

DANGEROUS LEGISLATION.

The Central Pacific Railroad Company recently paid into the Treasury of the United States the sum of \$900,000, which settles the Company's indebtedness to the Government up to the 31st of December, 1878. In making this payment the Company offers no dispute as to its right and duty to pay five per cent. of its net earnings to be applied on payment of its subsidy bonds, but the 20 per cent. and half the earnings from Government business, which were required by the law of Congress known as the Thurman Act, are regarded by the Company as "having been wrongfully extorted in defiance of justice, equity and good faith, in fact, by the law of the strongest."

Our readers will remember that the constitutionality of the Thurman Act, being disputed by the Pacific Railroad Company, it was tested in the Supreme Court of the United States, and decided against those companies, the law being declared valid and constitutional. Justice Field, however, dissented from the decision, and for his plain spoken opinion received severe censure from the press. But a careful examination of the able document containing the gentleman's opinion in full, will, we believe, convince most unprejudiced people that his position is supported by law and logic.

To explain this subject clearly it will be necessary to give a brief history of the contract between the Railroad Companies and the Government. By the acts of Congress of 1862 and 1864 these companies were authorized to construct a railroad and telegraph line; the Union Pacific from a designated point on the one hundredth meridian of longitude west from Greenwich to the eastern boundary of Nevada; and the Central Pacific from a point near the Pacific coast, through the State of California and on through the Territories of the United States to the point where it should join the line of the Union Pacific. In consideration of building and keeping in repair a first-class road and telegraph line over the country described, so that the Government could use them for the transmission of dispatches, the conveyance of mails, troops, munitions of war, etc., at reasonable rates, giving the Government the preference of the use of both railroad and telegraph over other patronage, the Government guaranteed to give the right of way over the public lands, with the title to certain sections of land on each side of the road, and issue Government bonds, "each for the sum of \$1,000, payable thirty years after date, with semi-annual interest, such bonds to be issued at the rate of sixteen, thirty-two or forty-eight to the mile, according to the character of the country over which the road should be constructed; and would issue patents for the land, and the subsidy bonds as each treaty consecutive miles of the road and telegraph should be completed in the manner prescribed; it being agreed that the company should pay the bonds as they should mature, and that for the security of their payment they should constitute a second mortgage upon the whole line of the road and telegraph, and that one-half of the compensation earned for services to the Government, and after the completion of the road, five per cent. of its net earnings, should be returned and applied to the payment of the bonds; and also, that the company should complete the road by the 1st of July, 1875, and keep it in repair and use therefor, or upon failure to do so, that the Government might take possession of the road and complete it, or keep it in repair and use as the case might be."

It was required by the Act of 1864 that if the Central Pacific Company accepted these terms it should file its written acceptance within six months. The proposition was formally accepted within the given time and the contract was made complete. But on May 7, 1875 the so-called Thurman act was passed, arbitrarily altering the terms of the contract without the consent of the companies. "By the contract only one-half of the compensation for transportation for the Government was to be returned and applied toward the payment of the bonds. By the Act of 1875 the whole of such compensation is to be retained and thus applied. By the contract five per cent. only of the net earnings of the road were to be paid to the United States to be applied upon the subsidy bonds. By the act of 1875 twenty-five per cent. of the net earnings are to be thus paid and applied. By the contract the only security which the Government had for its subsidy bonds was a second mortgage on the road and its appurtenances and telegraph line; and the company was allowed to give a first mortgage as security for its own bonds, issued for an equal amount. By the Act of 1875 additional security is required for the ultimate payment of its own bonds, and the subsidy bonds of the United States, by the creation of what is termed a sinking fund—that is, by compelling the company to deposit \$1,200,000 a year in the Treasury of the United States, to be held for such payment, or so much thereof as may be necessary to make the five per cent. net earnings, the whole sum earned as compensation for services, and sufficient in addition to make the whole reach twenty-five per cent. of the net earnings."

Justice Field considers that by the passage of this Act the government made independent of its legal obligations, is rendered able to violate its contracts, and is endowed with power to exercise judicial functions; and, as the Central Pacific Company is a corporation formed under the laws of the State of California, that in its case the supremacy of the Federal power over the State is subversive of the rights of that State; all of which is contrary to the Constitution. The learned Judge shows that the companies fulfilled their part of the contract and that there is no complaint that they failed to do so, and holds that the Government is equally bound with a private person or firm to fulfill its part of the obligation. He says:

"It is the exaction from the company of money for which the original contract did not stipulate which constitutes the objectionable feature in the Act of 1875. The act thus makes a great change in the liabilities of the companies. Its purpose, however disguised, is to coerce the payment of money years in advance of the time prescribed by the contract. That such legislation is beyond the power of Congress I cannot entertain a doubt."

The power under which the Thurman Act takes shelter is supposed to be contained in the Act of 1864, which says:

"Congress may at any time alter, amend or repeal this Act."

But the Act of 1864 reads as follows:

"And the better to accomplish the object of this Act, to promote the public interest and welfare by the construction of said railroad and telegraph line, and keeping the same in working order, and to secure to the Government at all times (but particularly in time of war) the use and benefits of the same for postal, military and other purposes, Congress may at any time—having due regard for the rights of said companies named herein—alter, amend or repeal this Act."

Justice Field shows that the two Acts are to be read together; that they deal with the same subject and are to be treated as if passed at the same time; that the power of amendment in the Act of '62 must be held to apply to the power reserved in the Act of '64; that as the title to the land could not be revoked, nor the bonds be recalled, so the rest of the contract could not legally be changed or destroyed; that when the Government of the United States entered into that contract, it laid aside its sovereignty, and put itself on terms of equality with its contractors; that it was then but a civil corporation, as incapable as the Central Pacific of releasing itself from its obligations, or of finally determining their extent and character; that it could not release itself and hand the other party to the contract, it could not change its obligations and hold its rights unchanged; that it cannot bind itself as a civil corporation, and lose itself by its sovereign legislative power; that if the Government had cause of complaint against the Companies it could not undertake itself, by legislative decree, to redress the grievance, but was compelled to seek redress as all other civil corporations are compelled, through the judicial tribunals.

He further shows the difference between a legislative act and a judicial act. "The one determines what the law is, and what the rights of parties are with reference to transactions already had; the other prescribes what the law shall be in future cases arising under it. Wherever an Act undertakes to determine a question of right or obligation, or of property, as the foundation upon which it proceeds, such Act is to that extent a judicial one, and not the proper exercise of legislative functions." To justify the taking away of vested rights, there must be a forfeiture, as the great Webster declared, "in the proper province of the judiciary." It is to impair the obligation of contracts are not the exercise of a power properly legislative, and infringe upon the provision of the Constitution which declares that no person shall be deprived of property "without due process of law," that is, a regular course of procedure through the courts. It is claimed, and perhaps truthfully, that these railroad corporations, through the accumulation of vast wealth, have become a dangerous power in the country, and that it is for the good of the nation that some restrictive measures be adopted. But this does not authorize the Government to violate its contracts with those companies nor to compel them to hand over money, which lawfully if not justly belongs to them, into the Treasury of the United States. And it is certainly a more dangerous thing than the growth of these moneyed corporations, that the Government should be endowed with power to break its agreements and obligations at will, and compel the payment of private money into the public treasury. We therefore agree with Justice Field in his powerful argument on this subject, and deeply regret the gradual descent of the highest tribunal of our country from the high position it once occupied as an impartial and incorruptible body to the level of party measures and the influence of political and personal considerations, apart from the rigid rules of constitutional law and unbending justice. Since the foul breath of party politics tainted the spirit of the Supreme Court, and its power was lent to aid in a presidential fraud, its virtue has been sullied, its judgment warped, and the deep respect of this great nation for its decisions has been gradually growing smaller and weaker.

BY TELEGRAPH.

THE EVENING NEWS TELEGRAPH LINE.

EASTERN.

California's Position.

TERRE HAUTE, Ind., 25.—Senator Newton Davis, of California, stated today that the State was practically on the unite on the Chinese question, that the times were improving there, and that the State was very prosperous, that the people were sure to carry the State at the next Presidential election, also that they are decidedly friendly towards China, for the President, that he (Davis) favored him, and that the reason was not that he loved Grant less but Blaine more. The Senator leaves for the east on Friday.

a great crowd of people on his arrival at the station. The day was extremely fine, there being no snow on the ground, and the demonstration made by the people was most magnificent. He was met at the station by Earl Rosenberg, and driven off amid shouts of the people, to the Earl's residence at Edinburg, where he passed the evening quietly. Gladstone would have opened the canvass for the electoral college to which he has now pledged himself, with an address to the electors at Edinburg this afternoon, but for the fact that to-day was the birthday of the Earl of Dalkeith's father, Duke Buccleuch. In consideration of this, the battle is to be opened to-day with an address in the Music Hall of this city to the electors around Edinburg. Thursday he will speak at West Calder, where the enthusiasm to hear him is so great that they have built a place in town affording room for the people expected to be present.

No tariff Legislation Foreseeable.

A Washington special says: Garfield was asked last night by a correspondent whether he thinks the democrats will try to enact any tariff legislation at the coming session of Congress. He replied there was a strong pressure in that direction at the last session, and the committee of ways and means (of which he was a member) had reported to bring forward a bill. All the Southern members of that committee, Tucker, (Va.), Gibson, (La.), Mills, (Tex.), Carlisle, (Ky.) and Filton, (Ga.), in 1890, except so far as tariff is needed to protect certain articles of southern production, such as sugar, rice, etc. Garfield appeared to be in the conflict of views as to whether the democrats themselves will prevent an agreement upon the tariff bill next winter.

Seats in Demand.

Proposals for forty new seats at the Stock Exchange opened yesterday. One hundred and three proposals were received. The minimum price fixed at which proposals would be entertained was \$100,000. A premium was bid by every applicant varying from \$500 to \$5,000. The average was about \$4,500. No action was taken upon the proposals. Fifteen thousand shares were bid yesterday for a seat.

Republicans as Spectators.

Garfield thinks the republicans will have an easy time in the coming session. He says: "I can say to the democratic gentlemen, we are here primarily as spectators and critics. This is your funeral, and we are here merely to see the show. Unless it becomes necessary for us to participate we shall not have much to say."

Blaine Stock Preferred.

A Washington dispatch says: A member of the National Republican Committee said, last evening that, unless the preferences of members of the committee as to Blaine have been changed recently, a majority is in favor of the nomination of Blaine. It is understood Blaine's friends would like to have either Governor McCornick or Governor Chandler elected chairman in place of the late Senator Chandler.

New States.

The new House rules are nearly ready. It is understood the democratic members of the committee were anxious to devise some means by which members could be compelled to vote on all questions. It was proposed to fine members one day's pay for each refusal to vote. It was also suggested that a certain number of members be brought before the bar of the House and censured. This, however, proved to be absurd. Ultimately the effort to find means to make members vote was abandoned.

Immigration to the Sandwich Islands.

A correspondent of the Florence Gazette d'Italia, writing from Funchal, Madeira, notices the remarkable emigration now going out from that island. A few years ago a small number of emigrants made their way to the Sandwich Islands and were delighted to find the climate and scenery very similar to what they had left behind. Their letters induced others to follow, until at last the movement has reached considerable proportions. The cause of the emigration is not the poverty among the inhabitants of Madeira, growing out of the repeated failures of the wine crops, and the sterile soil of the Hawaiian archipelago, the abundance of room for the new settlers, and the enormous amount of land to be cultivated, but the government, which is anxious to check the steady decrease in population by bringing in a new element of industrious and fruitful people.

The Deceased Editor of the "Times."

A London dispatch says: It was Thursday last that the physicians gave up Delane. For two years past he suffered terribly. Often he did not recognize his friends for days together. He was a victim of a disease of which two of his brothers died before him. He was very reluctant to abandon his post, though Dr. Quain, his brother-in-law, authority exists, and long ago warned him of the end to which it would lead him at last. Before he finally resigned, he was stricken with a paralytic stroke, but he stuck to his work, would not quit London, went to the Times office every night at 10 o'clock and stayed there usually till five in the morning. He was very abstemious in his habits, seldom took wine and never smoked. His disease was probably hereditary. I believe his father died of it. An obituary of him appears in the Times of today, written, I think, by Mr. Walter. He was unconscious when he died.

Mrs. Sprague and Her German Tutor.

The court room was filled with people to-day, when the suit of Geo. Linck against Mrs. Kate Sprague was called. Linck was tutor for Mrs. Sprague's child, Willie, at the time of the alleged trouble at Cononoch, in which Senator Connelley figured, and was for \$240 salary and expenses in carrying out his engagement as tutor. The answer of the defendant to complaint, sets forth that the agreement with Linck was made in her capacity of a married woman, that therefore her husband is responsible for the debt, not her, that Gov. Sprague had full knowledge of the engagement made with Linck. The case came up today on notice of motion by counsel for Mrs. Sprague to Linck to show that he considered him in her employ, and counsel advised, the professor made his exit from the Sprague mansion at the end of a shot gun. The judge took the papers and reserved his decision.

A Newspaper "Special."

The Herald has a long account of the funeral services of the Comptroller of the Monies, which is of special interest, but which is being telegraphed abroad extensively as "special" to the papers receiving it.

is everybody else now." Bulkington went on to express his confidence in Grant's nomination and election in 1880. He did not believe the national projected a return to anything, and felt confident that nothing would occur to interfere with Grant's return to the White House. Bulkington is now living at Keosauqua, Iowa, his old home, and engaged in business as a railroad lawyer.

Utah on the War.

WASHINGTON, 25.—Secretary Schurz received the following telegram this morning:

Los Pinos Agency, 2.

We have information that he White River Utes are on their way to fight. We are the power of opinion that we shall be successful in carrying out our wishes. All events, we have patience enough to try it, so far as danger is concerned, the commission have not given that a thought; they must take their chances.

(Signed) HATCH, Commissioner.

The latter portion of the dispatch is in reply to a telegram from Secretary Schurz, in which he said: "The commission, if they have reason to think that the danger, must follow their own judgment in taking such steps as their safety may require."

FOREIGN.

GREAT BRITAIN.

Foreign Notes.

LONDON, 25.—Telegraphic communication with Cuba and California has been completed. The morning newspapers publish dispatches from both points, dated Tuesday night.

The Caribs, whose ill health suggested her removal from Canada to Florence, has been obliged to postpone her journey on account of the weather.

John O'Connor Power (Home Ruler), member of Parliament for Mayo, will preside at the demonstration to be held at Hyde Park on Sunday next. Among the speakers will be Justin McCarthy, Alexander Martin Sullivan and William Archer Redmond (Home Ruler), members of Parliament for Longford South and Wexford respectively. Several London and provincial contingents will assemble at Finsbury square at 2 in the afternoon, and march to Hyde Park. The meeting begins at 3 o'clock.

The Glos publishes an editorial showing a marked change of sentiment in relation to Russia. Evidently relations between the two countries are not now on a cordial or friendly footing. The tone of the Glos article seems to confirm the recent intelligence of an understanding between England and Persia and of the tendency of the latter to throw in her lot with England rather than with Russia.

A RESOLUTION.

PROVIDING FOR THE CONSTRUCTION OF THE JORDAN AND SALT LAKE CITY CANAL.

Resolved by the City Council of Salt Lake City, That for the purpose of increasing the water supply of said city, the corporation thereof shall proceed to construct a canal to divert water from the Jordan River into said city. Said canal shall be known as the Jordan and Salt Lake City Canal, and be located as follows: viz: Commencing at a point on the east bank of said river, where the waters of the South Jordan Canal are taken out, and running in conjunction with said canal to where it flows into said river, thence in a north-easterly direction to the first workings of the "Deseret Irrigation and Reclamation Company," thence on near Big Cottonwood, thence on the line of the "Deseret Irrigation and Reclamation Company," thence on a line to Salt Lake City. The said canal shall be made twenty feet wide in the bottom, with banks sloping at an angle of not to exceed one to one, and shall be constructed of the engineer of construction, and of sufficient capacity to safely carry four feet in depth of water.

Be it further resolved, That the City Council shall appoint a competent engineer of construction for said canal, and that the Mayor, one member of the City Council, be selected by that body, and said engineer, shall constitute a committee to supervise the construction of the canal, and to negotiate with the land owners through whose lands said canal will pass, and secure a right of way therefor, and that title to all such lands when acquired shall vest in the corporation of Salt Lake City. Said committee may advertise in some newspaper having general circulation in the city to let contracts for excavation and other labor, to contract for or purchase all materials necessary for said work, employ workmen and perform all other duties necessary to the construction and completion of said canal. Said committee shall report its doings monthly or oftener if required by the City Council, and shall be subject to its direction.

Be it further resolved, That all moneys that may be received to assist in defraying the expense of constructing said canal, shall be from the United States, the Territory of Utah, Salt Lake County or from any private person, shall be paid into the city treasury to the credit of said canal and be used exclusively therefor. All labor done by persons either individually or collectively, on account of securing and constructing the canal, shall be credited to them and held to apply upon any assessment which may be made on their lands for irrigating water. That when ever necessary for the prosecution of the work on said canal the City Council may for the time being appoint a committee of three members of the corporation enough money for that purpose, charging the same to said canal. No funds shall be disbursed on account of said canal except on vouchers certified to by the engineer of construction and countersigned by one other member of the committee of supervision, and

That when said canal is completed, the waters flowing through it shall be controlled and distributed through the various ditches of said city, under the same regulations as are provided by an Ordinance relating to the control and distribution of the waters flowing into Salt Lake City, passed March 14, 1878, and no waters shall be distributed from said canal to any lands lying outside the corporate limits of said city.

Adopted November 25th, 1879.

PERAMORE LITTLE, Mayor.

JOHN T. CAINE, Recorder.

TERRITORY OF UTAH.

Salt Lake City, 25.

I, John T. Caine, Recorder of Salt Lake City, do hereby certify that the foregoing is a full, true and correct copy of a Resolution, entitled "A Resolution providing for the construction of the Jordan and Salt Lake City Canal," passed by the City Council of said City on the 25th day of November, A.D. 1879, as appears of record in my office.

In testimony whereof, I have hereunto set my hand and affixed the corporate seal of Salt Lake City, this 25th day of November, A.D. 1879.

JOHN T. CAINE, Recorder.

SALT LAKE THEATRE.

Salt Lake Dramatic Association, Frogs

FOR TWO NIGHTS, ONLY.

Tuesday & Wednesday Even'g.

Nov. 25th, and 26th.

Engagement at an enormous expense of the Grand old

HERMANN

The world's Most Renowned Prestidigitator

THE KING OF WIZARDS.

His first appearance here for years

aided by the beautiful Artists,

MILKE ADDED

THE LORELLAS.

Farlous, Grotesque and Comical

THE ANATOMICAL MONSTERS

Is a world of magic wonder.

In the opening programme is

THE GREAT DECAPITATION

CUTTING OFF A MAN'S HEAD.

A wonderful illusion, and not offending the most fastidious taste.

PRICES—\$1, 50c, 25c and 10c—No extra charge for reserved seats.

FRED. G. MAEDER, Business Manager

The Nettle Boyd Dramatic Company will shortly appear.

NOTICE.

THE Board of Directors of the D. A. & M. Society are requested to meet at No. 7 City Hall this evening, at 7 o'clock, to make suitable arrangements to attend the funeral of a late member of our board; Hon. A. F. Rockwood.

JOHN E. WINDER, President.

ESTRAY NOTICE.

HAVE in my possession

One light red STEEP, about four years old, both ears cropped, brandy on left thigh.

Which if not claimed within 10 days from date, will be sold at public auction at the Court House, Salt Lake City, on Monday, 27th inst., at 10 o'clock.

JOHN E. WINDER, Sheriff.

FOR SALE OR EXCHANGE.

FOR a building site in Salt Lake City, a

firm situated seven miles north of the city, with a fine view of the city, and a good water supply.

For particulars apply to J. Payne.

J. PAYNE.

Home-Made and Imported

BOOT MAKER.

BOOTS and SHOES

AT

BIG BOOT.

EAST TEMPLE STREET,

SALT LAKE CITY

Has on hand a Fine Stock of his

own Manufacturing. Also

a well-selected stock

of IMPORTED

Goods.

Orders from the Country

punctually filled.

To Country and Other Buyers.

FULL line Samples of Boots & Shoes from

everywhere, at Salt Lake City, at the

lowest prices, and in the latest styles.

Stoves direct from the works.

Agent for Maclean & Reston, Chicago.

The Largest and most Varied Stock of

STOVES west of New York.

Stoves for sale at the lowest prices for public or private use, have one or more

sent direct at the lowest prices.

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AUTUMN FABRICS.

In addition to an unequalled Collection of

IMPORTED AND DOMESTIC MANUFACTURES,

Z. C. M. I. are offering daily

ELEGANT NOVELTIES

EUROPEAN AND AMERICAN

SILKS, DRESS GOODS AND SHAWLS.

Together with the Latest Designs in

CLOAKS, DOLMANS AND WRAPS

Unsurpassed in STYLE and VARIETY, and

AT LOWER PRICES THAN ANY PREVIOUS SEASON.

Z. C. M. I.

H. S. ELDREDGE, Supt.

SALE

SAPONE

A HOUSEHOLD SOAP

FOR GENERAL USE.

THE ONLY MANUFACTURER OF

TOILET, BATH & LAUNDRY SOAP.

NOTICE.

To Depositors of Zion's Savings

Bank and Trust Company.

On and after January 1st, 1880, monies

deposited in the above named bank

will be paid at the rate of six per cent.

per annum.

By order of the Board of Directors,

J. H. SCHREIBER, Cashier.

Salt Lake City, Nov. 24, 1879.

IMMENSE

REDUCTION.

OUR

TYCOON TEA

Well known to be the