

The Newberry Herald and News.

ESTABLISHED 1865.

NEWBERRY, S. C., FRIDAY, JANUARY 14, 1898.

TWICE A WEEK, \$1.50 A YEAR

THE GOVERNOR'S MESSAGE.

A VERY SOBER, NOT TO SAY SOMBER, PUBLIC DOCUMENT.

The People not to be Congratulated on the Condition of Affairs Within the State—The Finances of the State in a Very Unsatisfactory Condition—A Present Deficit of One Hundred Thousand Dollars—We Must Either Enact Prohibition or Continue the Dispensary System Without the Profit Feature.

Gentlemen of the General Assembly: In this first annual message I regret that I cannot congratulate you and the people of the State upon the condition of affairs that faces you today. But while we have not had the predicted return of prosperity, we should recall with thankfulness the good health, peace and happiness we have been permitted to enjoy. Without further preliminary I proceed to discharge one of the most important duties imposed upon the Chief Executive by the Constitution.

The finances of the State are in a very unsatisfactory condition. During the session of the General Assembly, for 1896, a levy of four and a half mills was laid to meet the current expenses of the fiscal year beginning January 1st, 1897, and ending December 31st, 1897. The sum raised by this levy proved insufficient to meet the expenses, and we have, therefore, a deficit of \$100,000 to be provided for. By using every dollar from every available source and by overdrawing in small amounts upon banks in which large sums of the State's funds have been deposited, we have met promptly all current obligations without borrowing a dollar. The books were opened for the collection of taxes October 15th, and since that time we have used money thus collected to pay current expenses. This money now being collected, however, belongs legitimately to the current appropriations for 1898. By refusing to borrow \$100,000, as is often done, though I have not saved the State any great amount in the way of interest charges, I have refused to sanction what appears to me to be a bad policy—the policy of borrowing money at interest.

The levy for State purposes will be high, but you must remember that we have a deficit of \$100,000—not of your making—to be provided for, and that the State will no longer receive any revenue for current expenses from the Dispensary profits, for under the provisions of the Constitution all profits from the dispensary must hereafter go to the school fund. During the past year the general fund has been augmented by \$22,000 received from the dispensary; the year previous this augmentation amounted to \$100,000.

I have endeavored to secure a statement of the finances of the State from the Treasurer. But, as his books were not balanced up to the time of completion of my Message, I beg to refer you to the Treasurer's report.

The most difficult problem that confronts you is the regulation of the liquor traffic—and it is your duty, as the trusted representatives of the people, to use your best efforts in satisfactorily solving this question.

In my inaugural address I asked that no material change be made in the dispensary law until it could be given a fair trial. This it has never had. Upon my recommendation the law remained as it was, with the exception of a few unimportant amendments. On assuming the duties of Governor I undertook the enforcement of the law, endeavoring to do so with as little friction as possible. At first, my efforts were encouragingly successful, but this success was hindered by disagreements among the members of the State Board of Control. The mismanagement in the State dispensary and the bickerings and dissensions in the State Board disgusted some of the warmest supporters of the law, and caused a great many to lose faith in the system. But by reorganization of the force this mismanagement was corrected, and the Board has since worked in harmony. Be it said to their credit, the dispensary is now conducted in a more business-like way than ever before. Had it not been for the intervention of the Federal Courts I do not hesitate to say that the dispensary would today have very little opposition, and would have already proved, both financially and morally, a great success.

The Federal Courts have seriously crippled the law and rendered futile all my efforts for its enforcement, by holding in the case of Donald vs. Scott that citizens of the State have a right to import whiskey for personal use. A great many who were engaged in the illicit traffic in whiskey took advantage of this decision to import whiskey for sale; it thus

became very difficult for the State constables to tell when it was imported for personal use only. The State constables, under my instructions, seized quantities of whiskey where there were suspicious circumstances connected with its importation; but upon application to Judge Simonton nearly all the whiskey seized was released.

Beginning with this decision, the State has been involved in continuous litigation. In the case of Ex Parte Loeb Judge Simonton held that agents of liquor dealers outside the State might come into the State, take orders for liquors and ship them to citizens of the State. Encouraged by the above decisions, the liquor men applied to the United States Circuit Court for greater privileges and in the Vandercook decision were granted all they desired. In this case the same Judge held that citizens of another State might import, store away, and sell liquors in original unbroken packages of all sizes not less than one half pint. This led to the opening in the State of hundreds of private liquor houses and flooded the whole of South Carolina with whiskey.

Blind tigers, furnished by "original package" dealers, began the sale of whiskey in quiet, peaceful communities where liquor had never been sold. In my efforts to enforce the dispensary law as modified by the Judge's decisions I met with great difficulties. At one time Judge Simonton seemed to assume the combined prerogatives of the Chief Executive and the Legislature of South Carolina, and undertook the amendment of the dispensary law by injunction. The Governor, the constables, and all persons connected with the enforcement of the law were enjoined from interfering in any way with the "original package" dealers, and a law enacted by the representatives of a sovereign State was practically repealed by a Federal Judge.

When it was reported to me that Varn, Byrd & Co., "original package" dealers at Bamberg, were selling whiskey to drunkards, I immediately ordered the constables to seize their liquors and arrest them for maintaining a nuisance. This was done, but they applied to Judge Simonton to have the stock of liquors returned at once, and asked that the constables and all persons acting under them, or by virtue of authority from them, be restrained from further intermeddling with the said property. This request was granted notwithstanding witnesses swore that they had seen the man who bought liquor at or about the time of the sale, and that he was drunk. The Judge held that, to be guilty of the offense of selling to a drunkard, the party selling must either know or must have substantial reason to believe that the party buying was drunk at the time.

Again, in the case of E. J. O'Connor vs. Geo. S. McCravy et al., Geo. S. McCravy, Sheriff of Laurens County, notified me that four two-horse wagons had been sent to Augusta for whiskey and that on their way back to Laurens he received information that the drivers were drunk and boisterous and were selling whiskey from the wagons. I ordered the wagons and liquors seized as soon as they arrived at Laurens. Thereupon E. J. O'Connor filed a bill of complaint in the United States Circuit Court praying for a perpetual injunction restraining the defendants from seizing liquors of the complainant. Upon this bill being filed Judge Simonton granted a rule against the defendants, requiring them to show cause why a temporary writ of injunction should not be granted; and at the same time he made a restraining order to the following effect, to wit: Enjoining the defendants from seizing or attempting to seize, in transit or after arrival, or otherwise carrying away or confiscating or detaining any of the liquors, wines or beer imported or sent into the State by the complainant; and further more commanding said defendants to forthwith deliver the horses, wagons, wines and liquors to the possession and control of the complainant.

In the above instances you can see some of the difficulties that have confronted me in the enforcement of the dispensary law. "Original package" dealers have been allowed to sell to drunkards, and from wagons on public highways. Whenever a seizure was made the complainant would hasten to Judge Simonton, who seemed at all times ready and willing to lend a helping hand to such applicants. Judge Simonton's decisions and his unfriendly attitude towards those who were charged with the enforcement of the dispensary law so completely demoralized the State constables that they were of little use, and became almost a dead expense to the State. The cost of maintaining the constable was about \$4,000 per month. They

were afraid to seize liquor for fear the Federal Judge would jail them for contempt. When they did make a seizure it was, with few exceptions, released and the constables enjoined. I am sure, therefore, as Judge Simonton had practically paralyzed the constabulary I dismissed the force, leaving the responsibility for the enforcement of the law, in the hands of the city and town authorities. I retained a few detectives to suppress "blind tigers" in the country where the people have little or no protection. The Dispensary Act makes it the duty of the State Board of Control to withhold its share of the profits of the dispensary from any town or city in which the authorities do not enforce the law. So far the profits have been withheld only from the town of Sumter, and I have appointed a constable, to be paid out of the town's share of the profits, to see that the law is enforced there.

We have, then, to face the following condition of affairs: Under the protection of a Circuit Judge of the United States Court, liquor is being sold throughout the State, in the country as well as in the municipalities, and in defiance of the laws of the State. The rights of a sovereign State to police and regulate the liquor traffic in its own way is nullified and trampled under foot. The Act of Congress of July 8, 1890, has been, so far as South Carolina is concerned, repealed, and we are told that the enactment of prohibition alone gives a State the right to exclude "original package" dealers, unless the profit feature of the dispensary is destroyed. The language of Judge Simonton in the Vandercook case is as follows: "If all alcoholic liquors, by whomsoever held, are declared contraband they cease to belong to commerce, and are within the jurisdiction of the police power. But so long as their manufacture, purchase or sale, or their use as a beverage in any form or by any person, are recognized, they belong to commerce, and are without the domain of the police power." The power to license the sale of liquor, to the exclusion of these interstate commerce dealers in "original packages," has been therefore destroyed by this decision, unless it should be reversed by the Supreme Court. The Attorney General of the State has appealed, but the appeal will not be heard until March 7, too late for you to know what the decision will be, in time to legislate in accordance therewith.

It cannot be doubted that a large majority of our people favor the dispensary law, if it can be secured against the interference of the Federal Courts. Three successive General Assemblies have declared in favor of the dispensary as the best method of dealing with the liquor question. Our Representatives in Congress are at work seeking to secure additional legislation for the protection of the State against the interference of the United States judiciary. The United States Senate has already passed a bill by unanimous vote giving the complete control of intoxicants to the States, and it is hoped that the House also will pass it. But we must have immediate relief from the present intolerable conditions. Free liquor, with its accompanying increase of drunkenness and the consequent increase of crime, must at all hazards be got rid of. As I have said, a license law will not secure immunity from this evil. Judge Simonton has destroyed, along with the dispensary, the license system when run for profit. What, then, is left to do? We must either enact prohibition or continue the dispensary system without the profit feature. We can certainly get rid of the "original package" dealers and their demoralizing traffic by continuing the dispensary, shorn of all profits and administered only as a police regulation to control and reduce the liquor evil. The Federal Judge will have neither occasion nor excuse for his ever-ready injunctions, if that system shall be inaugurated, unless he shall again reverse his own previous decision. This then, appears to me the best and almost the only thing left us to do.

We might try this policy for a year, and next winter, after Congress shall have acted or failed to act and after the Supreme Court at Washington shall have decided what is to become of the State's power to control liquor under the Wilson bill of 1890, we shall be in a position to take final action. It is useless for me to make an extended argument to show that our system of liquor control is a proper exercise of the police power, and that Judge Simonton is wrong in his decision denying this power to the State. But as facts speak louder than words, I will give the testimony

of ministers of the gospel of the State as to the effect of the dispensary law on the morals of the people and on the reduction of drunkenness among them. Out of four hundred and sixty three answers received from the ministers of the State to questions submitted to them in a circular letter, dated October 1st, 1897, three hundred and twenty-four reported a decrease in drinking of forty-six and one-third per cent., and a corresponding decrease in drunkenness since the dispensary law went into effect. Sixty-nine reported an increase in drinking of fifty-four and three-fourths per cent. Yet, in the face of such testimony as to the good results of the system, Judge Simonton declares it is not a police measure. What then is the police power? Here is a definition of the United States Supreme Court itself:

"The police power includes all measures for the protection of life, the health, the property and the welfare of the inhabitants, and for the promotion of good order and the public morals. It covers the suppression of nuisances, whether injurious to public health, like unwholesome trades, or to the public morals, like gambling houses and lottery tickets. The police power extends to things not only intrinsically dangerous to the public health, such as infected rags or diseased meat, but to things which, when used in a lawful manner, are subjects of property and of commerce, and yet may be used so as to be injurious or dangerous to the life, the health, or the morals of the people. Gunpowder, for instance, is a subject of commerce and of lawful use, yet, because of its explosive and dangerous qualities, all admit that the State may regulate its keeping and sale. And there is no article, the right of the State to control or to prohibit the sale or manufacture of which within its limits is better established than intoxicating liquors."

There is profit to a State in any form of license, yet license has been held to be a police regulation even when protecting license holders in a monopoly of sale, until Judge Simonton's recent decision above quoted allowed liquors in "original packages" to enter a State "so long as their manufacture, purchase or sale, or their use as a beverage by any person are recognized." Interstate commerce has, according to Judge Simonton, destroyed the police power unless a State declares the use of liquor as a beverage to be contrary to good morals and against the health of the people. No license system does this. We cannot, therefore, get protection from "free liquor" by such enactment. We can, however, get relief by doing away with the profit feature, as the following quotation from the Vandercook decision shows: "The decision of the Supreme Court of the United States must control all Circuit Courts. By this decision it is clear that so long as the State herself engages in the business of importing and selling alcoholic liquors for the purposes of profit; so long as she recognizes that the use of alcoholic liquors as a beverage is lawful and can be encouraged; so long as she seeks a monopoly in supplying these liquors for that use, and in this way looks to an increase of her revenue, she cannot under her constitutional obligations to the other States of this Union, control, hinder and burden commerce in such articles between their citizens and her own." Here is the law and we must obey it until Judge Simonton is overruled by the Supreme Court or by Congress. Under a license system inasmuch as the State would receive money, these "original packages" would continue to come in, and Judge Simonton would continue to "enjoin" the State officers from interfering with them. Let us, therefore, do what is left us, and wait for action at Washington. The money used in conducting the Dispensaries and in enforcing the law could not be regarded as profit, but as expended purely and solely for maintaining the morals and health of the people. Judge Simonton might declare this not to be an exercise of the police power; but we will have to risk it, and depend for our security on what he himself has written in various decisions.

THE STATE'S EDUCATIONAL SYSTEM. The Constitutional three-mills tax for school purposes yields on the present assessed value of property something over \$500,000. This is a large sum to collect from a tax-burdened people, and this money should be so expended as to secure the best possible results. With this increased expenditure of money on the public schools the people have the right to expect better results than have heretofore been secured. In the cities and in a majority of the towns the schools are well sustained and meet the demands upon them; but in the country the results are generally

very unsatisfactory. With better school houses and better equipment and better teachers, boys and girls could be prepared for college at the common schools in the country without needing to take a course in fitting-schools, preparatory to entering college. The State's educational system, including all schools, high and low, primary, secondary and collegiate, looks to one end and aim—to correct illiteracy, to dispel ignorance, to train intelligent and patriotic citizens; it is sustained by public appropriations, gathered by taxation from every class of citizens. It exists for the benefit of all the people of the commonwealth and all are interested in its economical and efficient administration.

The system is a body composed of members of various capacities and functions, to be exercised, not independently, but each in conjunction with the others, with constant reference to a common purpose, and upon a common plan. Harmonious cooperation is necessary and this implies organization, embracing in well-balanced order every part of the system and supervised by intelligent and efficient officers. At present such organization and supervision are wanting; and the whole system is split into departments working each towards the supposed common end, but with no clear understanding or appreciation of each other's needs, methods, and aims. There is, therefore, an unintentional but inevitable lack of sympathy and understanding, which makes a separate system of each branch of the State's educational plant, and stands in the way of that unity and cooperation which are the prerequisites, of economy and efficiency. There is no headship, no leadership, no intelligent policy, no common purpose. Necessarily, the result is a duplication of work, a lack of connection, an uneconomical, because unsystematic, expenditure of funds, an inexcusable waste of energy, and above all, an unsatisfactory effort to forward the cause of popular education. An ideal plan would be the combination of all higher State institutions in to single coeducational university but at present this is not practicable, and the next best measure is the organization of these now diverse elements into one system, properly directed by competent officials, who should be, as far as possible, separated from political entanglements and whose duties and responsibilities should be carefully defined by statute. The common country schools, the more flourishing town schools and the various State colleges should be so related that no gap should occur in the succession of grades through which the pupil passes from rudimentary to post-graduate studies. "Every step should imply the preceding step," every advance in classes should be a natural sequence of antecedent preparation; so that the pupil who enters the lowest grade in the lowest rural school might move forward and without a break to an A. M. degree in the highest college in the State. Especially should the higher institutions supported by the State be brought into cooperative relations with each other. There should be no duplication of plants and courses and chairs and appliances that could possibly be avoided. If there are to be various State colleges they should fill as various fields of educational work, and in answer to a rational demand for such variety of advantages; moreover, each should be kept strictly to its own line of instruction. Furthermore, there must be no sentimental hesitation in reducing the State's higher educational system to the basis indicated by the people's actual needs, present and prospective. Lower education should press ahead of popular demand and seek to draw the people on to a full realization of their necessities in this line of education and culture. But the higher education may, for the present at least, be content to meet effectively the immediate demand. From what has been said above you may easily infer that the prime necessity for the higher education in South Carolina is that all the State colleges be brought under the control of a single board of trustees, who shall see that each is supported and expanded according as the needs of the people shall indicate. No one of these should be allowed to trench upon the province of the others, or take from the necessary financial support of the others. At present each State college has its own independent board who consider themselves responsible only for its support and for its success; and who are naturally not concerned, save in a sentimental way, with the prosperity or interests of the other State institutions. The control of the State's educational institutions is now in the charge of separate boards of trustees for each college, divided as follows: South Carolina College 17; Clemson College 13; South Carolina Military

Academy 11; Winthrop College 14; South Carolina State Colored Normal and Industrial College 7. The work of the several boards could be better done and at considerably less expense to the State by a board of seven competent members. The trustees of the various institutions are, at present, placed in an attitude of partisanship to their own interests and of indifference, amounting almost to hostility, to the other State colleges. Thus, each struggling to take care of itself alone is by that effort brought into competition with the others, instead of working with them and dividing with them. This breeds selfishness, distrust and antagonism among institutions that can flourish only by working in harmony. My belief in the necessity of State higher education is my warrant for candidly pointing out what seems to me the only rational and economical arrangement for its efficient administration.

STATE COLLEGES. The attendance at the State colleges is fully up to the average. They all appear to be doing satisfactory and careful work. During the past year Dr. Frank C. Woodward was elected President of the South Carolina College, and Prof. Henry S. Hartzog President of Clemson College. They were elected to fill vacancies occasioned by the resignations of Dr. James Woodrow, President of the South Carolina College, and Prof. E. B. Craighead, President of Clemson College. Results are proving the wisdom of the trustees in making these excellent selections. The most careful attention is solicited to the detailed reports of the officers of the various State colleges.

PENAL AND CHARITABLE INSTITUTIONS. The finances of the penitentiary are in a very healthful condition. For the first time in the history of this institution it has paid money into the State treasury, for the current expenses of the State government. The \$9,649.72 borrowed from the sinking fund commission to meet the last payment on the Road plantation has been repaid, and an additional sum of \$10,000 has been turned into the State Treasury. In addition to these payments there is sufficient cash on hand to purchase all the fertilizers needed for the next crop. The income from convicts leased, with the cash on hand, should meet current expenses of this institution and the gross proceeds from the crop produced this year should be paid into the State treasury for general expenses.

THE STATE HOSPITAL FOR THE INSANE. The management of the State Hospital for the insane is all that could be desired. The affairs of the institution have been successfully and economically managed. The construction of the Parker building for the colored insane, is a great and needed improvement. Upon the small allowance of \$7,500 this handsome brick structure, worth many times as much, has been nearly finished. The State has every reason to congratulate itself upon the marked improvement and successful management of this institution, especially when its limited resources are considered. I would urge that the small appropriation asked for by the board of regents to complete this work be granted.

INSTITUTE FOR THE DEAF, DUMB AND BLIND. Special attention is directed to the institution for the deaf, dumb and blind. It will be found that this institution is doing admirable work and deserves the earnest consideration of your honorable bodies.

PHOSPHATE INDUSTRY. Only \$40,700.25 have been paid during the year into the State treasury from the phosphate mining industry. This amount under the law must be devoted to the sinking fund for the redemption of State bonds. You may expect a still smaller revenue from this source next year. Competition with Algiers and Florida has so reduced the price of phosphate rock that some of our miners have been forced to suspend operations. Those who are engaged in the business are mining at a loss, notwithstanding the fact that the board of phosphate commissioners reduced the royalty from fifty to twenty-five cents per ton. On the first day of April, 1897, the phosphate commissioners met at Beaufort to inspect the phosphate territory. The phosphate miners were invited to be present and they were all represented at the meeting. After thorough investigation the board adopted the following resolution: "Resolved, That on and after April 1, 1897, the royalty to be paid to the State of South Carolina by all persons, corporations or companies mining phosphate rock or phosphate deposits from the beds of navigable streams and waters of the State and the marshes thereof, shall be, and the same is hereby fixed, at the rate

of twenty-five cents per ton of dried rock, so long as the price of said phosphate rock, free on board to the said miners at their several mines shall be three dollars per ton or under; but in case there shall be any increase in such price over and above three dollars per ton, then and in every such case, there shall be paid to the State an additional royalty per ton equal to one-half of such increased price over and above three dollars per ton, free on board. Provided, that all phosphate rock dug, mined and shipped on hand on the first day of April, A. D. 1897, shall first be accounted for at the royalty fixed by the act of the General Assembly, entitled 'An Act Relating to the Phosphate Industry of the State,' approved December 22nd, A. D. 1893. Provided, further, that all companies shall pay into the State Treasury the royalty upon all shipments made prior to the first day of April, A. D. 1897."

Soon after the adoption of this resolution citizens of Beaufort filed with the Board of Phosphate Commissioners a petition praying that the royalty on rock already mined be also reduced to twenty-five cents per ton. On the first of January, 1897, the phosphate miners had on hand about 45,000 tons of rock which was subject to royalty, and on the first of April, 1897, about 49,000 tons. After due consideration, the petition referred to was refused. The board held that the royalty of fifty cents per ton fixed by the Act of 1893, should be paid on all rock on hand on the first day of April, 1897.

The board took the view that the phosphate miners were bound, by the contract contained in the Act of 1893, to pay the royalty fixed by the said Act, until it was changed by authority of the General Assembly. They further held that they had no authority, nor did they deem it right, to make the miners a present of \$12,000 then due the State.

The Farmers' Mining Company failed in October, 1897, being indebted to the State to the amount of \$10,384 for royalty on rock. This amount has not yet been collected. The matter has been referred to the Attorney General and he is using proper efforts to collect the money due the State.

The royalty now paid the State by the miners is only twenty-five cents per ton, and I believe that rather than make greater concessions it would be better if mining operations on the State's rights be discontinued. It seems unwise and unbusinesslike on the part of the State to sacrifice these valuable deposits, while prices are so low and business is so depressed. On account of the great quantity mined the price of rock is now below the cost of production. The supply of rock is exhaustible, and in a few years the demand will probably be greater than the supply; then we may resume mining at a profit both to the miners and to the State.

The appropriation of \$2,000 for the salary and expenses of the Phosphate Inspector is too much to pay, considering the small return to the State from this source. I recommend that the office of Phosphate Inspector be abolished and that the Comptroller General be charged with the collection of revenue from phosphate mining.

PUBLIC PRINTING. During the year the office of Public Printer having been declared vacant, the committee provided for by law, consisting of the Governor and the chairman of the committees on printing of your Honorable Bodies, met and elected Mr. Charles B. Calvo Public Printer. This committee thought the State might have been saved several thousand dollars had the Act provided for, or permitted, competitive bids. The price to be paid for the work is fixed in the Act and the committee found itself compelled, under the provisions of the law, to make the appointment. I recommend that the Act be repealed and that a committee from each of your Honorable Bodies be selected to let the contract for public printing at competitive prices. I further recommend that the Act fix the maximum price to be paid for the work so as not to exceed the price now being paid under the present law.

DIRECT TAX. There are \$8,130.79 in the State Treasury to the credit of the direct tax fund, which under an Act approved 24th December, 1891, is available for public purposes. I recommend that you pass a joint resolution authorizing the State Treasurer to transfer this account to the general account.

SPECIAL LEGISLATION. The number of special statutes should be reduced by the enactment of general laws, embodying ample provisions and remedies for the relief of persons, corporations and communities, relative to subjects of general character. [Concluded on Fourth Page.]