

North-Carolina Legislature.

REPORTS

Of the Joint Select Committee raised by the General Assembly of North-Carolina, at its present session, on so much of the Governor's Message as relates to the Banks. Members of the Committee—Messrs. Potter, Graham, Brittain, Mendenhall, Spruill, Ruffin, Swain, Eccles, Branch, Wilson, Croom, Meares, Welborn, M'Farland, Hunt, Leonard, M'Dearmid, and Sherrard.

The Joint Select Committee, to whom was referred so much of the Governor's Message as relates to the Banks within the State,

REPORT:

That in consequence of various rumors circulated, and charges made against the Banks, your committee have been induced to direct their attention and inquiries to several points touching the conduct and situation of those institutions at various periods, and more particularly have endeavored to ascertain, whether the stock of the Banks has been paid for in the manner, and at the time prescribed by their Charters; whether they have at any time issued more paper, or contracted larger debts than their charters authorised; whether they have paid specie on demand; whether they have dealt or traded in any articles unauthorised by charter; whether they have exacted usurious interest; whether they have purchased up, or speculated in their own paper; and such other matters as were necessarily connected with these inquiries.

Your committee have been satisfied from the evidence adduced to them, that the first and second instalments of the Stock originally subscribed for in the State Bank of North-Carolina, were paid for in specie, some small proportion of the third and fourth instalments; but that much the greater part, (nearly the whole,) of the third and fourth instalments were paid for in the current Bank notes of the State. That this circumstance arose, 1st. (so far as regards the 4th instalment,) from the impracticability of procuring the old paper currency of the State, which, at that time, was monopolized by the other two Banks; and secondly, from the circumstance, that the Bank, having gone into operation, as required by its charter, after the second instalment was paid, and before the third was due, and having issued its own notes to a large amount, redeemable on demand in specie, was necessarily compelled to consider those notes equivalent to specie, and as such, receive them in payment.

Your committee, however, further state, that at the time when the third instalment was due, there was in the principal Bank at Raleigh, a larger amount in specie, than three-fourths the Stock subscribed for at that place by individuals, and that previous to the time when the fourth instalment became due, there had been in its vaults \$160,467 in specie, which subsequently, and before the 4th instalment was due, was reduced by runs upon the Bank, to \$62,809 in specie, besides \$11,829 in the paper currency of the State. That had the whole capital subscribed by individuals at the principal Bank in Raleigh been paid in specie and paper currency, there ought then to have been paid into the Bank \$184,000 in specie and paper currency.

As to the manner in which subscriptions were paid for at the various branches of this institution, your committee have had no correct evidence.

Your committee have no evidence of any time being prescribed for the payment for Stock, different from that prescribed by the charter.

It is further in evidence before your committee, that the whole Stock of this Bank was not subscribed for when the books were originally opened; and that by an act of Assembly, passed in the year 1811, the corporation was required again to open its books for subscription to fill up the unsubscribed Stock, amounting to 1,200 shares, which it did in November 1818; and that these shares were paid in such notes as were then currently circulated in the State; and that although the Banks of the State were then considered specie paying Banks, yet it appears that at the principal branch of the State Bank, there was at that time \$99,983 06-100 in specie, while the notes of that branch in circulation, amounted to \$1,189,667.

As to the Banks of Newbern and Cape-Fear, on this point of inquiry, your committee report, that the evidence satisfies them, that when those institutions first went into operation, by virtue of the act of 1804, their whole capital was paid in specie. That when their capital was enlarged by the new charter granted in the year 1814, the new Stock was paid for in the Bank notes of the State, and other current notes.

As to the second point of inquiry to which your committee have directed their attention, whether any of the Banks of this State have at any time issued more notes, or contracted larger debts than they were authorised to do by their charters? They report, it does not appear to your committee that either of the Banks of this State have issued more than three dollars for one of their chartered capital; but that all the Banks have issued more than three for one for every dollar in specie actually paid in for Stock.

As to the next inquiry, whether the Banks have paid specie on demand for their notes? Your committee report, that during the late war, when the whole Southern States were drained of their specie in consequence of the large expenditure of money at the North, the Banks of North-Carolina, together with all the Banks in the United States south of the Potomac, suspended specie payments, as a necessary protection of their specie capital; and that soon after the war, viz. in 1815, 1816, or 1817, the Banks of this State resumed the payment of specie, and from that time did pay specie on demand for their notes until June 1819, when by a joint resolution of the three Banks, it was resolved to resist the heavy drafts made upon their funds by brokers; and they declared they would not thenceforward pay specie to brokers or their agents. That since it has been found that brokers compel them to pay specie, the Banks have in general paid brokers their demands, and have as generally refused payment of their notes to citizens of the State; not owing, however, as is believed, to any preference which the Banks entertain for brokers over citizens, but because the former being capitalists, have it in their power to coerce them; while the latter, rather than endure the law's delay, content themselves with their notes, and forego their claim to specie. (That since that period, (June 1819,) though, in effect, the Banks of the State have either voluntarily or by compulsion paid all demands against them, which were persisted in, in specie, or funds deemed equivalent to specie; yet frequently those demands have not been met promptly; and, in some instances, payments have been made only thro' the coercion of the law. It is, however, due from your committee to state, as regards the Bank of Cape-Fear, that that Bank, since the early part of January last, has promptly paid, in specie, or specie funds, all demands upon it, and has been, in letter and in practice, a bona fide specie paying Bank.

As to the inquiry, whether the Banks have dealt or traded in any articles unauthorised by their charters, your committee report, no evidence has been brought before them to show that the Bank of Newbern has ever dealt in any article, not literally, and strictly comprehended in its charter. That both the Bank of Cape-Fear and the State Bank of North-Carolina, have purchased Stock of the Bank of the United States; and the former Bank is now owner of a considerable amount of that Stock. That said Banks were induced to purchase that Stock, 1st. as a ready means of acquiring a fund at all times equal to specie, and when, in fact, specie was not attainable; and, 2dly., because, in consequence of the immense capital of the United States' Bank, it was deemed prudent and proper to avoid facility in paying its demands, and better to pay interest on its demands, as the payment of interest, without a profitable investment of their specie funds, would produce heavy losses to those Banks.—The Stock of the Bank of the United States, on which regular dividends were received, afforded not only a specie fund, but one yielding a regular profit. Your committee are satisfied, these investments are contrary to charter, but were the result of the situation of the Banks, and the peculiar situation of the country and the times; and from them, much good has resulted to the Banks and no harm to the country. On this head, it

is further shown, that the State Bank of North Carolina has, on different occasions, in this State, and in South Carolina and Georgia, purchased cotton to a considerable amount. That these purchases were made at a time when the Bank was greatly in need of specie to meet the constant and heavy demands made upon it; and when specie was not attainable; and were made for the purpose of placing funds in New-York, which would be at all times equal to specie.

On the inquiry, whether the banks have exacted usurious interest? Your committee report, they have evidence, that the State Bank and Bank of Newbern have required applicants for accommodation, to exchange with them an equal amount of Northern funds for their own notes, when their own notes were 6 per cent. below par; and that the State Bank has taken interest for 92 days on a note payable 88 days after date. There is not any evidence that the Bank of Cape Fear has ever taken more than legal interest.

Your committee further report, that they have not had any evidence that the Bank of Newbern has ever bought up, or speculated in its own notes. It has been proven to your committee, that the State Bank of North Carolina and the Bank of Cape Fear, have, at different periods, purchased their notes in the Northern market to some extent. The State Bank to the amount of \$ and the Bank of Cape Fear to the amount of \$ that these purchases were made at a discount on their notes, but always at a higher price than others would give for them in the market; and that the Banks did so, only for the purpose of appreciating their notes and giving them greater currency.

From the whole investigation, your committee are satisfied, that during the years 1817, 1818, and 1819, all the Banks in North Carolina, in common with almost all the Banks in the United States, issued their paper to an amount exceeding the limits of produce. That since their error has become manifest, from a great anxiety to avoid oppressing their debtors, they have not called in their debts to the extent they might have done; but that the effect of that indulgence has been to add greater security to the debts of the institution, and to avoid much individual ruin and distress.

Your committee are further satisfied, that the condition of all the Banks is much improved, and that the Bank of Cape Fear has already become a bona fide specie paying Bank.

Your committee recommend to the Legislature to pass a law imposing a penalty of per cent, on all the Banks of this State, which may after the day of next, refuse to pay specie, (on demand,) for their notes.

GEO. E. SPRUILL.
Chairman pro tem.

The undersigned, members of the Joint Select Committee, to whom was referred so much of the Governor's Message as relates to the Banks, having had the subject under consideration, and examined such testimony, in relation to it, as they could conveniently procure, respectfully submit, as the result of their investigations, the following

REPORT:

The Legislature having laid down, in the charters of the several Banks, certain fundamental articles for the government thereof, the committee assumed these articles as the basis of their investigations, and proceeded accordingly to inquire, in the first place, whether the Stock of the several Banks had been raised in the manner required by their charters?—The evidence received by the committee on this point, shows that the charters of the Banks were disregarded and violated in the very creation of their capital.

The charter of the Bank of Cape Fear, enacted in 1804, authorised that corporation to raise a capital stock of \$250,000; and that the charter of the Newbern Bank, enacted in the same year, authorised that Bank to raise a capital stock of \$200,000; both charters directing the capital to be paid by the Stockholders in gold or silver. The undersigned have received no evidence as to the mode in which these Banks got into operation. It would seem, however, that they contemplated, at the outset, an evasion of the provisions of their charters. It is in evidence to the undersigned, that soon after they went into operation, they contrived to get possession of nearly all the paper money which had been issued on the faith of the State, which, being at the time a legal tender, enabled them to evade demands for specie, which they did, by thrusting this ragged paper at those who presented their notes for specie. In 1807, \$25,000 was added to the capital stock of each of these Banks; in 1814, their charters were extended, and they were authorised to increase their respective capitals to \$800,000 each, viz. the Newbern Bank was authorised to raise an addition to its stock of \$575,000, and the Bank of Cape Fear, an addition of \$525,000. It is in evidence to the undersigned, that the whole of this additional Stock was manufactured by the Banks themselves, and that, in many instances, favored individuals were permitted to acquire stock by subscribing their names, and putting their notes into Bank, without advancing a single dollar of actual capital. It follows, that the whole amount of the interest drawn from the people, on the loans made on this fictitious capital, was a foul and illegal extortion. The effect of the transaction was the same as if the pretended stockholders had individually executed their notes of hand, without interest, to the amount of the notes which they issued from the Bank, and exchanged them with the people for their notes, bearing interest, and renewable every ninety days. Taking the issues made on this fabricated capital to be in proportion with those made on the former capital, they must have put into circulation, on the faith of the assumed Stock, between 3 and 4,000,000 of notes; and thus, a parcel of individuals, under the name of Stockholders, but who, in fact, held no Stock, contrived to exchange their notes, without interest, to the amount of 3 or 4,000,000, for the notes of the people, bearing an interest of more than 6 per cent; and while the property of the people was pledged for the payment of the notes they had given to the Stockholders, there was not a dollar or an atom of property pledged to them for the payment of the notes they had received from the Stockholders; so that for the use of their notes, which, intrinsically, were of no value at all, the Stockholders of these two Banks have drawn from the people, by way of interest, something like \$200,000 annually.

The charter of the State Bank, enacted in 1810, authorised that corporation to raise a capital stock of \$1,600,000, and directed books to be opened to receive subscriptions for that sum, requiring, at the same time, that individuals subscribing for stock, should pay three fourths of the amount subscribed in gold or silver, and the other fourth in the paper currency, issued on the faith of the State. Books were accordingly opened, and the sum subscribed, including the subscription of \$250,000 for the State, amounted to \$1,175,600. Of this sum, only \$500,000, or thereabouts, was paid into Bank, as required by the charter, in gold or silver. The balance was paid in Bank notes. Upon the capital thus constituted, the Bank went on to operate till November, 1818; at which time, the proportion between the notes in circulation and the specie on hand, was nearly 12 to 1. In other words, the Bank had largely upwards of 11, and nearly 12 dollars of their notes in circulation, for every dollar of specie in their vaults. The Directors then ordered books to be opened to receive subscriptions for the \$424,000 which remained unsubscribed when the books were first opened; and it forms a part of the order, by which this additional subscription was authorised, that the subscribers might pay it in the notes of the Bank. The reason assigned for this operation of the directors, is, that they were desirous of applying the sponge to a part of their outstanding debt, and by way of calling in \$224,000 of their notes, they authorised individuals who held them to subscribe for stock in the Bank to that amount, and pay for it in their notes. Thus, at a time when they had in circulation nearly 12 dollars in notes for every dollar of specie in their vaults, and when most obviously they were unable to redeem their notes with specie, they purchased them from the holders by the sale of stock which they themselves created by the mere act of subscription. This the undersigned conceive to have been a most flagrant and fraudulent violation of their charter. The charter only au-

thorised the Bank to operate on a real and intrinsic capital, and directed that the capital should be paid into the Bank by the Stockholders. In the transaction alluded to, the Bank itself, by a scribbling process of its own, created the capital, and paid off a portion of its debt, by the very act by which it also increased its capital. A circumstance, too, which greatly adds to the enormity of the transaction, is, that before all the instalments became payable, the State Bank, the Bank of Newbern and Bank of Cape-Fear entered into a formal resolution, through their delegates assembled in Fayetteville, in June, 1819, not to pay specie; and their notes immediately fell to 15 per cent below par. Their commenced the system of usury and extortion which has since been carried on with such unparalleled audacity, under the name of exchange. Up to this time, viz. 1819, the high tide of commercial prosperity enjoyed by the country, enabled the Banks to keep afloat, notwithstanding the artificial character of their capital, without resorting to this daring and dishonest expedient. They had kept pace in their operations with the increasing resources of the country, so as to absorb, by way of interest on discounts, nearly all the profits on the immense business then doing; and having raised, against the people, a debt equal to the vast resources which from 1815 to that time, they had derived from their foreign commerce, as soon as the alteration occurred in our foreign relations, and those resources were cut off, the business of the country, unable any longer to employ the immense circulating medium which had been created by the Banks, and their notes returning upon them for redemption, they determined to extort from the people additional premiums on loans in order to enable them to meet the demands of their creditors. A scene of extortion and usury ensued, which has no parallel in the annals of avarice—the strange spectacle of monied institutions exacting specie in exchange for their notes, which they themselves refused to redeem with specie. To show the gross character of the usury thus carried on, the undersigned will suppose a case: An individual applies to the Bank for a loan of 1000 dollars, and offers his note to be discounted for the amount. He is told by the Bank that his note cannot be discounted, unless he will exchange with them \$1000 of specie funds, for \$1000 of their notes. Taking their notes to be 5 per cent. below par, \$1000 of their notes would in fact be no more than \$950. So that the substance of such a proposition would be, that the borrower should give the Bank \$50 as a premium for the loan of \$1000; which, added to the legal interest received in advance, would amount to something more than 11 per cent. In some instances, the usury has been still more took. Quantities of their notes have been loaned to individuals on condition that the whole amount should be returned in ninety days in specie funds. At the rate of depreciation before stated, such a transaction would be equivalent to the exaction of 26 per cent. The evidence received by the committee, shows that the State Bank and Bank of Newbern have been guilty of such practices since the summer of 1819. There is no evidence that the Bank of Cape Fear has. It appears in aggravation of the guilt of these practices, that, in the case of the State Bank, the specie funds thus extorted from the people in exchange for their depreciated notes, have been employed by the Bank in purchasing back those notes at a discount.—That they have, at times, employed agents in New York and Petersburg, to buy up their notes; and that about twelve months since, a parcel of their notes were bought up by their agent at Petersburg at 8 per cent. discount. It is stated by the President of the Bank of Cape Fear, for whose testimony too much respect cannot be expressed, that the notes of that Bank have, at different times, been bought up at a discount by the Bank. That a quantity of its notes were so purchased in anticipation of the late call of the Stockholders; and that during the panic occasioned by that call, something like \$500 of their notes were bought up by the Bank at a discount of 5 per cent. The depreciation of the notes of all the Banks, occasioned by the refusal of the Banks to make good their notes with specie, has been productive of incalculable mischief to the community; and it is no inconsiderable aggravation of the mischief to know that, in the case of the State Bank, large quantities of their notes have occasionally been thrown into circulation by themselves in the purchase of cotton. It is in evidence to the undersigned, that they laid out at one time \$30,000 of their notes in the purchase of cotton, on which they made a profit of more than \$8,000. Another remarkable fact in the history of the State Bank, which the undersigned will notice in passing, is, that to protect themselves from demands for specie, they determined at one time to administer an oath to an individual, presenting their notes for specie, in which he was compelled to state that he was not a broker. It further appears to the undersigned, that all the Banks have bought up United States' Bank notes, for which they exchanged their own notes at a discount; and the State Bank and Bank of Cape Fear, in direct violation of their charters, have purchased stock to a considerable amount in the United States' Bank. The State Bank appears to have made a most convenient use of this arrangement. It appears from the evidence of the late President of that Bank, that they have been in the habit of rendering false statements to the Legislature; and that in May last, when they stated in their exhibit that they had on hand \$214,000 in specie, \$140,000 of it consisted of stock in the United States' Bank. So that instead of keeping the specie in their vaults to take up their paper, they have vested it in the stock of another Bank, and were deriving interest from it. It further appears, from the evidence of the same person, that the amount of actual specie now in the State Bank at Raleigh, is not more than 300 or 400 dollars; at any rate, not exceeding 1000 dollars.

The undersigned have now gone through the details of the evidence, and stated all the essential facts collected in the course of their examination. Having thus embodied a simple statement of the facts, they would here close their report, and leave the conclusions and arguments to the Legislature; but they feel themselves impelled, by a solemn sense of the duty which they owe to the Legislature and the country, to take a brief view of the present relation between the Banks and the people, and the consequence which must ensue, if the Banks are permitted to continue their operations; and, in doing so, to advert to the report of the committee of the stockholders of the State Bank at their late general meeting. It appears that the people of North Carolina, having already paid to the Banks, since they went into operation, a profit of about \$4,000,000 on their stock—stock, too, three-fourths of which, was manufactured by the Banks themselves in a fictitious and fraudulent manner—that having paid this immense sum, exceeding four times the amount of the actual capital stock ever paid into Bank according to law, they still hold the notes of the people for more than \$5,000,000, about four times the amount of the whole circulating medium of the State. Thus it is in the power of the Banks absolutely to extinguish the currency of the country, and when they have taken every dollar out of circulation, still to have a debt against the people to the amount of about \$4,000,000. We say it is in their power to do it; and they intimate pretty plainly that they will do it.—The communication from the stockholders of the State Bank, now before the committee, expresses the opinion that it is for the interest of the stockholders to withdraw their money from the Bank, and take it under their own management; and contains a resolution by which they have proclaimed their resolution to assemble in June next, in order to determine whether they will proceed to wind up their affairs; and, consequently, the affairs of the people of North Carolina. Thus having, for years, contrived by illegal and fraudulent practices, to draw from the people all the profits of their labor, and having by these practices, placed the people in an impoverished condition, where they can no longer pay them large profits, they are now preparing, by one fell swoop, to extort from them the actual means of subsistence. But the question occurs, will you permit it? Will you permit a parcel of men, who have long set the laws of the country at defiance, to go on and complete the ruin they have already so nearly accomplished? Will you not bring them to the observance of the law? Will you not at length cause them to feel the rod of that law they have so long despised and violated? These questions, your committee conceive, answer themselves. When the Legislature is called upon to determine whether their constitution shall live under a government of laws, or a government of corporations, it cannot be difficult to decide. The undersigned, therefore, recommend to the Legislature the adoption of the following resolution: