

ciples or authority. The objects for which the constitution was formed are higher than any power granted under it. Welfare, justice, domestic tranquility and blessings of liberty are supreme and cannot be taken from the people by any treaty, however solemnly ratified. The treaty making the power is limited by these objects. Moreover, both in nature and by international law, the first duty is self-preservation. If, therefore, it be true that the presence of the Chinese endangers the peace or the prosperity of our people, no mere technical considerations should intervene to prevent an increase of the evil. The clause of the constitution above quoted does not, however, admit of the construction contended, for it elevates treaties from the statutes of mere compacts to the dignity of laws, but does not clothe them with any additional superiority. Laws made in pursuance of the Constitution are equally as binding and authoritative as treaties. This conclusion is enforced by numerous decisions, both of the executive and judicial departments of the government. In 1851, in the case of the Florida claims, an apparent conflict between a treaty and subsequent act of Congress, was decided by Attorney General Crittenden in these words: "An act of Congress is as much a supreme law of the land as a treaty. They are placed on the same footing and no preference or superiority is given to the one or the other. The last expression of the law-giving power must prevail, and just for the same reason, and on the same principle that a subsequent act must prevail and have effect, though inconsistent with a prior act, so must an act of Congress have effect though inconsistent with a prior treaty."

To the same effect is the decision of Attorney General Akerman in the case of Chocktaw Indians. He declares there is nothing in the constitution which assigns different ranks to treaties and to statutes. Both the one and the other, when not inconsistent with the constitution, seem to stand upon the same level and to be of equal validity; and, as in the case of all laws emanating from an equal authority, the earlier in date yields to the latter. These decisions of the Executive Department, confirmed as they are by the teachings of Madison, of Hamilton and of Jefferson, have been followed by the judiciary. In the case Taylor vs. Martin, the court says, speaking by Justice Curtis: "It is impossible to maintain that under our constitution the President and Senate exclusively possess the power to modify or appeal a law bound treaty. If this were true no change in a treaty could be made without the consent of some foreign government. That the constitution was designed to place our country in this helpless condition is a supposition wholly inadmissible. It is not only inconsistent with the necessities of the nation but negated by the express words of the constitution, that gives to Congress, in so many words, power to declare war, an act which *pro facto* repeals all treaties inconsistent with a state of war. It cannot, therefore, be admitted that the only method of escape from a treaty is by the consent of the other party to it, or a declaration of war. To refuse to execute a treaty, for reasons which approve themselves to the conscientious judgment of a nation, is a matter of the utmost gravity, but the power to do so is a prerogative of which no nation can be deprived without deeply affecting its independence. That the people of the United States have deprived their government of this power, I do not believe; that it must reside somewhere and be applicable to all cases I am convinced, and I feel no doubt that it belongs to congress."

Similar opinions have been delivered in the circuit courts of the country. These decisions were finally affirmed by the supreme court of the United States in the Cherokee tobacco case. The court says: "The effect of treaties and acts of congress, when in conflict are not settled by the constitution, but the question is not involved in any doubt as to its proper solution. A treaty may supercede a prior act of congress, and an act of congress may supercede a prior treaty." In the cases referred to these principles were applied to treaties with foreign nations; treaties with Indian nations cannot be more obligatory. They have no higher sanctity, and no greater inviolability or immunity from legislative invasion can be claimed for

them. The act of congress must prevail as if the treaty were not an element to be considered. If a wrong has been done the power to redress is with Congress, not with the judiciary. Upon this principle, therefore, as well as upon the authority of precedents, judicial and administrative, it would seem clear that Congress has the right by appropriate legislation, to change or to abrogate any existing treaty. Indeed, Congress has, in one instance, expressly exercised this power. The act of July 7th, 1798, declares that the existing treaties with France are no longer obligatory upon the United States.

The evils of Chinese immigration have been fully recognized upon the Pacific slope for many years. Welcomed at first as a unique addition to the society and a valuable ally in the development of the material resources of the then new home, the Chinese, by their sordid selfish, immoral and non-amalgamating habits within a very short time reversed the judgment in their favor and they came to be regarded as a standing menace to the social and political institutions of the country. The state laws which had been enacted, having been declared unconstitutional by the supreme court, and every other means of relief proving ineffectual, it was finally determined to appeal to congress. Accordingly, as early as the 22nd of December, 1889, at the second session of the Forty first Congress, an effort was made, but without success, to secure restrictive legislation.

WASHINGTON, 10. Delegate Cannon, to-day, referring to the recent Supreme Court decision, admitted the right of Congress to legislate against polygamy, but his people had more to fear from persecution than from prosecution under the act of 1882. He feared the enemies of the Mormon people would institute a continuous prosecution for unlawful cohabitation against the parties who would otherwise escape under the plea of Statute of limitations. Mormons would be cravens and poltroons if they yielded their religious principles to the dictate of the Supreme Court.

From Robinson, Neb., 10.—The hostile Cheyenne Indians, imprisoned here since last October, having been informed by the commanding officer, a few days ago, that they were to be taken back to their agency in Indian territory, determined to die rather than consent to such a movement. They have become very stubborn for the past few days, and fearing an attempt to escape, the post commander has placed a strong guard over their prison room. Last night, about 11 o'clock, while every one was in bed except the ever watchful guard, the savages jumped through the windows of the prison room and made for Cold Prairie, now thickly coated with frozen snow, firing on the guard from revolvers they had concealed since their capture, dangerously wounding four of the guard, of whom one has died and another is not expected to survive to-day. The main guard rushed out of the guard house upon hearing the firing, and upon ascertaining the cause and seeing the fleeing hostiles running for the bluffs, immediately followed, and opening fire, shot and killed over 40 savages. Over 160 of the cavalry, mounted and dismounted, are still in pursuit of the fleeing savages. The sharp bang of the carbine in the hands of our men can be heard from the hills three miles distant, where the savages have evidently made for. It is thought not one of them will escape.

CHICAGO, 10.—An extra edition of the Times, this morning, has the following special from Fort Robinson, Neb., which give an interesting account of the events leading into the outbreak telegraphed you this morning: The post was thrown into a fever of excitement, this morning, which is still unabated, owing to "Wild Hog," the savage chief of the Cheyenne Indians, having stabbed a member of the guard, private Ferguson, of Company A, Third Cavalry, with nearly fatal result. Since the Indians learned of government's intention of taking them south they have shown their savage nature by openly asserting that they would die in resisting such a movement. The military authorities have treated them very kindly since their incarceration in the hope of getting them to return without resorting to extreme measures. This mode of treatment not producing the result

desired, the authorities concluded to starve and freeze them into submission. Some five days ago the savages were informed that if they did not consent to go south no rations or fuel would be allowed them until such time as they consented to accede to government's wishes. As a consequence, since the evening of Sunday, the 5th, the savages have received very little food and hardly enough to sustain vitality. This mode of treatment seemed to produce no visible effect, but rather aroused a more determined spirit of resistance on the part of the savages. Starving failing to bring them to terms, the idea presented itself to the post commander that owing to the inclemency of the weather, stopping their supply of fuel would insure a more speedy compliance with the existing orders regarding removal, but it seems that their resolute determination has stood the combined attack of starvation and cold. For obvious reasons the commanding officer could not resort to violent measures, and considering that if he could succeed in detaching the belligerent element from their more pusillanimous comrades, he could more readily carry his instructions regarding their movement into effect. As a preliminary measure toward separating the aforesaid elements, the chiefs "Wild Hog" and "Old Crow" were invited to a council held in the adjutant's office. While at the council the commanding officer asked the former savage if his people had decided to return south. Thereupon Wild Hog reiterated his formerly expressed determination to die before going an arrow's length towards the place from which starvation had forced his people and himself to fly. This determination of "Wild Hog's" was fully concurred in by the other savage. The post commander reasoned with him, but without avail. Two files of the guards in attendance were ordered by the commanding officer to seize the savages and place them in irons, which order was carried into effect, though not without desperate resistance on the part of the chiefs, more particularly on that of "Wild Hog," who is a Sampson in strength and an acrobat in activity, and he being in possession of as many as three formidable hunting knives, of which he was deprived successively, though not until he had succeeded in stabbing Ferguson, the knife striking a bone, causing a dangerous wound near the region of the heart. A daughter of "Wild Hog," who witnessed the scene, began chanting a war song, which was taken up and participated in by the whole imprisoned band in the next building, and for the ensuing two hours the echoes of that prison room produced a babel of sounds better imagined than described. The remaining savages hearing of the treatment their confederates had received determined they would not be trapped by a similar ruse. Acting upon this determination, they stubbornly refused to emerge from the prison room, and proceeded to barricade the windows, and by tearing up the flooring, succeeded in intrenching themselves therein, and from the joists of the floor they managed to improvise war clubs. The stoves in the prison room were also broken into fragments, evidently with the intention of utilizing them as missiles in event of the troops resorting to violent measures.

At 3 p. m., yesterday afternoon, upon the irons being removed from the chief "Wild Hog," he consented to use his influence towards getting his people to peaceably acquiesce in the wishes of the military regarding the removal. "Wild Hog's" son, a wild young warrior of 20 summers, emphatically informed his father that he would die before returning to the place which starvation has indelibly branded on his memory. This state of affairs remained unchanged at midnight. The only advice received by General Sheridan from Fort Robinson are dated previously to the outbreak of last night, and indicate that the military have been waiting to execute the orders of the Indian bureau that the fugitive Indians there be taken back to Indian Territory, but could not until proper clothing was provided for the savages, they being at present almost naked and suffering intensely even in their sheltered quarters. Clothing has been promised but was not expected for two weeks.

Advices from Fort Sill states that the Indians there had been greatly discontented for two weeks, and that recently 2,000 of them started southward, and were soon heard from as depreeding on the ranchmen. Their excuse was that they had been starved at the agency, and proposed to kill such cattle as they needed for their sustenance. The military were sent after them and they were overtaken on the boundary between the Indian Territory and Texas. General Sheridan has telegraphed permission to issue beef to them until further instructions. These Indians are mainly the dangerous Comanches, Apaches and Kiowas.

FOREIGN.

LONDON, 9.—A dispatch from Hazar Pir announces that General Roberts visited the principal fort of Khost on Monday, and was saluted by the Afghan garrison. The attitude of the marauding tribes around his army, however, is so threatening that his force passed all Monday night under arms. The garrison at Peiwar, which was also threatened, has requested General Roberts to send them reinforcements.

ST. PETERSBURG, 8.—The *Agence Russe*, semi-official, for the first time, admits that Shere Ali has entered Russian territory, saying it believes the news is correct, but that it does not believe he was accompanied by his troops.

The plague has caused a general panic in Astrakhan and Saratow. A correspondent of the *Golos* writes that the plague commenced in a village in the district of Enotsk. Precautions against the disease were at first neglected, as it was mistaken for typhus. When the weather became warm people died like flies. The dead lay unburied in the streets. The infected district has been surrounded by troops. Communication with Moscow has been stopped. General anxiety prevails throughout Russia, and it is supposed the deaths have been more numerous than stated.

ST. PETERSBURG, 8.—The Khar-koff veterinary school has been broken up, and the Kieff University closed in consequence of the riotous demonstrations of the students.

RIO JANEIRO, 7.—Thomas D. Conyngham, a forger, from Wilkes-barre, United States, has been captured in this city. The Brazilian government has signified its willingness to surrender him to justice, and he will be returned to New York by the next packet.

BERLIN, 8.—Bismarck appears to be taking every opportunity for declaring himself in favor of protection. He recently wrote a long and favorable reply to a letter, condemning free trade, sent him by agriculturists.

PARIS, 8.—A severe storm is reported from the central part of France. The wind blew with the force of a hurricane and much snow has fallen.

LONDON, 9.—A Paris dispatch says: If the Bey of Tunis does not accord satisfaction by Thursday (to-day), the French consul is instructed to withdraw, and six iron-clads, with transports, will immediately leave Toulon for Tunis. All the powers approve the attitude of France, though Italy is more reserved than others.

The liabilities of the Cornish Bank is £658,900, being much less than was supposed. The uneasiness in Cornwall is allayed, and the drain upon the other banks is considerably decreased.

LONDON, 9.—A dispatch from Rome says: The Pope has sent to the bishop's Catholic Church a very important encyclical letter, in which he speaks at length of the condition of the church of the Holy See and society, and explains what he has already done and what remains to be done. The document will shortly be published, and it is believed will create some sensation.

The Spanish brig *Encarnacion*, from Fernandina, Florida, for Ferrol, Spain, landed there yesterday with two of the crew of the steamer *Bayard*, which foundered at sea on December 10th. All the remainder of the crew were drowned. The *Bayard* was a British steamer of 964 tons, commanded by Captain Everett. She sailed from New Orleans on December 4th.

Local and Other Matters.

FROM THURSDAY'S DAILY, JAN. 9.

A Chance.—A shoemaker, one who is willing to do mending, etc.,

can receive information that may be of advantage to him, if he will communicate with Bro. John C. Hall, at Rockville, Kane Co., Utah.

Mortuary.—Sexton's report of Moroni City, Sanpete County, U. T., for the year ending December 31st, 1878: Males 4, females 2. Of these adults, 3; children 3. Cause of death as reported, dropsy, 1; accidentally drowned, 1; convulsion, 1; lung disease, 1; inflammation of the bowels, 1; not reported, 1; total interments, 6.

JOSEPH GEE, Sexton.

Jurors.—Following is the list of names drawn at Ogden yesterday, to serve as grand and petit jurors for the February term of the Court. The even numbers indicate the names placed on the jury list by the Probate Judge, and the odd numbers show the names selected by the Clerk of the District Court. It will be seen that the latter are in the majority:

GRAND JURORS.

119 Milton Ward,	4 Geo H Pope,
154 James Ward,	15 H C Goodspeed,
144 James Quayle,	152 H A Shaw,
153 F F Leonard,	147 S J Lee,
90 John McLaws,	183 Thos Rowland,
63 M T Burgess,	195 Louis DeMars,
57 W F Raybould,	105 Henry M May,
37 T C Armstrong,	180 Jos S Marston,
175 John Taylor,	3 W F James,

PETIT JURORS.

127 Jas Crosby,	31 E Daggett,
71 S Woodard,	105 Patrick Phelan,
170 Wm Shaw,	65 Jos Gorlinski,
4 J Cartwright,	9 M K Parsons,
27 Edward Dix,	187 J W Mason,
25 Ed Wilks,	188 P Cutler,
146 K Jenkins,	55 F D Clift,
77 L W Rivers,	107 G H Chandler,
139 J H Vance,	113 W O Williams,
64 T C Griggs,	151 A Dudden,
142 J R Bennion,	51 J M Allen,
197 J Addoms,	19 H M Henderson,
7 H Wagener,	75 W H Yearlan,
23 B W Morgan,	93 R Hutchins,
146 Aaron Farr,	189 E W Thayer,
11 Jos Siegel,	162 C C Brown,
194 David Reese,	121 Thos Harris,
109 L B Stevens,	48 S H Hill,
59 N C Tompkins,	86 Wm Salmon,
199 R Osborn,	33 E L Butterfield,

Post Office Business.—With the compliments of the post office authorities of this city, we have received a statement of the business done during the year 1878, a few selections from which we publish.

Total receipts from stamps, etc., box rent and waste paper, \$19,821.50; total expense of office, including salaries, etc., \$11,492.07, which shows a net profit to the department of \$8,329.29. Total receipts of money order department \$274,775.78; total disbursements, \$273,708.59. Whole number of registered letters, etc., handled during the year, 24,865. Total number of pieces of mail 806,905, of which the weight was 35,144 pounds. Value of stamps cancelled at the office during the year, \$25,374.96. Number of letters received (including postal cards) 840,500; number delivered, 833,844. Total weight of mail sent from office, including city publications, 115,144 pounds.

The officers of the Salt Lake City Post Office are, Jno. T. Lynch, postmaster; Charles H. Moore, assistant postmaster; J. E. Bamberger, money order clerk; W. Goodrich, registry clerk; L. A. Billings, mailing clerk; E. M. White, ladies' delivery and stamp window; J. S. Kelsey, gentlemen's delivery, and E. Coleman, janitor.

The Escalante Murder.—Some time ago we published particulars of the murder of Washington Phipps by John H. Boynton, 15 miles east of Escalante, Iron County, on the 30th of November. Our information was derived from a correspondent, in whose letter appears the following sentence, which we published at the time: "Phipps is said to have been a quiet, unoffending man, and Boynton as mean and quarrelsome in disposition having first sought the quarrel with Phipps, goaded him to resentment, and then cowardly murdered him."

We have received the following communication, dated Eagle Valley, January 7th, 1879, and signed by twenty inhabitants. If justice has been done to anybody we wish to do all in our power to have the matter made right, and consequently publish the letter:

"We the undersigned citizens of Eagle and Spring Valley having seen the account in your paper of the killing of Phipps by John H. Boynton, and knowing nothing of the circumstances, wish, as an act of simple justice, to state that part of the account which relates to the character of the said John H. Boynton is quite incorrect, as after an acquaintance of from eight to ten years we unhesitatingly declare him to be a quiet, peaceable, law abiding man."