

RAILROAD TAXATION.

Attorney-General Hart makes a Report.

What the State is Losing by Litigation -The Southern Reassessment Bill -Unconstitutional and Ill-Advised -Proposition for Settlement-Important Suggestions.

Attorney-General Hart yesterday submitted to Governor Markham a very important and comprehensive report on the subject of the unpaid taxes levied upon the Southern Pacific and Central Pacific Railroads, which have been in dispute for several years.

The Attorney-General calls attention to the previous report on this subject, made by him on September 15, 1892, and the fact is emphasized that he has considered only such railroads as are embraced within the Southern Pacific and Central Pacific systems.

The first, covering the railroad State and county taxes for the years 1880 to 1884, inclusive, a portion of which was paid under the compromise effected by Attorney-General E. C. Marshall; the second covering the taxes of 1885, 1886 and 1887, no portion of which was paid; and the third the railroad taxes since 1887, which have been promptly paid.

With regard to the payment of these delinquent taxes, the report received by Attorney-General Hart but one proposition, which is embraced in the letter of E. L. Craig, of the Law Department of the Southern Pacific Company, under date of January 12, 1893, given here in full:

LAW DEPARTMENT, SOUTHERN PACIFIC COMPANY, SAN FRANCISCO (Cal.), January 12, 1893. Dear Sir: I have the honor to acknowledge the receipt of your letter of this date referring to the pending controversy between the State and the Southern Pacific and Central Pacific railroads, composing what is known as the Southern Pacific system, in regard to taxes, and the suggestion contained therein on behalf of the companies of a proposition to submit some proposition for an adjustment of the same, and inquiring whether I am now prepared to submit such a proposition in their behalf.

In answer to your inquiry I will say that, while the companies referred to are desirous of promoting a speedy settlement of these controversies upon such terms as shall be satisfactory to both parties, an examination of the subject has convinced me that it will be impossible for the companies to make any proposition covering the whole matter and involving any degree of compromise, because of the very serious doubt as to the authority of any executive officer of the State to accept the terms which might be proposed by the companies and relieve the companies from further controversy in regard thereto.

As I understand it there are those in authority who claim on behalf of the State that nothing short of the full payment by the companies of the amounts assessed against them respectively since the controversies began, with all the cumulative penalties and costs incurred in the prosecution of the suits, will relieve the companies and their property from the claims of the State. This claim is in my opinion, notwithstanding the fact that for the series of years up to and including 1884, nearly if not quite all of the suits have been determined either by judgment in favor of the companies or by judgments against them which have been fully paid; and that for the years following up to and including 1887, it is claimed by the companies that the assessments were unlawful and that the Federal franchises of the aided roads, and thereby rendered the assessments void as to them.

General Hart explains a difference of \$20,941 51 between his figures and those of the Controller (forty-second and forty-third annual reports), by saying that taxes of the Southern Pacific Coast Railroad to the amount were charged against the Southern Pacific Company.

The Attorney-General deems it curious that his predecessors should have permitted the question of the taxation of the Southern Pacific system to apply only to the Southern Pacific and Central Pacific main lines to interfere with suits brought against branch roads.

The summary of Attorney-General Hart's report is as follows: The State and county taxes due from the Southern Pacific and Central Pacific systems on account of the face of taxes unpaid, is as follows:

Table with 2 columns: Year, Amount. Rows for 1880-82, 1883, 1884, Total, and 1885-87, 1888, 1889, Total.

Before the money had been paid into the Treasury by Marshall, there was commenced, on November 20, 1885, an action in the Supreme Court-John Rooney vs. Attorney-General Marshall and Controller Dunn (69 Cal. 67)-to force them to certify into the State Treasury the taxes collected by E. W. Marshall from the railroad companies.

There was unpaid and alleged to be due from Southern Pacific and Central Pacific systems on the amounts paid in through Marshall, \$416,252 28 1880-81-82, 323,252 33 1883, 323,552 49 Total, \$962,356 10

General Hart says: "If the agreed judgments in the United States Circuit Court in the cases transferred thereto, in reference to these taxes and the settlement with Attorney-General Marshall are to be considered as binding and conclusive, it is questionable whether the State can ever recover any portion of the above amount of delinquent taxes by re-assessment, for it cannot be said that the assessments were so void that the Legislature could right directly or authorize a re-assessment for those years."

Attorney-General Hart severely criticized the report of the Controller, but he says that if the Controller was correct in saying that Attorney-General Marshall had not presented a fair case for the State in the suits, it would be a good reason why another Attorney-General should be appointed to bring new suits by which a presentation could have been made.

Controller Dunn could have secured at least 90 per cent of the taxes of 1885 and 1886, if he had consented to certify that proportion into the Treasury on account of said taxes. He refused, believing that by refusing to accept partial payments, the State could obtain the whole amount.

"In my opinion," says General Hart, "Mr. Marshall, as Attorney-General, was over-reached in the matter of railroad tax litigation."

The face of the total taxes for the years 1885, 1886 and 1887, alleged to be due and unpaid from the Southern Pacific and Central Pacific systems is as follows:

Table with 2 columns: Year, Amount. Rows for 1885, 1886, 1887, Total, and 1888, 1889, Total.

General Hart explains a difference of \$20,941 51 between his figures and those of the Controller (forty-second and forty-third annual reports), by saying that taxes of the Southern Pacific Coast Railroad to the amount were charged against the Southern Pacific Company.

The summary of Attorney-General Hart's report is as follows: The State and county taxes due from the Southern Pacific and Central Pacific systems on account of the face of taxes unpaid, is as follows:

Table with 2 columns: Year, Amount. Rows for 1880-82, 1883, 1884, Total, and 1885-87, 1888, 1889, Total.

The above statement does not include interest, penalties or costs. Of the above total, \$962,356 10 is the sum remaining unpaid for taxes for the years 1880 to 1884, inclusive, after the acceptance of the compromise money covering those taxes by Attorney-General Marshall.

In the event of the enactment of a re-assessment bill, it should not apply to those years solely, for such a bill would, in my opinion, be unconstitutional, in view of the ruling laid down by the Supreme Court in the case of Bourne vs. Hart et al., 83 Cal. 33; but it should be a general bill, applying to all taxes that have been levied since the adoption of the new Constitution, and should apply to the future as well as the past.

have been levied since the adoption of the new Constitution, and should apply to the future as well as the past. Provision should be made whereby the companies would be credited with all sums paid on account of such delinquent taxes.

Many serious questions may arise in regard to the re-assessment, among which I will specify: In making the re-assessment, should the rate of taxation be the same as fixed for the year in which the re-assessment is made, or should it be enacted, that the rate should be the same as the rate which was fixed for the respective years in which the taxes were originally levied?

Will a re-assessment bill give to the people as much money as the Act of the Legislature authorizing a settlement of these taxes? As before stated, the railroad companies have offered to pay \$1,207,000, being 10 per cent of the tax of 1885, 1886 and 1887.

If the Legislature will authorize the receipt of such or greater sum in settlement of the taxes, it is not clear that the time the taxes should have been paid, if properly assessed, the companies will accept such a proposition.

A settlement of this kind made within a short period, whereas if the assessment is made, there is no assurance that the companies will pay, and may continue in litigation for a number of years, as they have previously done, and the people be again delayed in getting what they are entitled to.

The Attorney-General suggests that as the railroad company have paid taxes in full since 1887, and there is no doubt of the validity of the Constitution concerning taxation of roads operated in more than one county, and considering it now possible to end that litigation, would it not be better for the people to obtain a reasonable settlement, and put the money in the Treasury, rather than to continue for years to elect any result by means of a re-assessment of the roads.

I think the following the best course to pursue in the settlement of this vexatious question: First-That a joint committee of the Senate and Assembly be appointed, to which committee all bills upon the subject should be referred.

Second-That two bills ought to be passed, one authorizing the Attorney-General to accept not less than a certain sum for the State, and the other, authorizing also a perfect bill providing for a re-assessment, so that in the event a settlement is not obtainable a valid re-assessment may be made.

From a perusal of the tables the Legislature can determine whether the companies have moral or equitable grounds for their refusal to pay the taxes of 1885, 1886 and 1887. It must be remembered that the roads are now of but little greater value than then, while all other property has largely increased in value.

Articles of Incorporation. The following articles of incorporation have been filed in the Secretary of State's office: East Side Fruit-Growers' Union, San Jose, Santa Clara County, Capital stock, \$100,000.

The London Wine and Investment Company, San Francisco, Capital stock, \$100,000. Directors-Charles E. Dick, Wm. B. Hill, J. H. Hill, M. D. Merritt and H. W. Westphal.

Columbus Savings and Loan Society, San Francisco, Capital stock, \$300,000. Directors-J. F. Fugate, E. C. Palmiste, G. L. Cagliari, F. Arala and J. W. Hollman.

Madera Fruit and Land Company, Madera, Fresno County, Capital stock, \$1,500,000. Directors-E. Knapp, W. B. Hill, J. Deming, W. C. Maze and A. J. Elter.

Bacon Printing Company, San Francisco, Capital stock, \$100,000. Directors-J. Bacon, J. E. Ager, C. M. Bacon, S. Moore and E. L. Morse.

The Weather Bureau reports show the highest and lowest temperatures yesterday to have been 51 and 38°, with fresh northerly winds and a clear sky, except for a few hours in the forenoon, when a dense fog prevailed.

CANALS ARE NECESSARY.

Relief-Ways the Only Protection from Inundation.

Pioneer Epperson of Colusa Claims to Have Foreseen the Failure of the Levee System.

Ers. RECORD-UNION: For thirty years past I have been a close observer of the many schemes that have been tried to reclaim swamp lands and prevent the overflow of our rivers. Our last floods fully demonstrate that we are as far from any method that is reliable as we were thirty years ago.

I have never been in favor of the levee systems, as tried by the people of our State. When Levee District No. 1 was formed in Sutter County, twenty-seven years ago, I was in Yuba City on the day the levee was completed.

The levee had broken, and many had come to town in boats. I went in to that back room to warm myself. I was not one of the scientific men. I had only come to town the day before to sell a hog; but the levee broke, and I was obliged to go home with my team until the water subsided. I listened, and tried to learn the great methods of reclamation.

The conclusion of that scientific confab was that they had lacked just one foot of building their levees high enough. They then resolved among themselves to rebuild the levee and make it one foot higher than before.

As the crowd was about to assemble around a big barrel in that back room-I ventured to say: "Gentlemen, I am not a scientific man; I only came to town to sell a hog. But I would say that I firmly believe that you will never be successful in having your levees high enough, under your present system of reclamation."

A lot of them looked at me with sickly smiles, and some of them looked like pity for my ignorance. One asked me how I would do it? I answered, "by making canals. Should any of you live more than twenty years hence, just think of what I am saying. I have no land in your district, and have no interest in the district-only a kind wish that it will be reclaimed, and I will never be under your present mode."

Just twenty years after that I was in the town of Colusa, and Judge P. W. Kasper laid his hand on my shoulder and said: "Old boy, how are you? I have just come from Marysville to this place to hold court. The whole country is under water, just as it was twenty years ago. I have just seen the levees at Yuba City their levee would always lack one foot of being high enough!"

The Judge was present in Yuba City at the time William H. Parks, of Parks' dam fame, tried to dam the water up between the Buttes and the Sacramento River in Sutter County, and his scheme from the beginning, as I had laid in the district, I felt sure it would be a failure.

Mr. Parks argued that it would be a success, and that the water would be let, instead of damming up. He built the dam, and put men on it with shot-guns; but the floods came, and his dam did not withstand them. It was on a sandy foundation.

Poor Bill Parks has also gone with the flood of humanity that is continually passing down the stream of time. He was a good man, but, like all others, liable to err.

I see by the RECORD-UNION that there is to be a re-assessment in Sutter County this week, in truly hoping they will take such steps as will be a lasting benefit to our over-taxed lands and rivers. I am a canal man, from the fact that God has pointed out the way.

All we have to do is to follow the center of the river, and make a canal on the rivers, and make places on the rivers overflows to enter the canals when the rivers get to a certain height. Then take the water out of the river, and let it go with debris, if possible. Then we will be a prosperous people.

These are only my views and they may be wrong. But one thing is sure-the claim by levees has, in the main, been a failure in California so far. Colusa County, January 10th.

A DEARTH OF TALENT. In the Police Court yesterday morning, owing to a notable scarcity of counsel, all of the cases coming up were continued.

Frank Bogart, charged with battery upon the conductor of a Third and P-street electric car, had his case again continued until Saturday.

TO-DAY!

WE WILL HAVE ON SALE SOME SPECIAL LINES OF Cold Weather Goods!

Here we have two lines of GRAY BLANKETS, which will go at these low prices:

6 1/2-pound California Gray Wool Blankets, fancy border, soft and well-finished, \$3 45.

Another line a little heavier and larger, weighing 7 pounds, Gray Wool Blanket, fancy check borders, \$3 45.

One lot of Comforters, good sizes, for double beds, turkey red one side and fancy chintz the other, for 75c.

Another lot of extra good ones. These Comforters are worth \$1 25. Large-size, extra-heavy plain turkey red one side and large fancy figured twilled chintz the other. Sale price, \$1 15.

Do you wish a Napkin that will be of some service to you? Come and see those Pure Irish Linen Napkins, 20 inches square, narrow fancy border, selling for \$1 25 per dozen.

Extra quality of Amoskeag Teazle Cloth Suitings, in neat pattern of broken plaids, 27 inches wide. These are a new fabric resembling domet, has a good body, is strong and well adapted for children's wear. Price, 10c per yard.

TO-DAY we have a fine line of Double-width Fancy Striped Serge Suitings, a handsome fabric for winter wear. They come in many different shades of dark and medium colors. The price will be to-day 20c per yard.

Hard at work preparing for our Winter Clearing Sale, when it takes in all classes of goods. Look out for it, prepare for it.

REDUCED! BIG REDUCTION IN WALL PAPER FOR THE NEXT SIXTY DAYS AT C. H. KREBS & CO.'S TEMPORARY STORE, 626 J Street.

The Inter-Ocean and Weekly Union. THE WORLD'S FAIR! The Chicago Inter-Ocean and The Weekly Union! BOTH ONLY \$2 A YEAR.

SACRAMENTO LUMBER COMPANY, Dealers in Lumber, Doors, Windows and Blinds. MAIN OFFICE-Second street, L and M. YARD-Front and R streets, Sacramento.

MONEY TO LOAN on Watches, Diamonds and Jewelry. Advance every evening. Unredeemed pledges. UNCLE IKE'S COLLATERAL LOAN OFFICE, 302 K St., Sacramento, Cal.

Miscellaneous. Undertakers. J. FRANK CLARK, UNDERTAKING PARLORS, 1017-1019 Fourth St., Sacramento. E. H. CLARK, Undertaker and County Coroner, Telephone No. 134.

W. J. KAVANAUGH, Undertaker, No. 513 J St., bet. Fifth and Sixth. ALWAYS ON HAND A LARGE ASSORTMENT of Metallic and Wooden Caskets, Coffin orders will receive prompt attention on short notice and at the lowest rates. Embalming a specialty. Office open day and night. Telephone No. 305.

JOHN MILLER (Successor to Fritz & Miller), UNDERTAKING PARLORS, 905 K STREET (OLD FELLOWS TEMPLE). A complete stock of Undertaking Goods always on hand. EMBALMING A SPECIALTY. Telephone No. 186.

TO-DAY! WE WILL HAVE ON SALE SOME SPECIAL LINES OF Cold Weather Goods!

Here we have two lines of GRAY BLANKETS, which will go at these low prices:

6 1/2-pound California Gray Wool Blankets, fancy border, soft and well-finished, \$3 45.

Another line a little heavier and larger, weighing 7 pounds, Gray Wool Blanket, fancy check borders, \$3 45.

One lot of Comforters, good sizes, for double beds, turkey red one side and fancy chintz the other, for 75c.

Another lot of extra good ones. These Comforters are worth \$1 25. Large-size, extra-heavy plain turkey red one side and large fancy figured twilled chintz the other. Sale price, \$1 15.

Do you wish a Napkin that will be of some service to you? Come and see those Pure Irish Linen Napkins, 20 inches square, narrow fancy border, selling for \$1 25 per dozen.

Extra quality of Amoskeag Teazle Cloth Suitings, in neat pattern of broken plaids, 27 inches wide. These are a new fabric resembling domet, has a good body, is strong and well adapted for children's wear. Price, 10c per yard.

TO-DAY we have a fine line of Double-width Fancy Striped Serge Suitings, a handsome fabric for winter wear. They come in many different shades of dark and medium colors. The price will be to-day 20c per yard.

Hard at work preparing for our Winter Clearing Sale, when it takes in all classes of goods. Look out for it, prepare for it.

REDUCED! BIG REDUCTION IN WALL PAPER FOR THE NEXT SIXTY DAYS AT C. H. KREBS & CO.'S TEMPORARY STORE, 626 J Street.

The Inter-Ocean and Weekly Union. THE WORLD'S FAIR! The Chicago Inter-Ocean and The Weekly Union! BOTH ONLY \$2 A YEAR.

SACRAMENTO LUMBER COMPANY, Dealers in Lumber, Doors, Windows and Blinds. MAIN OFFICE-Second street, L and M. YARD-Front and R streets, Sacramento.

MONEY TO LOAN on Watches, Diamonds and Jewelry. Advance every evening. Unredeemed pledges. UNCLE IKE'S COLLATERAL LOAN OFFICE, 302 K St., Sacramento, Cal.

Miscellaneous. Undertakers. J. FRANK CLARK, UNDERTAKING PARLORS, 1017-1019 Fourth St., Sacramento. E. H. CLARK, Undertaker and County Coroner, Telephone No. 134.

W. J. KAVANAUGH, Undertaker, No. 513 J St., bet. Fifth and Sixth. ALWAYS ON HAND A LARGE ASSORTMENT of Metallic and Wooden Caskets, Coffin orders will receive prompt attention on short notice and at the lowest rates. Embalming a specialty. Office open day and night. Telephone No. 305.

JOHN MILLER (Successor to Fritz & Miller), UNDERTAKING PARLORS, 905 K STREET (OLD FELLOWS TEMPLE). A complete stock of Undertaking Goods always on hand. EMBALMING A SPECIALTY. Telephone No. 186.