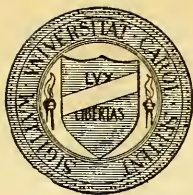


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Western N. C. railroad  
Report of joint committee



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REPORT OF JOINT SELECT COMMITTEE TO EN-  
QUIRE INTO THE MANAGEMENT OF THE  
WESTERN NORTH-CAROLINA RAILROAD.

The joint select committee, to whom was referred a resolution of the two Houses of the General Assembly, directing them to enquire into the management of the Western North Carolina Rail Road Company, submit the following report :

The committee have not had time to make anything like a thorough examination, of either the financial condition, or the management of the said road. The facts which they are about to submit, have been obtained from the statements, not under oath, made by the President, and Engineer, and from certain written documents which accompany their report. Their investigations have been confined exclusively to part that of the road from Haile's to Morganton.

It appears from the reports and statements of the Chief Engineer, that the estimated cost of the work, from Haile's to Morganton, was six hundred and sixty thousand dollars, and the distance 23 45-100 miles. These estimates were made in 1856, and submitted to the stockholders on the 31st of August of that year. By the provisions of the original and amended charters, individuals and corporations, who were solvent, were required to subscribe one-third of the estimated cost of the work and pay in cash 5 per cent of the amount, by them respectively subscribed, and thereupon, upon the certificate of those facts by the President and Treasurer of the company under the seal of the corporation, the board of Internal Im-

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provements is required to cause the public Treasurer to subscribe in behalf of the State double the amount. On the 10th of August, 1858, a certificate, stating that two hundred and twenty thousand dollars had been subscribed, as was provided in the amended charter, by the county of Burke and by another party, and that 5 per cent had been paid into the Treasury of said company, and that the parties making the subscription were abundantly solvent, was made by R. C. Pearson, Prst., and R. F. Simonton, Treasurer, with the seal of the corporation attached. A copy of the certificate is hereto annexed, marked A. The facts in regard to these subscriptions, as far as the committee have been able to ascertain them, are as follows: In pursuance of the provisions of the amended charter, a proposition was made by the county court of Burke to the people of that county to subscribe \$100,000 to the stock of the Western North-Carolina Railroad, which was rejected by a majority of the qualified voters. Subsequently another proposition was by said Court, submitted to them, to subscribe fifty thousand dollars, and upon the vote being taken, a majority of the qualified voters cast their votes in favor of it. It was insisted, by those who were opposed to the subscription that the County Court of Burke, having submitted one proposition to the people of the county, and that having been rejected, their power in the premises was ended, and before any bonds were issued, a bill of injunction was sued out, restraining the authorities of Burke county from issuing said bonds, and that is now pending in the Supreme Court. In regard to the subscription of one hundred and seventy thousand dollars by another individual, that individual is Charles F. Fisher, Esq., Prst. of the N. C. Rail Road. It was stated to us, that frequent efforts were made to obtain subscriptions to prosecute the work, all of which were unavailing. Of this there can be no doubt. Finally Mr. Fisher, after making other propositions, which were declined, proposed to subscribe the remainder of the stock necessary to obtain the subscription on the part of the State, and take the whole contract from Haile's to Morganton at the estimates. These terms were accepted by the company, and Mr. F. subscribed the stock, and the contract was awarded to him on

the 10th of June, 1858, and he entered into bond without security to do the work. The subscription and the contract were contemporaneous and dependent acts. It is not pretended he would have made the subscription without the contract. As there have been some insinuations that the estimates were made specially with reference to the contract with Mr. Fisher, the committee in this connection deem it due to truth and justice to say, there is no evidence from which any such inference can be drawn. The contrary is abundantly clear. Whether Mr. Fisher would be 'abundantly' solvent for one hundred and seventy thousand dollars, this committee do not know, and having no evidence before them, are unable to express any opinion.

With respect to the payments of five per cent. upon the subscriptions made by the county of Burke and Mr. Fisher, the facts, as far as the committee can ascertain them, are as follows: First, as to the county of Burke. The chairman of the county court drew a draft on the county trustee for twenty-five hundred dollars. That draft was not paid then, nor has it been since. Unless that draft was a payment in cash, *no* such payment upon the part of the county of Burke ever has been made; indeed, as stated in a previous part of this report, whether the county of Burke has made *any* subscription binding upon her, is yet to be settled by the judicial tribunals of the country. The majority of the committee have a very clear and decided opinion as to whether there was *in fact, and in law*, any payment whatever, made by the county of Burke, but they refrain from expressing that opinion, out of deference to one of their number. In relation to the payment by Mr. Fisher of five per cent. upon his subscription of one hundred and seventy thousand dollars, it is stated by the President of the road, that on account of previous transactions between the Company and Mr. Fisher, they were indebted to him more than the five per cent. on his stock; that *no* actual payment was made by Mr. F., it being deemed an idle ceremony, to pay him the amount which the corporation owed him and immediately receive it back. The original of Mr. Pearson's letter in relation to these payments marked B.,

is herewith submitted, the object of the committee being to do entire justice to all the parties concerned. They also submit a detailed statement of the estimates made by the Engineer, marked C. Of the correctness of these estimates, the committee have no means of enabling them to form any opinion. They are not Engineers, and if they were, many of the items depend so much upon the character of the country through which the road passes, without an examination, they would be totally unable to judge of their correctness. They will remark this, however, that at the time when the estimates were made, iron was higher by some eight or ten dollars per ton, than when Mr. Fisher took the contract, which was on the 10th June, 1858. The estimates for the excavation of rock; it will be observed, are a little over six to one for the whole estimate for that part of the road. As we have before observed, this strikes us as being large, larger than would be found to be the fact upon any railroad in the country. Again: in regard to the amount of iron for turn outs. It is put down at eight per cent., and amounts to \$11,023. This seems to the committee as being a very liberal, if not an extravagant amount for that part of the road. Of this, however, the members of the General Assembly are quite as competent to judge as the committee, unless they had some data, upon which to form their opinions.

In closing this report, the committee feel it their duty to call the attention of the General Assembly to the necessity of providing some more reliable mode of ascertaining, in cases where the State is to subscribe to public works, upon the conditions that individuals and corporations who are solvent have previously subscribed, and have paid in cash a certain part of their subscriptions, that those conditions have been complied with than now exists. We understand the board of Internal Improvements, upon a certificate made to them by the President and Treasurer of the corporation with its seal attached, that the conditions precedent have been performed, feel bound to direct the Public Treasurer to subscribe on behalf of the State.

Now the facts disclosed in this case, show how deficient the

law is. It may be, the highest judicial tribunal of this State will hold that the subscription made or rather attempted to be made on behalf of the county of Burke is void. It may turn out in others, if not in this case, that the certificate of the solvency of the individual subscribers is false. Yet according to the construction of this charter, and others like it, if an insolvent man, not worth five hundred dollars, was to subscribe two hundred thousand, and a President and Treasurer corrupt enough to certify he was solvent and had paid five per cent. in cash, could be found, the board of Internal Improvements would be bound to direct the Public Treasurer to make the subscription for the State. The certificate ought to be made under oath. Besides and beyond this, the board ought to have power, and it should be made their duty in *all* cases where they had the least doubt, to examine and ascertain the binding obligation of the subscriptions, the solvency of the subscribers, and also whether the cash payments required to be made, were really, truly and *bona fide* made. To enable them to make this investigation, the board should have power to examine witnesses on oath. There are other views in regard to the management of our public works, which have suggested themselves to the committee, but deeming them not within the scope of the investigation, which they were directed to make, they refrain from any remarks upon them.

Whether any, and if so, what steps should be taken in view of the facts disclosed by this report to protect the interest of the State, the committee deem it most proper to leave to the General Assembly, without any recommendation on their part.

All of which is respectfully submitted.

DAVID OUTLAW,  
*for the Committee.*

(A.)

OFFICE OF THE WESTERN N. C. R. R. COMPANY, }  
 Morganton, N. C., August 10th, 1858. }

We the undersigned President and Treasurer of the Western North-Carolina Railroad Company, do hereby certify that in conformity with the provision of an act of the General Assembly of North-Carolina, entitled "an act to amend the act incorporating the said Western North-Carolina Railroad Company," that the sum of (\$220,000) two hundred and twenty thousand dollars was the amount determined on by the Board of Directors of said company as necessary to be subscribed by private individuals, or by Counties, to carry out and comply with the 1st and 2d sections of said amended act. We further certify that the said sum of two hundred and ninety thousand dollars has been subscribed as provided in said act by the county of Burke, and by another party, on which subscription 5 per cent. has been paid into the treasury of said Western North-Carolina Railroad Company, and which said county and party making such subscriptions are regarded by the company as abundantly solvent.

In testimony whereof, R. C. Pearson, Esq., President of said company, and R. F. Simonton, treasurer thereof, have hereunto signed their names and affixed the seal of said corporation, the day and year first above written.

R. C. PEARSON, *Pres.*

R. F. SIMONTON, *Treas.*

The above is a true copy from the books of the Board of Internal Improvements.

GRAHAM DAVES.

January 17th, 1859.



(B.)

RALEIGH, N. C., Jan. 21st, 1859.

*W. L. Steele, Esq., Chairman, &c. :*

SIR :—I have the honor in compliance with your request to furnish you with the facts connected with the payment by Charles F. Fisher, Esq., of the 5 per cent. on 1,700 shares subscribed by him to the capital or joint stock of the Western North Carolina Railroad Company.

Mr. Fisher had subscribed stock liberally when the books were opened under the original charter, and became a contractor at the first letting of contracts for a large amount of work. The company had likewise made a contract with him to lay the tract from Salisbury to Statesville.

Most of Mr. Fisher's work was completed, and the residue in much forwardness at the time the additional stock was taken, for building the road from Hale's store to Morganton, and the company was in his debt more or less from the time he commenced operations.

When Mr. Fisher came forward to pay the first instalment of 5 per cent. on said 1700 shares of stock before the subscription by the State, the company owed him (as well as I now recollect) over \$11,000. I did not consider it necessary to pay over to him \$8,500 on account of what was due him, and receive it back at the same instant, nor to require him to go through the same forms with respect to the 5 per cent. due from him.

The five per cent. on the 500 shares subscribed by the county of Burke, was paid by a draft drawn by Thomas G. Walton, Esq., chairman of the county court, (by whom the subscription on behalf of the county had been made) as the county trustee, or the person having the custody of the county bonds, and this draft for \$2,500 was accepted by the treasurer as cash, and he charged himself with the amount on the books of the company.

These payments by Mr. Fisher and by the county of Burke

were made before the certificate was made to the Governor and Board of Internal Improvements, under which the State made her subscription.

I may here add that in the contract made with Mr. Fisher for building the road from Hale's to Morganton, he agrees to take at par the \$50,000 of bonds issued by the county of Burke in payment of her subscription, so that the transaction with respect to the first instalment on the Burke subscription was tantamount to a cash transaction, even if it should be held that five per cent. in actual cash should be paid to the company in such cases.

Respectfully presented,

R. C. PEARSON,

*President Western N. C. R. R. Company.*

(C.)

*Estimates on 23.46 miles of the Western N. C. R. R., for which Charles F. Fisher is contractor:*

899,463 cubic yards of earth excavated + \$17.92,	\$161,260.00
138,520 " " of rock " + 80,	110,816.00
6,276 cubic yards of arch, culvert, and bridge masonry, + \$6.66, .....	41,807.75
5,231 cubic yards dry stone masonry, + \$3.30, ..	17,261.00
100 feet lineal bridge supporters, + \$25 per foot,	2,500.00
1 small county road bridge, .....	250.00
68,836 sills + 33½ cts. each, (post & white oak,)	20,650.71

\$354,545.50

Contingencies, 10 per cent. on the above, .....

35,454.50

Iron for 23.46 miles—833 tons per mile, 53 lbs.

per yard—+ \$70 per ton, .....

137,795.26

8 per cent. for turnouts, .....

11,023.00

Tracklaying, + \$500 per mile, .....

11,730.00

8 per cent for tracklaying, .....

938.40

Chairs, spikes, &c., &c., &c., .....

14,083.34

\$565,570.00

Add for land damages, .....

5,212.00

\$570,782.00

JAMES C. TURNER,  
*Chief Engineer W. N. R. R.*

UNIVERSITY OF N.C. AT CHAPEL HILL



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