parties interested in the Western North Carolina Railroad, and if they and the parties to the second agree, then, under order of Court, the Commissioners may sell pendente lite for cash or on credit, reserving the funds to be properly applied, and take assurances for its completion to the Tennessee line. Referred.

Mr. McCauley, a bill to repeal an act concerning the exchange of stocks of the State for the bonds for which said stock was purchased. Placed on calendar. Mr. Seymour, a bill in regard to the weighing of cotton in Craven county. Referred.

Mr. Morehead, of Guilford, a bill to submit the proposed Constitutional Amendments, recently passed by the General Assembly, to the people of the State for their ratification or rejection, the said amendments to be submitted on the first Thursday in August, 1878. The vote upon the same to be compared by the Governor, Secretary of State, Treasurer and Auditor, on the first Monday in December, 1878.

Mr. Humphrey moved that the bill be referred to the Committee on Constitutional Reform, with instructions to report the bill in such a manner as to have the amendments submitted separately to the people. Without any action being taken, on motion, the matter was passed over informally.

Bill to regulate mortgages by corporations and sales under the same was considered. This is to enable any company to mortgage the property and franchise of the company, and to define the rights of the purchasers under a franchise. Mr. Merrimon opposed the passage of the bill at some length, characterizing it as a dangerous bill, dangerous to the rights of the minority of the stockholders, to him and to others.

Mr. Davis moved to lay the bill on the table. Mr. Merrimon moved an amendment requiring the unanimous consent of stockholders to effect a mortgage. Lost. After the adoption of other amendments, the bill passed its several readings, and a motion to reconsider was laid on the table.

The bill entitled an act to raise revenue came up as special order on second reading, and was appropriately referred. The bill was adopted as it came from the House until section 25, Class C, was reached, which section refers to the taxes to be imposed upon foreign fire and life insurance companies. After a lengthy discussion, the Senate finally decided, by a vote of 16 to 15, to make the taxes to be imposed by the State upon all such companies two per cent. upon the gross receipts derived from the premiums charged for insurance obtained in the State, except under certain circumstances, and allowing the counties to impose a similar tax.

Pending further consideration of the bill, the House adjourned. WEDNESDAY, Feb. 26th, 1873. NIGHT SESSION. Senate called to order at 7:30 o'clock, Lieutenant Governor Brogden in the Chair. Mr. Reppes introduced a bill to incorporate the Plymouth and Fairfield Railroad Company.

The calendar was taken up and the following bills passed their third readings: Bill to amend the charter of the city of Raleigh in regard to the repair of sidewalks. Bills to authorize the Commissioners of Yadkin county, Washington county, Franklin county and of the town of Murfreesboro to levy special taxes. Bill to authorize the Commissioners of Mecklenburg county to sell their present jail, and to levy a special tax for the erection of another jail and other purposes.