SUPPLEMENT

THE MARLBORO DEMOCRAT

BENNETTSVILLE, S. C., FEBRUARY 26, 1904.

FORMER STATE HOUSE COMMISSION'S REPLY.

Text of the Answer to the Legislative Committee's Report on the State House.

ALL THE ISSUES ARE FULLY DISCUSSED

A Document of Interest to All the People of South Carolina--The Charges and Counter Charges.

To the Honorable Senate and the House of Representatives:

On Monday, Feb. 8th, 1904, there was presented to your honorable body a report of the joint committee appointed under concurrent resolutions adopted at the session of 1893, "to consider the several reports of the commission on the completion of the State house and facts relating thereto," of which committee Hon. Robert Aldrich, of Barnwell, was chairman, and Hons. R. I. Manning, of Sumter, J. O. Patterson of Barnwell, J. M. Rawlinson of Richland and T. Y. Williams of Lancaster were members.

This report contained the findings of said committee and the testimony upon which said findings were based.

The sole testimony relating to the work included therein was that of "Captain" S. S. Hunt, who swore that he was a resident of Washington, D. C., and for four years had held the position of "Superintendent of construction of the United States capitol, Washington, D. C." Said Capt. Hunt proceeded in unqualified language to condemn each and every portion of the work on the State capitol which had been done by the commission appointed for the completion of the building.

No other or further testimony relating to the work of construction on the building was taken, except that of A. W. Edens, inspector of plumbing of the city of Columbia, who was questioned in regard to the newly erected water closets.

The testimony of these two witnesses was concealed from the public and the undersigned until the said report was presented to your honorable body.

Upon this testimony the aforesaid committee concluded, among other things, that "the testimony taken revealed a dark picture," (p. 13), "a monstrous swindle," (p. 13), and that "it would regard it remarkable indeed if there is not some remedy, civil or criminal, or both, to bring these malefactors to justice and to some extent to redress the wrongs of the State." (p. 13.).

A REQUEST FOR A FULL, FREE AND IMPARTIAL INVESTIGATION.

Feeling that they had been unjustly reflected on therein, and if these conclusions had any foundation whatever—if there was even ground to suspect such a condition of affairs—that there should be made a full, thorough and searching investigation into this matter, certain members of the commission for the completion of the State house met in the city of Columbia and adopted the following memorial, which was presented to your honorable body along with and accompanying a resolution providing for such an investigation:

"Gentlemen of the General Assembly: From an investigation of the report of the joint committee "to consider the several reports of the commission on the completion of the State house and facts relating thereto," we, the undersigned members of the commission, authorized and directed "to complete the State house," feel that the report of the committee does us a manifest injustice, as it, wittingly or unwittingly, unfairly condemns our acts and the work approved by us without giving us an opportunity to be heard and even refusing to allow us a hearing. Many of the allegations of error and incompetency are easily explained. Certain conclusions could not and would not have been drawn had available evidence been heard. Above all, we feel that an impression that must necessarily result from the tenor and terms of the report would not exist if it were allowed the opportunity to be heard.

"Therefore, believing that the general assembly can have no intention of condemning us without a hearing, as members of the commission upon whom you imposed an involuntary public duty, should be allowed to account for that trust and to give their answer and explanation to any allegation or insinuation, do most respectfully memorialize your honorable body to make provision for giving us a hearing in order that further and all evidence may be produced that may give light upon the question before the committee, and that our evidence and reply to the report of the committee should become a public record of your honorable body of the same permanency and dignity as the report itself.

"Respectfully,
M. B. McSweeney,
G. Duncan Bellinger,
J. Harvey Wilson,
R. H. Jennings,
Robert J. Gantt,
W. J. Johnson."

When the said memorial was presented Hon. T. Y. Williams introduced in the house of representatives, and Hon. Robert Aldrich in the senate, the following resolution:

"Whereas, certain members of the former 'commission to complete the State house' have memorialized the general assembly to make provision to give them a hearing in reply to the report of the joint committee to consider the several reports of the commission for the completion of the State house, and facts relating thereto,

"Be It Resolved by the general assembly of the State of South Carolina That any evidence, explanation, or other statement in writing that the said memorialists may have to submit will be received and considered by the general assembly whenever presented."

Whereupon your honorable body saw fit to refuse the request for the said full, free and fair investigation, but instead adopted a resolution permitting the commission for the completion of the building to represent to your honorable body such statement as they saw fit.

WHY CONCEAL THE FACTS?

When Louis the XVI was led upon the guillotine and began an adddress in his defense, Santeere, a butcher who had been given command of the municipal guard around the scaffold, ordered the drums to be beaten. The words of the French king were thus silenced.

Neither the lives nor the property of the members of this commission are threatened, but that which is as dear to us as life and property—our reputation and good names—has been assailed, and our respectful request that your body appoint a committee to hear both sides of the matter, and lay all the facts before the people, has been denied. You have, however, accorded us the privilege of making a statement in writing, which we will now proceed to do, and endeavor to make this report in as parliamentary language as our justly outraged feelings will permit, and the facts will justify. But, gentlemen, what we asked and demanded of your body which we feel we had a right to demand, was that all the evidence in this matter be brought to light, that the committee be empowered to summon witnesses and have them examined under oath and not to confine the investigation to such evidence as could be secured from voluntary testimony.

Many witnesses to important facts refuse to make affidavits, but they could be compelled to testify at such hearing.

THIS COMMISSION HAS BEEN REFLECTED UPON AND THE PERSONAL INTEGRITY OF ITS MEMBERS ATTACKED BY THE REPORT.

This contention is made notwithstanding the disclaimer of the members of the committee made upon the floor of the legislature to the contrary and without any assertion on our part that such reflection was intentional. That the impression that such a reflection was made is abundantly proven by reference to every daily paper published in the State, wherein the action of the commission is characterized as an "infamy," a "scandal," etc. If the committee was innocent of any intention to attack the characters of those constituting the commission it was most unfortunate in its use of the English language. The members of this investigating committee now give it to be understood that their vicious attack was directed against the architect and the contractors and charitably suggest that this commission was duped and bamboozled by these employes, and that we were to be forgiven for our weakness, and that the charge against us of being fools must not be seriously taken as reflecting upon us.

If the committee did not mean to reflect upon this commission, why does it refer to us in its report as follows: (These references being taken at random from the report.)

"The contractors broke one of the columns into two pieces, and rather than put the contractors to the expense of replacing the broken column they were generously excused (by the commission) from putting them in at all, they paying the State $500, leaving them $3,400 profit on that transaction." (Report, p. 7.)

Surely, the honorable gentlemen of the investigating committee would not dare to say that any one filling a fiduciary position could be generous with the State's money, or intentionally excuse any one from performing a duty delegated through an agent of the State to another party.

Again: "A fine slate roof, bought by the State at a heavy expense and which afforded perfect protection for years, was taken off and appropriated by the contractors." (Report, p. 8.)

The inference necessarily drawn from this statement is that this "appropriation" (which, had the committee used the proper word to convey its meaning, would have been "mis-appropriation") was with the knowledge and consent of this commission, whose duty it was to protect the interests and the property of the State. The investigating committee called before them the secretary of the commission and had before them for inspection the minute book and all the records of this commission. That committee knew, or ought to have known, and we believe did know, that before the contract was awarded it was agreed that the successful bidder should become the owner of all the material torn out of, or off of, the State house, and that the taking possession of the material of this roof was simply exercising the right of ownership, both under the general law and under the special contract.

Again: "We feel with what we have reported, and the testimony taken, reveals a dark picture, it is true, but nothing short of an actual inspection of the work can convey an adequate idea of that monstrous swindle of which the State is the victim, appropriately portrayed in the closing words of Capt. Hunt's testimony." (This worthy, imported from the District of Columbia to teach the officials and citizens of this State the aesthetic as well as architecture, who testifies in reference, generally, to this work that it is "A parody upon the science of architecture and an insult to the fame of John R. Niernsee, and a disgrace to the State of South Carolina.") (Report, p. 13.)

Does this committee discredit the intelligence of the people of this State to such an extent as to believe that they will accept the statement that no intention is herein expressed to reflect upon the commission who was a party to such an "insult" to a distinguished man, and to such a "disgrace" to our native State? If this model of linguistic inaccuracy was honestly intended to be simply a statement that mechanical employes had failed to carry out their contract, why the bombastic and grandiloquent language in which the report is dressed? When a committee ascertains and reports that an architect has failed to be efficient, or a contractor has slighted his work, does it "reveal a dark picture?"

Again: In referring to the satisfaction entered by the governor on the bond given by the contractors, the lucid composer of the report uses the following language: "This surrender and attempted discharge of this bond, the State's only security for the vast losses sustained, was not the act of the commission, as the governor alone, advised, as it is said, by the attorney general, undertook to perform this act, and it may be that the State may yet be able to realize upon this security.

"Your committee do not consider that it comes within the scope of their duties to determine questions of law involved in the matters embraced herein, but would regard it remarkable indeed if there were not some remedy, civil or criminal, or both, to bring these malefactors to justice, and to some extent redress the wrongs of the State." (Report, p. 12.)

The members of this commission herein referred to by designation of office deem it proper to state that their self-respect forces them to treat this language as if it does not express the ideas or opinions of the respective members of the investigating committee; yet we have reason to know that many intelligent people of this State believe "the malefactors" referred to are the then governor and the then attorney general, inasmuch as the only inference to be drawn from such language (if intelligently used by a man of ordinary education) is that these officers "attempted" and "undertook" to destroy the only remedy that the State had against the employes who had committed a palpable and notorious fraud and swindle upon the commonwealth.

Laying aside expressions of indignation and using simply the language of criticism, we feel that the words of the distinguished composer of the report, as he addresses the dome of the capitol, justly describes these two paragraphs in connection with the report:

"This is the crowning piece of this work in more senses than one. Taken all in all it is simply infamous. To start with, an uglier and a more unsightly creation could not be devised even had it been properly constructed but our observation shows that it is nothing short of a miserable fraud." (Report, p. 9.)

We feel that we are unjustly reflected upon. We knew that we had discharged our duty faithfully and honestly. We knew that the State had received full value for every penny we had expended, and we only asked an opportunity to prove these facts.

The members of the State house commission have been honored by the people of South Carolina, and they feel that their good names have been assailed and that they owe it, not only to themselves and their families but to their people as well, that the greatest and fullest flood of light should be thrown upon the whole transaction.

HOW THE SO-CALLED INVESTIGATION WAS CONDUCTED.

That against which we most strenuously protest is the manner in which the joint committee conducted the investigation. It was denied upon the floor of the house that a member of our commission had asked for a hearing. The attention of your honorable body is, therefore, especially asked to what we consider to be undeniable facts in connection with the report of the joint committee hereinbefore referred to.

It will be noted that said committee was empowered to consider the several reports of the commission for the completion of the State house, to appoint a secretary, to employ an architect, and to summon witnesses. We contend that the report of the majority of the commission, as well as the report of the minority, should have received the same consideration, and that witnesses should have been impartially summoned to sustain or attack both.

The majority report is practically dismissed with a quotation of less than four lines, whereas the dissenting and accusing report of Mr. Marshall, the minority member, is set out at large in 11 specifications, and all of the testimony taken is directed against the majority and in favor of the minority report; and the committee thereupon, to use their own language, "feel constrained to report generally that the minority report of Senator J. Q. Marshall was fully sustained by the evidence taken and by the visible facts for all to see for themselves who choose to go over the building and make even a casual examination of it."

It will be remembered that both of these reports went officially to the legislature and both of them were referred to the joint investigating committee. We contend that each should have received the same consideration as the other. We submit evidence to show that Mr. Marshall attended the sittings of the committee during the taking of the testimony herein, whereas no member of this commission was present at any time. (See testimony of D. H. Means, exhibit E, and of J. B. Garfunkel, exhibit F.)

It is an admitted fact that no single member of the commission, with the exception of Mr. Marshall, was notified that he could be heard before the committee or given notice as to the time or place of meeting of said committee. We tender testimony to show that at least two of the non-attending members of this commission notified two of the five members of the committee that the commission desired to be heard in their own behalf and that such requests were treated with silent contempt. (See affidavits of Messrs. Johnson and Bellinger, marked respectively Exhibit B and Exhibit A.)

WHY HIDE THE TRUTH?

Does it not seem very singular, to say the least, that the members constituting this investigating committee led the fight upon the floor of both the house and the senate to prevent any further investigations of this matter, and that on the same night identically the same resolution, the purpose of which was to deny a full hearing, was introduced by said committee in the house and the senate? The true mission of an investigating committee, as its name implies, is to investigate and bring to light every side and bearing of a question, and not to prosecute. This is the first time in the annals of South Carolina where an investigating committee only heard and reported one side of an important matter, or which held secret meetings behind closed doors, from which members of the press were excluded.

EVEN THE VILEST CRIMINAL IS GIVEN A HEARING.

In his message to your body our chief executive asks you to devise some law to put an end to the lynching in our State. Now, what Gov. Heyward demanded for the vilest class of criminals has been denied some of our fellow-citizens who have been recognized and honored by their people—the right of making a defense, and a fair, impartial hearing. Before this report is ended we propose to prove to the satisfaction of every fair-minded person in South Carolina that our commission was tried behind closed doors, only one witness at the time being admitted, and what is a most unheard of proceeding, the reporters of our State papers excluded. (See affidavit of A. H. Seats, Exhibit C, and Lewis C. Wood, Jr., Exhibit D.). Not only this, but apparently to keep the members of our commission in ignorance of what was going on in that meeting some of the witness were bound not to divulge the questions that had been asked them. (See affidavit of D. H. Means, Exhibit E.). To show further what a one-sided affair this was, the son of one of this committee was made clerk, and the only outsider admitted to that room was Senator Marshall, the minority member and the prosecutor. (See affidavits of J. B. Garfunkel, Exhibit F.)

Is the life, liberty, property or good name of any citizen of South Carolina safe when he can be tried by any such secret, one-sided tribunal of socalled justice?

The palladium of liberty in every country is a free press, but we find in the proud old State of South Carolina a throttled press when an investigation was in progress in which every taxpayer of the State is personally interested.

HUNTING FOR HUNT.

We are convinced, gentlemen, from such evidence as we are able to secure, that the sole witness against us was falsely represented to the people of South Carolina, as an "expert architect" in charge of the work of the United States government, when his name does not appear in the list of government employees and he is totally unknown to the experts of the United States government who are charged with the construction of its buildings; that his name does not appear in the "blue book" which contains the names of all government employes wherever located; while the directory of congress which contains the names of the attaches of the national capitol, does not show any such officer as "superintendent of constructing."

Are we now have to ask of you is that this protest be spread upon your journals and be given the fullest publicity, as you have promised, and we further beg the press of South Carolina, and of every other State that has given publicity to that report, to reproduce our defense.

AN APPEAL TO THE PEOPLE.

Let us say that we have nothing more to ask of your body. We now appeal to the highest tribunal known to a sovereign State—an honorable, just and fair-minded people.

A PERFECT BUILDING HAS NOT BEEN ERECTED SINCE THE DAYS OF SOLOMON.

We assert that we have given to the completion of the capitol the same watchful care that we would have done had this building been our personal property. The members of this commission are not architects, and the legislature was aware of this fact when they appointed us to this duty. We do assert, however, that we gave careful thought and study to the details and science of the work, and left no effort unturned to fully acquaint ourselves with the minutiae of the problem presented. We do not suppose that anyone ever constructed a building, however humble it might be, but after completion he discovered that he might have made desirable changes and improvements. It is easy to criticise the builder after his work is done. A building erected by human hands is never perfect, and this, of course, is true of the work on the State house, but we do assert that the general result was to the satisfaction of the commission, and we further believe that it would satisfy the taxpayers of the State who are paying for this work were they familiar with all the facts surrounding the task assigned us and appreciated the difficulties which we encountered and the problems presented in the construction of this building. Since the completion of our State house thousands have visited Columbia and inspected this work, and expressions as to the beauty and magnificence of this building have been heard on every side.

The State House commission alleges that if there are some defects in the South Carolina capitol, that the responsibility rests not upon the commission, but is due to the fact that $175,000 was totally inadequate to complete the building in conformity with the original work on this structure. The State House commission endeavored to complete the building so that it would present an imposing appearance. It did not attempt to do the work according to the methods of 50 years ago, but took advantage of improvements in methods of construction, and for this it has no apology to offer.

This duty, gentlemen, was not solicited, and there is not a member of this commission but sacrificed his personal interests and affairs in the discharge of the duty imposed upon him. It was not ours to fix the sum necessary to do the work. That was the province of the legislature. We did what we were directed to do, completed the work your predecessors contemplated within the appropriation they made. We did not deem it your wish or desire that we should apply to you for additional appropriation when we found the funds provided insufficient for the employment of foreign artists and for the purchase of $10,000 ceilings. That question was not ours, but yours.

The commission does not feel called upon to defend the architect. In the execution of his work they felt called upon to sustain him only so long as in the combined wisdom of the commission he was right. As to purely technical matters it necessarily relied on his judgment and deferred to his advice.

THE COMMISSION RECOGNIZES ITS DUTY TO THE STATE.

If any evidence is brought before our commission that either the architect or contractor have been guilty of collusion or neglect of duty, or in any manner slighted their work, it would not only become our duty, but our pleasure, to prosecute either or both to the extent of the law. Any facts in the possession of this commission, either matters of official record or matters of personal knowledge in connection with the work on the State house, will be fully and frankly given under oath to any attorney or attorneys that the legislature, governor or any other properly constituted authority may appoint to prosecute suits in the interest of the State. This commission, under the provisions of the law constituting it, elected an architect and paid him the usual fees to design and superintend the work of completion of the capitol. The commission, under the provision of the law, let the work to the lowest bidder. If there has been any collusion between the architect and the contractor it is a fact absolutely unknown and unsuspected by the State house commission, and there has not been published or produced a scintilla of evidence to prove that any such collusion existed.

CAN WE AFFORD TO PAY FOR MAGNIFICENCE?

When the commission was appointed to complete the State house the scope of its duty was clearly marked out in the act creating it. It was required by the law to complete the State house within the appropriation of $175,000. When the fact is considered that the State house as it stood in its incomplete condition had cost the State of South Carolina over $2,000,000, it would have been the height of folly for our commission to attempt with the limited amount given us to carry out the design of the original architect, who designed and contemplated a $5,000,000 building. The act further stipulated that not one dollar of the money appropriated should be expended until a contract for the completion of the building within the amount stipulated was made, and this contract we were directed to make and did make. It has been the purpose of the commission in the expending of the limited sum at our disposal to make all permanent work good and substantial, to conform as near as possible to the original building, and if there has been, as alleged, "cheap and shoddy work" put upon the building, an investigation will reveal that such work can be easily removed at any time, without marring in any way the substantial portions of the building, and that it can be replaced by as costly material as the State cares to pay for. Only $1,200 was spent for the roof. This roof it was believed, would be satisfactory; if it has not proven so it can be easily replaced by as expensive a structure as you wish and in the meantime it will have served the purpose. The commission in this matter, as in many others involving questions of the relative quality of materials and methods of construction, relied to a large extent upon the judgment of the architect. As business men they felt that the wide and varied experience of the men whom they had entrusted with the power and authority of an architect, which must of necessity be extensive, justified them in deferring to his judgment and advice. This architect was necessarily governed by the amount appropriated for the work, and, of course, could use only such material as the appropriation would pay for.

The limited funds placed at our disposal is the only reason that any part of this work is inferior in character to the best work on the old portions of this building.

We do not wish, however, to be understood as apologizing for the present condition of the State house. It is today an imposing and stately structure and a credit and an honor to South Carolina, and the new work, as well as the old, will stand for centuries. While the interior of the new work has not been embellished with Italian marble and with delicate carvings by imported artists, it was not believed by the commission that the people of South Carolina either desired or purposed to have them now. When they are willing and able to pay for these things they can be placed there. But this criticism can be made of the old portions of the building, as well as the new, and notwithstanding the so-called $10,000 galvanized ceiling liable, in the words of this "architect, Hunt," to "rust out in a few years," which was placed there by the commission, of which Senator Marshall was a member, fifteen years ago, the main corridor of the building was unsightly and unadorned by the beautiful marble with which John R. Niernsee designed to cover its walls.

AS TO THE SELECTION OF THE ARCHITECT.

In selecting an architect for the work it was the sincere desire of the commission to put aside personal considerations and to secure for the State the services of the best and most experienced man whom we could find. Two plans were presented to the commission, while numerous architects were suggested as thoroughly competent to do the work. Six of the ten members of the commission voted for Frank P. Milburn, whose plans seemed best adapted for the work contemplated. Mr. Milburn had not only enjoyed wide experience in the erection of public buildings throughout the south, but came with the prestige of employment by the Southern railway for the erection of all its stations and buildings. Besides, he had erected the Thompson auditorium at Charleston, the court house at Anderson, and other buildings, which within the personal knowledge of members of the commission had proven satisfactory and he was as well highly recommended to us by all with whom we knew he had had dealings. It may be added that since that time, Mr. Milburn has been selected as the architect of both the Florida and North Carolina State capitols. Consequently, the commission thought they were justified in the selection they had made.

If the report of the joint investigating committee, however, is followed to its logical conclusion, it is evident that it was the opinion of that committee that the commission made a mistake in electing an architect at all, but that we should have sent to Washington for a hanger-on around the national capitol, to instruct us not only how to erect a building, but incidentally to show how to avoid insulting the memory of a distinguished architect and imposing a disgrace upon the State of South Carolina.

AS TO THE SUFFICIENCY OF THE PLANS.

When Senator Marshall made the objection that the plans for the work were insufficient, we referred the matter to the architect with directions to show to our satisfaction if he could that this objection was not well founded. As the best evidence of the fact that this complaint was not well founded Mr. Milburn submitted to the commission statements from several contractors who had filed bids for the work, and who necessarily must have familiarized themselves with every feature and detail of the plans in order to make an intelligent bid upon the work, in which they declared not only that the plans were sufficient but that if the true intent and spirit of them was carried out the State would secure a good job. Not being ourselves competent to pass upon a technical point of this nature, we knew no higher or better authority to whom we could refer the matter. That we had secured a most desirable contract under sufficient specifications we felt convinced and satisfied when the other bids submitted under them ranged up as high as $212,000, which seemed to be the price necessary to justify that contractor in engaging to erect the work according to the accepted requirements. The difference in the lowest bid and the one next to it of nearly $10,000, absolutely precluded any idea of collusion in awarding the contract.

There is a general impression fostered by this report, if not created thereby, that the act creating the commission for the completion of the State house directed that said commission should require bond from the contractor. It will, therefore, be a surprise to most members of the general assembly and the public to be informed of the fact which is now stated, that no such bond was required or suggested by the legislature when defining the duties of the commission. There being an utter absence of any mention of a bond in connection therewith, it is clear that the bond actually taken was one required by the commission solely upon its own motion and in order the better to aid them in enforcing the performance of the contract which they entered into with McIlvain-Unkefer company. We take the position that this bond was not at any time under the control of the legislature, and that it became, according to its terms, utterly null and void as soon as this commission, acting through a majority of its members, expressed itself as satisfied with the performance of the contract which it secured. The commission having accepted the work of the contractor, the bond given to secure the performance of the contract to the satisfaction of the commission became ipso facto cancelled and annulled, when the commission expressed itself satisfied with the job; and the endorsement upon the bond was merely a ministerial duty done by the governor and which we are convinced he could have been mandamused to do under the circumstances. We are informed by the members who belong to the legal profession that if said bond were now in possession of the officers of the State unmarred by any endorsement, the plaintiff in interest could not recover under the facts without alleging and proving fraudulent collusion as to acceptance of the work between the commission, the obligees and the contractors, the obligors, and the members of the investigating committee have given public assurance that no such collusion is even suspected. Furthermore, at a meeting held subsequent to the endorsement made by the governor, the attorney general reported informally to the commission that the governor had satisfied the bond upon his legal advice.

THE OLD IRON AND OTHER JUNK.

It was never the intention of the commission to reserve to the State the old iron and other junk removed from the biulding. Not only did they believe that the contractor would allow more for it in his bid than they could get for it otherwise, but questions would have been continually arising as to the expense, etc., of removing this old material, and of getting it out of the way. It cost several hundred dollars to get the old iron alone down from the roof. Besides, the appropriation for the work was limited, and the commission desired to put in the building in value all that the funds at their disposal permitted. Not only did the architect, as the agent of the commission, inform the bidders personally that the specifications would be so construed, (See opinion of the attorney general, exhibit H), but there is abundant evidence that all who filed a bid for the work did so on the basis of getting in partial payment the old material that was removed. Mr. J. B. Garfunkel, the man best qualified to know this fact, the man whom the investigating committee itself summoned to testify in regard to this old material, swears that he knows of his own knowledge that the different bidders for the work filed their bids upon the basis that the old material, all of it, would go to the contractor. (See affidavit of J. B. Garfunkel, exhibit J). If any further evidence of this fact was necessary the reply of W. A. Chesterman, one of the bidders, and of J. E. Burgess, another to the same effect, in response to a telegraphic inquiry that ("In my capitol bid I figured on all old material being my property." See telegrams, exhibit G.) should do so.

No one doubted for an instant that not only as a matter of right but under the strict letter of the law and the contract this old material went to the contractor, until over a year after the contract was let, when Senator Marshall filed his protest. An investigation resulted, when the fact developed that the contractors had actually allowed the State a credit for this old material in their estimate sheets. Thereupon the attorney general gave to the commission this opinion, which has been completely ignored by the investigating committee, notwithstanding the fact that it was in their possession: that not only of right, but of law, this material, under the contract, was not the State's. (See opinion attorney general, exhibit H.)

Every member of the commission except Senator Marshall believed had they attempted to claim this old material under all the circumstances, they would have been acting not only unfairly, but dishonestly, with the contractor. The contractor had actually given the State value for this material, and the specifications had been so construed and made absolutely plain before the bids were even filed. The people of the State do not ask their public servants to do a dishonest deed. In our opinion it would have been dishonest to have attempted to take from the contractor that for which he had paid.

If demand is made that the State shall attempt to dishonestly retake from the contractor the value of property sold by the State for full consideration, this end must be obtained through other official agencies than that of the members who compose this commission.

AS TO THE BROKEN COLUMNS.

Under the terms of the specifications for the work "all of the columns that are out and the five unfinished will be completed and used by selecting the perfect ones for the main front, and using the ones with small defects in the rear." (Report, p. 45). In the progress of the work, in attempting to raise one of the finished columns from its bed where it had remained for a number of years, the column broke of its own weight along the line of a hidden crack in the stone. At the meeting ensuing the contractor appeared before the commission and stated that it would be necessary for the State to furnish a column to replace the one broken. The column was a portion of the material to be furnished by the State under the contract and there was no doubt in the minds of a majority of the commission, after a careful examination of the contract, plans and specifications, that the commission could have been compelled by the contractor to furnish a new column.

To quarry and carve a new column would have cost the State at least $2,000; it would have delayed the work of completion of the State house about six months.

The contractor reported that the column could be patched by putting in a section of new stone at a cost of about $500, and a delay in the work of 30 days.

According to the plans there were to be two columns placed within what is now the open floor space on the front portico. These columns supported none of the weight of the walls of the structure, and were located by the architect within this area because under the approved plans the State had on hand two columns that could be used for purely ornamental purposes. The contractor proposed to the commission that he would deduct the cost of raising these two inner columns into position and the cost of the unfinished carving of caps for same if they could be left out, and the work proceed. Upon the report of the architect that the strength of the structure of the completed building would be in no wise impaired, this solution of the problem was deemed the best and most expedient, inasmuch as the funds in the hands of the commission were limited, the work would not be delayed and no damage would be done the structure. At a subsequent meeting of the legislature the broken columns were appropriated and given by the State to Greenwood and Spartanburg.

The question of utility having been settled to the satisfaction of a majority of the commission it then became one purely of taste and ornament, and upon this issue we considered that the best interests of the State were subserved by carrying to completion the front portico as it now stands. It may be added that in the final vote as to leaving out these two centre columns that Messrs. Gantt and Johnson voted with Mr. Marshall in the negative, the other members present constituting a majority, voting in the affirmative.

In addition to the $600 above mentioned as a part of the consideration for relieving the contractor of the work of placing the columns the commission reserved for the benefit of the State the remnants of the broken columns.

THE CEILING IN THE MAIN LOBBY.

One of the most serious charges brought by the investigating committee related to the removal of the ceiling in the main lobby and this is a typical illustration of their methods and of the value of their conclusions.

"Captain" Hunt in his testimony (p. 17) swore that the State had lost in his opinion $15,000 by the removal of this ceiling, which was represented as "steel" ceiling and that "had cost in the neighborhood of $10,000." (p. 7.)

Now, what are the facts?. The official records of the old State house commission show the awarding of the contract for this ceiling as follows:

"Columbia, S. C., May 2nd, 1889. The commission met this day. Present: Hon. J. Q. Marshall, secretary of State; Hon. J. S. Verner, comptroller general. The bids were presented, being six in number, for putting in iron (galvanized) ceiling, beams, skylights, etc., in the main corridor on the second floor, together with the ceiling over the senate lobby. * * * Mr. John Alexander's bid upon plan No. 1, for $7,898 was accepted."

This record was accessible to the investigating committee and could have clearly shown them that this ceiling did not cost "in the neighborhood of $10,000," but that the ceiling of the senate lobby, which had not been removed, and the cornice of the main lobby, which was still there, constituted three-fourths of the work for which less than $8,000 had been paid, and that the ceiling that had been removed cost, 15 years ago, less than $2,000. It is a very plain piece of work with little ornamentation and certainly not beautiful. Architect Wilson in his report stated that it could now be put back for about $1,800.

This ceiling, as the records show, was not only bought as galvanized iron, but an actual inspection of it will show that the ceiling taken out was nothing but galvanized iron. The committee found that "the contractors bodily took and carried away and converted to their own use this valuable and beautiful part of the old building." (p. 7) when one of the five witnesses whom they themselves put upon the stand certified and could have told them that it was galvanized iron, and when removed "worthless even as junk." (See affidavit of J. B. Garfunkel, Exhibit F). Dr. Babcock, superintendent of the Hospital for the Insane, certifies that the ceiling is now in his possession as an officer of the State. (See certificate of J. W. Babcock, Exhibit I).

The commission put back exactly the same material they took out, simply requiring the contractor to replace worthless and damaged material with new material of the same kind.

The wanton misrepresentation which it was necessary for this so-called "architect" to make to show that the removal of a dozen squares of galvanized iron which was in bad shape, bent and rusted, and replacing it with other galvanized iron of a pattern which better suited the round opening of the dome entailed a loss of $15,000 upon the State, certainly entitled him to the compensation of $15 a day, which he was paid and which he was evidently industriously endeavoring to earn.

If the ceiling removed could be properly designated as "steel ceiling" that put in its place could be so designated, as it is the same material. If one is pressed into form by a "stamp" and the other shaped by a soldering iron, that fact would add nothing to its beauty and would make it flimsier and easier to get out of shape.

AS TO WATER CLOSETS.

When we took charge of the completion of the State house under this act there were as there had been for many years, two water closets of old and defective design placed considerably beneath the level of the surrounding grounds, and absolutely without ventilation. The use of these by the occupants of the first or ground floor necessitated the descent of one flight of stairs, and were removed another long flight of stairs from the legislative halls. Those members of the commission who were also State officers fully realized and appreciated the intolerable, irremediable unsanitary con-