

THE STAR, And North Carolina Gazette, PUBLISHED WEEKLY, BY LAWRENCE & LEMAY. TERMS, Three dollars per annum—one half in advance. Subscribers in other States cannot be allowed to remain in arrears longer than one year and persons resident without this State, who may desire to become subscribers, will be strictly required to pay the whole amount of the year's subscription in advance.

GOVERNOR'S MESSAGE

To the General Assembly of the State of North Carolina:

GENTLEMEN:—The most striking characteristic of our republican system of government, is the periodical assemblage of the representatives of the people, clothed with the power, and charged with the interests of their constituents. Experience has shown that the best security for the preservation of our rights is to be found in a deliberative body, selected by the people from among themselves, and returning at short intervals to the bosom of the community to participate in the blessings derived from wise, or the evils flowing from indiscreet legislation. It is apparent that no form of government can be devised, which will afford a guaranty that the common welfare will be promoted, and the public liberty preserved in the hands of incompetent or faithless agents, and that in proportion to the importance of the trust assumed, should be the zeal, fidelity and diligence, with which we enter upon the discharge of our duties.

I trust that I entertain a proper sense of the high responsibility which rests upon the Executive Department, and cherish the disposition to co-operate with you in a hearty endeavour to accomplish every object which may be necessary to secure the ends for which our Government was established. It is to be recollected, however, that the Constitution for wise purposes, has confided to you the whole power of legislation. The Executive can neither control nor check your proceedings, and even the privilege of advising you upon the subject of your deliberations, seems to be derived rather from custom, sanctioned by its apparent propriety, than from any express constitutional provision. I approach the discussion, nevertheless, of the important subjects which demand your attention with a frankness, inspired by the conviction, that the high privilege with which you are invested, will but render you the more anxious for its proper exercise, and the more disposed to listen with attention to suggestions emanating from a co-ordinate branch of the Government.

A recurrence to our past legislation will shew us, that although our predecessors have transmitted to us unimpaired the great charter of our rights, and were anxiously disposed to advance the improvement of the State, by providing facilities for trade, increasing our agricultural productions, diffusing the advantages of education, and adapting our laws to the improved condition of society, little has been done for the furtherance of either of these wise purposes, in comparison with what it is in our power to effect, and with that which the excited hopes and expectations of the community demand.

It is certainly not claiming too much for North Carolina, when we assert that no State in the Union, has from the earliest period of her history, exhibited a more ardent devotion to liberty, or ready obedience to the laws. I regret that the conviction is forced upon me, that her early love of freedom, and immense sacrifices for its attainment and preservation, have not met with the comparative consideration and reward to which they were so justly entitled. This result has been owing in some degree to natural causes, but quite as much to the greater pertinacity, with which the claims of other members of the confederacy, have been pressed upon the attention of the General Government. I shall not, at present, pursue this discussion, though I may take occasion to call your attention to the subject in the progress of the session. The settlement of our revolutionary claims, of our claims for expenditures during the late war with Great Britain, the policy pursued by our sister States with respect to the Cherokee Indians, the tendency of which has been to drive them from their borders, and fasten them upon our soil, will require a more minute examination than is consistent with the character of this paper. But if we have received comparatively few advantages of the nature to which I have alluded, I fear it is no less true, that the State Government has been too inattentive to all that concerns the character and interest of the commonwealth.

The apathy which has pervaded the legislation of half a century, is most strikingly exhibited by the fact, that the mere expenses of the General Assembly have ordinarily exceeded the

aggregate expenditures of all the other departments of the Government, united to the appropriations which have been made, for the purposes of Internal Improvement. That government cannot be wisely administered, where those who direct the expenditure of the public treasure, receive more for this service, than the amount of their disbursements. Let me not be regarded, as insisting that the Legislature is sustained at an expense disproportioned to its importance, but as suggesting a doubt whether its legitimate functions have been performed. I advert to the circumstance principally to enable me to urge upon you more forcibly, the propriety of entering upon a system of legislation required by the wants of your constituents, commensurate with their resources, and worthy the confidence which they repose in your ability to administer their public affairs.

The excitement which seems to pervade every section of the State, upon the subject of Internal Improvements, has no doubt attracted your attention and engaged your reflection. The opinion seems to be general, that the adoption of a more liberal system is essential to the future prosperity of the State; and that this cannot be effected by individual exertion, unaided by contributions from the Public Treasury. The Report of the Board for Internal Improvements, will be transmitted to you in a few days, and will afford all the information which that body have been able to obtain, with respect to our several road and navigation companies. It affords me pleasure to state, that these details will be calculated to correct some misapprehension, and remove some prejudices with respect to the attempts heretofore made to improve our internal condition. The situation of some of the corporations is much more prosperous, than many intelligent individuals had supposed. That there were instances of mismanagement, and that a portion of the public funds has been expended without producing any substantial good, cannot be controverted. But the actual public loss, will be found to be much less than is generally conjectured. When it is recollected, that at the commencement of our operations in 1818 and 1819, we were entirely inexperienced, and found it impossible to obtain the aid of a skillful engineer to direct our efforts, that several works were commenced simultaneously, and that the improvement instead of beginning at the mouths, was commenced at the sources of the rivers, the aggregate loss sustained is the subject neither of great surprise nor serious discouragement. The information we have acquired, if it does not compensate us for the expenditure incurred in obtaining it, will not prove without value. The introduction of the Rail Road System, is the commencement of a new era in the annals of physical improvement. The cost of any given work can be ascertained with so much correctness, before its construction is attempted, that prudent men will be able to compare its probable value, with the proposed expenditure, and arrive at a satisfactory conclusion, with respect to the propriety of engaging in the enterprise.

In addition to the information which will be afforded by the report alluded to, with respect to the condition of the public works, the opinions of the Board will, in obedience to the Act of Assembly creating the corporation, be presented upon the most important subjects connected with the Internal Improvement of the State. Whether the condition of our country is susceptible of the improvements recommended?—whether a fund shall be created proportioned to the magnitude and importance of the enterprise to be accomplished?—whether the public treasure shall be exclusively employed, or adequate aid extended to, incorporated companies? are enquiries which have received the anxious consideration of the Board, and will be submitted for your determination. My own opinion is, that the great channels of inter-communication, in which the whole community is interested, and which, for that reason, will not probably attract, and are least likely to be effected by individual enterprise—demand the exclusive attention and patronage of the government. With respect to improvements of a local character, I think the safest, and perhaps the wisest course for the Legislature to pursue will be, to incorporate companies in every section of the State where they may be necessary; and to subscribe for a uniform portion of stock in each—on the condition that no part of the public subscription shall be demanded until the private Stockholders shall have paid, or secured the payment of their subscriptions. Individuals will rarely be found anxious to engage in a chimerical scheme; and no more satisfactory evidence of the practicability and usefulness of any work, need be required than the fact, that those who recommend it to public patronage, are willing to test the correctness of their opinions by trusting their own capital to the same hazard. We

know too, that individuals ordinarily expend their own resources with more prudence and forecast, than those who have the management of an exclusively public fund. If it shall be considered advisable, that the public shall ultimately own any particular work of this character, it may be made a condition in the charter, that the State may at any time resume the franchise, upon the payment of a stipulated sum to the stockholders.

The Report of the President and Directors of the Literary Fund which will be submitted to your consideration at an early day, will shew the result, so far as it has been tried, of the only attempt we have yet made to establish schools for the convenient instruction of youth, with such salaries to the masters, paid by the public, as may enable them to instruct at low prices. The aggregate amount of the fund is at present too small, to justify our entering upon any general system of education. Indeed, were this fund much larger, it may well be doubted whether the period has yet arrived, 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 exertion;—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 & 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 fifths of which is the exclusive property of the State. Some of the most intelligent, enterprising and well governed members of the Confederacy, 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 North 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 and difficult subject of legislation, but is at present pecu-

liary 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 our 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 emitted 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 indispensable, 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 enquiries 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 es-

cure 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 mediums 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 confined 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 deposit, 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 earliest statute in force in this State, was enacted in the year 1735, 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 undiscoversable 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 begin to legislate for ourselves.—I intend no disrespect to the Judiciary—the difficulty does not arise from a disposition on their parts 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 expending 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 1715 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 enumerate the pages of the Revised, 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 Revised should exhibit to the citizen, various enactments to punish offences which cannot be committed, and equal 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 citizen 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 contributes to the support of the Government, an amount nearly equal to the poll tax, while a comparatively 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 county. 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 hopes 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 enterprise.

I beg leave to recommend to your consideration the accompanying correspondence of James Wyche, Esquire, Superintendent 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