

THE JOINT COMMITTEE,

To whom was referred the Report of the Commissioners appointed under the Provincial Statute 4th Geo. IV. Chap. 22d, for settling the affairs of the pretended Bank of Upper Canada and also the petition of John Cumming, Esq. and others, praying that they may be relieved from the restriction imposed upon them by the said Statute in respect to the alienation of their real estate have considered the matters referred to them and agreed to the following report:—

The Committee having examined the provisions of the statute above mentioned, and of that passed last session in amendment, and having perused the report of the Commissioners, cannot but express their regret that since the Legislature deemed it expedient to interfere, their interposition should have proved, hitherto, so very ineffectual.

Notwithstanding the measures of the Commissioners, detailed in the present and in their preceding report, the creditors are to this moment wholly unsatisfied, and the only object which the Legislature could have had in view remains unaccomplished. So far as the interests of those persons are concerned, whom it was the desire of the Legislature to protect, it is to little purpose to examine whether the obstacles complained of by the Commissioners as obstructing their proceedings were really insurmountable and whether in the execution of those powers committed to them, they pursued always the most judicious course.

The great error, in the opinion of the Committee, seems to have been in the particular mode of interference adopted by the Legislature, and although it is probable that most, if not all, of the difficulties which undoubtedly were left in the way of the Commissioners, might, if foreseen have been effectually removed; the Committee are of opinion that a system more simple might have been adopted which would have afforded a speedier and more certain indemnity to the public, with less chance of injury to the Stockholders or directors of the institution.

To the last consideration the Committee would not willingly appear to attach too much consequence because they are sensible that the Stockholders, when they created an institution in direct violation of a positive statute are fully answerable for all the bad consequences to the public, though they may have arisen entirely from the misconduct of directors who must have been chosen by themselves, and with respect to the Directors, the same reasoning applies with additional force. On the other hand however, as security to the public was most probably the only motive for Legislative interference, the Committee conceive, that course was to be preferred which was likely to attain that object with the least injury to the association because the indirect penalty, which, under any law of this kind, would fall upon the Stockholders and Directors, must fall unequally and might very probably be most injurious to those who had the least share in producing the mischief, and who would nevertheless be least willing to endeavour improperly to evade the consequences.

It appears to the committee, that instead of taking out of the hands of the association the management of their affairs, it would have been more prudent and every way less objectionable to have enabled them to compel the payment of debts contracted with them and to have made it their interest to settle with their creditors with the least possible delay—taking care to provide an ultimate recourse upon the property of the Stockholders for making good any deficiency.

These results could, in the opinion of the committee, have been best accomplished by an act containing the provisions of the Bill which they now beg leave to report—and which they are aware, would have been liable to much less exception had it been adopted before interference in another manner had been attempted. The committee have not failed to consider the objections which may be urged by the Stockholders against putting matters on this footing at so late a period, but at the same time, they are sensible that the Legislature had no other object in view but the protection of the public, and that if they have hitherto failed in extending relief, the persons creating the illegal institution have, neither in the management of it, nor by their conduct since its failure, established any claim to a consideration that should now interfere with the public interest.

The committee regret much to find how heavy an expense has been incurred by the commissioners in the discharge of a very arduous and disagreeable duty imposed on them by the Legislature for which no remuneration whatever was provided, they have examined the accounts which shew that the sum of £111 7 9 has been actually disbursed by the commissioners from their private means and that for £377 2 11 they are still morally, if not legally, responsible:

The propriety of taking this claim of the commissioners into immediate consideration need not be enforced by the committee.

J. BABY,

JOHN STRACHAN, *On the part of the Legislative Council*

JOHN B. ROBINSON, *Chairman, Committee House of Assembly.*

WILLIAM MORRIS,

DAVID JONES.

Joint Committee Room, 11th April, 1825.