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SUPREME COURT DECISIONS.

Reported for The Clarion by L. Brame, Attorney-at-Law, Jackson, Miss.

APRIL TERM, 1881.

M. M. STAKES ET AL., v. PAYNE KENNEDY & Co. } No. 3649.

Appeal from the Chancery Court of Leake County, Hon. T. B. Graham, Chancellor.

By her will Mrs. A. P. Stakes gave her lands to her children and conferred upon her husband, M. M. Stakes, power to sell the same in the following words: "And I hereby authorize and empower said M. M. Stakes to sell and dispose of any of the property hereby bequeathed in this will when it shall apppear to him to be advisable so to do, having an eye to the support and education of the children." After the death of Mrs. Stakes, M. M. Stakes mortgaged the land to secure the payment of an account for supplies necessary for the support of the children, which were sold him on the faith of the mortgage. The mortgagees filed this bill to subject the land to sale for the payment of the debt.

From a decree in favor of complainants, this appeal is taken.

COOPER, J.

Held—

According to *Sessions v. Bacon*, 23 Miss., 273, a married woman having authority to sell took by implication the power to mortgage. The beneficial interest in the property being vested in the woman, the courts in construing the statute as to her power of disposition looked to the policy of the law and the intention of the legislature, and held that the power to sell conferred on her, included the power to mortgage.

"An examination of the authorities has impressed us with the correctness of those decisions which hold that as a general rule mere power to sell does not include the power to mortgage. In most of the cases in which such power has been declared, it is stated to be because a mortgage is a sale on condition. In this State, as in many others, a mortgage is now treated at law as in equity as a mere security for a debt. The legal estate can only be used for the purpose of enforcing the payment of the debt secured. The words of the testatrix conferring the power on her husband to "sell and dispose of" the property are evidence, we think, of an intention on her part simply to authorize a conversion of the property into money by an out and out sale, and that under the power the husband was not authorized to execute the mortgage."

The decree is reversed and bill dismissed.

Raymond Reid, for appellants.

J. D. Eads and O. A. Lucket, Jr., *contra.*

[To be reported.]

MARY L. PRESSGROVE, ET. AL., v. D. B. COMFORT. } No. 3656.

Appeal from the Circuit Court of Attala County, Hon. S. S. Calhoon, Judge, *pro tem.*

By the last will and testament of Richard Ross, who died in Attala county, in this State, in 1847, he devised certain lands and negroes to his four grand-children for life, (he having no living children) with an attempted remainder to their heirs. The provision is that when the two elder of the grand-children shall become of age, there shall be a partial division of the property, and that thereafter these two shall receive the net profits of the portions allotted to them until the two younger children shall come of age, at which time there shall be a general and equal division of all the property among the four grand-children, and "after such division, the land and negroes allotted to each shall be held by them for and during their natural lives, in trust only for the use of the heirs of their bodies."

This was an action of ejectment in which the court below held that the grand-children took an absolute estate in fee in the land devised.

CHALMERS, C. J.

If any estate of freehold was by this will conferred upon the first takers, it is quite clear that such takers by operation of the rule in Shelley's case, were vested with an estate in fee whereby the attempted limitation to the heirs of their bodies was defeated, since it is a plain attempt by the same instrument to convey to one or more persons a freehold estate with a limitation over by way of remainder of another estate of the same quality, to the heirs of their bodies as a class of persons to take in perpetuity. It falls, therefore, strictly within the rule in Shelley's case.

It is argued, however, that no estate whatever was granted to the grand-children by the will, but that they were mere naked trustees during their lives for their own heirs, and that taking no estate of freehold, they cannot be vested with an estate in fee. This argument is based upon the words "shall be held by them * * * * in trust only, for the heirs of their bodies," and it would be plausible if other clauses of the will did not show that they were not to be mere naked trustees, but were clothed with the actual seizure of the property, and the usufructuary enjoyment of the rents and profits for life. It differs in no respect from an ordinary life estate and is consequently an estate of freehold.

It is a well settled rule that a grant for life of the income and profits of personal property or of the interest arising from stocks and other investments will set in operation the rule in Shelley's case, whenever by the same instrument there is a limitation over to the heir or heirs of the body of the first taker. *A fortiori* will it apply where it is real estate that is so granted, with the right of possession and usufructuary enjoyment in the first taker; nor will the application of the words "in trust for his heirs" to the grantee of the life estate affect the result.

In *Garth v. Baldwin*, 2 Vesey, 646, personalty was limited to *trustees* to pay the profits to Edwin Turner Garth for life and afterwards to pay the same to the heirs of his body. It was held that Edward Turner Garth was vested by the rule in Shelley's case with absolute ownership of the property though such was manifestly not the intention of the testator.

In *Cepple's Appeal*, 53 Penn. State, 211, a devise of real estate "to my son in trust and for the use of his heirs-at-law, to have and to hold during his natural life, but he shall in no wise sell or dispose of the same during his natural life," was held to pass the fee to the son.

Judgment affirmed.

H. S. Allen and C. M. Brooke, for appellants.

Jason Niles, *contra.*

[To be reported.]

E. E. BALDWIN, Trustee, v. [illegible]ASH, PRESTON & Co. } No. 3670.

Appeal from the Circuit Court of Hinds County, Second District. Hon. S. S. Calhoon, Judge.

In 1879, C. C. Parkman executed a trust deed on his stock of goods, wares and merchandise in the town of Bolton, to E. E. Baldwin, trustee for Bickham & Moore, to secure an indebtedness to the latter. It was agreed and understood at the time that the deed was to be withheld from record so long as Parkman's creditors did not press him. On the 28th January, 1880, Baldwin, trustee, was instructed to take the goods—whereupon said Parkman by a written assignment surrendered the possession of the stock of goods to Baldwin to be dealt with according to the terms of the trust deed. Before the goods were taken by Baldwin, the deed had been duly recorded. After the said trustee had taken possession, [illegible]ash, Preston & Co., sued out an attachment before John McGill, Mayor of Jackson, in the first district of the county. and levied on a part of the goods in possession of said Baldwin, at Bolton, in the second district.

The trustee interposed a claim for the goods. By reason of the withholding of the deed from record and the retention of possession of the property by the grantor, the court held that the arrangement was fraudulent, and virtually instructed the jury to find for the plaintiffs.

From a judgment in favor of plaintiffs the claimant appealed.

CAMPBELL, J.

Held—

The objections to the writ of attachment as issued by a justice of the peace at Jackson, and returnable within less than five days after its issuance, are without merit.

Treating the trust deed as having no validity as such with respect to third persons not parties to it, because of its non-registration, but regarding it as first made when filed for record, we discover nothing in the transaction by which Baldwin received a surrender of the goods for the benefit and security of the Bickham & Moore, except the very frequent occurrence of a transfer of goods by the debtor to pay his creditors whom he prefers.

Parkman had a perfect right before a lien was fastened on the goods, to apply them in good faith to the payment of any of his creditors. Although the goods were surrendered, to be disposed of as provided by the trust deed or as it was modified by the terms of the written transfer, and although the trust deed may have been invalid, but may have been the inducing cause of the surrender of the goods, it is certain that the transaction was a delivery of the possession of the goods by Parkman to Baldwin to be disposed of for Bickham & Moore who were creditors of Parkman. If the trust deed conferred no right on Baldwin to the goods, their delivery did.

The instruction given the jury for plaintiffs contravenes this view. It ignores the very important transaction of the delivery of the goods to Baldwin for the benefit of Bickham & Moore, and announces that notwithstanding this the jury should upon the other facts in evidence find for the plaintiffs. It recites all the facts in evidence, except those decisive of the issue and directs the jury, if it believes the facts recited, to find for the plaintiff.

The 5th instruction asked by appellant should have been given. It places the right of Baldwin to the goods on the delivery to him of them in trust for Bickham & Moore before the levy of the attachment, and, according to our view, this is the true ground on which his claim rests.

If Parkman had never made the trust deed and had on 28th Jan,. 1880, delivered his goods to Baldwin, as trustee, to sell and pay Bickham & Moore, as preferred creditors, the validity of the transaction would not have been questioned. It would have been unassailable.

We treat the trust deed as though not executed until the day it was filed for record, and regard the right of Baldwin as having sprung from the transaction which invested him with the possession and ownership of the goods as the trustee for the payment of Bickham & Moore. That invested him with title and the trust deed and the writing executed by Parkman on surrendering the goods to Baldwin served to define the trust and his powers and duties.

The writing executed by Parkman, on the surrender of the goods, should be admitted in evidence as a part of the *res gestæ.*

Judgment reversed, new trial granted, and cause remanded.

Wells & Williamson, for appellant.

Shelton & Crutcher and M. Green, *contra.*

[To be reported.]

COMMENCEMENT AT OXFORD.

[SPECIAL CORRESPONDENCE OF THE CLARION.]

The annual commencement of the State University at Oxford began with a competitive declamation on Friday evening, June 25. The participants were eight Fresmen, members of the Hermeæan Literary society. A large and attentive audience filled the chapel. The judges awarded the first and second medals to Louis M. Southworth, of Leflore county, and Crawford Jackson, of DeSoto.

Saturday evening fourteen members of the Phi Sigma society ventilated their oratorical powers. The average merit was generally considered higher than that shown by the speakers of the preceding evening, and there were five or six whose chances for the prizes could not be bought. But there were only two medals, and the judges decided that David M. Watkins, of Smith county, and Spencer S. Hudson, of Yazoo county, deserved them.

These declamations are rather introductory to the regular Commencement exercises, which begin in the orthodox style with a Commencement Sermon. This was preached on Sunday morning, by Rt. Rev. R. W. B. Elliot, of the Diocese of Western Texas. He was assisted in the service by Rev. Dr. F. A. Shoup, of Jackson, Tenn. The sermon was of rare excellence, abounding in deep and original thought, and eloquently spoken.

Sunday evening, by request, Rev. Dr. Shoup preached to a large and appreciative congregation in the Chapel.

THE SOPHOMORE DECLAIMERS.

Monday morning the chapel was filled with an eager crowd to hear the declamation of the selected members of the Sophomore class. The number of speakers was small, only seven, but the interest was the more concentrated. The first and second medals were awarded, respectively, to Chas. N. Riggan, of Arkansas, and Sam. T. Rucks, of Greenville, Miss. W. D. Heddleston was a favorite with a large number of the audience, and, it is said he lacked only one vote of winning with the Judges. Senator Ben Hill, of Georgia, furnished the ammunition of the two successful declaimers, and Shakspere's Mark Antony that of the third mentioned.

PHI SIGMA SOCIETY.

Monday evening the annual meeting of the Phi Sigma society was held in the Chapel, H. M. Sullivan, Esq., presiding. This society has had over one hundred members during the past session. Its work for the session has been successful, but like the U. S. Senate, and the N. Y. Legislature, it was the scene of a dead-lock at the time of the election of Anniversarian. An improved method of making a choice has been devised for the future.

The speakers selected for Monday evening were W. H. Clark, of Brandon, who made the salutatory address. B. A. Stockard, of West Point, who delivered the valedictory to the graduating members; and Wm. G. Sears, of the University of Mississippi, who responded on behalf of the society. Mr. Stockard's valedictory was peculiarly fine, and Mr. Sears' response was equally happy.

The President awarded the medals for declamation and presented the diplomas after a very handsome and humorous speech of ten minutes.

THE JUNIORS.

Tuesday morning eleven members of the Junior Class delivered original orations. Where there were so many creditable performances, it would be useless to make fine distinctions; but I will mention as showing each some special merit of its own, the addresses of Geo. H. Armstead, of Bolivar, Tennessee, on "Life Sculpture;" Gerard Brandon, of Natchez, subject: "Beyond the Alps lies Italy;" J. D. Marshall, of Vicksburg, on "Eloquence" and S. F. Hampton, of Lafayette county, on the "New South." It has been a long time since the University had a better Junior exhibition.

THE ALUMNI SOCIETY

held its annual meeting Tuesday evening. On the rostrum were many faces once familiar to these scenes. Chief Justice Chalmers is President of the Society, and Prof. J. W. Johnson, Secretary. Among the older alumni on the rostrum were Judge Arnold, of Columbus, orator for the evening; Prof. Edward Mayes, essayist; Hon. H. L. Muldrow, M. C.; Hons. J. L. McCaskill, A. J. Baker, ——— Brown, Esq., of Camden, Arkansas, who graduated in 1857; Prof. J. W. Kilpatrick, of Central College, Missouri; Prof. L. L. McInnis, of the Texas Agricultural and Mechanical College; Prof. Geo. W. Smith, E. H. Dial, Esq., Dr. C. C. Cooper, and many others. This meeting of the Alumni was more largely attended than has been usual for many years.

JUDGE ARNOLD'S ADDRESS.

Judge Arnold delivered a splendid address on public school education, replete with facts and arguments showing its importance.

E. H. Dial, Esq., read a poem on behalf of the class of '76, which was attentively heard. Prof. E. Mayes, essayist of the society, read a splendid essay on Thomas Carlyle, which showed that the author had not only read but studied the life and works of the great author. His conclusions regarding the future of Carlyle's works were well drawn.

A history of the class of 1876, by Prof. J. W. Kilpatrick, concluded the exercises of the evening. At a succeeding business meeting the officers whose terms had expired were all re elected. Jno. M. Allen, Esq., of Tupelo, was elected orator, Thos. McNeil, Esq., of Bolivar, Tennessee, essayist, and Prof. J. W. Stockard, poet, for 1882.

ORATION, BY HON. C. B. MITCHELL.

Wednesday morning, a splendid address was delivered by the orator chosen for the occasion, Hon. Chas. B. Mitchell, of Pontotoc. Taking DUTY as his subject, he delivered a chaste, eloquent and attractive speech, which commanded the attention and hearty applause of his auditors, and when he concluded expressions of pleasure were exchanged all over the house, and the orator was congratulated by his many friends upon the rostrum.

THE SOPHOMORE MEDALS.

Bishop Eliot then, after a little speech, through which there ran a happy vein of humor, awarded the Soph. medals for declamation.

THE HERMÆAN SOCIETY

held its annual meeting in the evening, over which Hon. Chas. B. Mitchell presided. A very pleasant salutatory address was delivered by Mr. Geo. Robertson, of Lafayette county. The valedictory was spoken by Fred. H. Ivy, of Tennessee, and a response made by J. W. Wooten, of Holly Springs.

CHANCELLOR'S RECEPTION.

After the adjournment of the meeting, Chancellor and Mrs. Stewart received their friends in the chapel, and a delightful opportunity was offered for social conversation, while the band discoursed sweet music outside; two hours were thus spent in promenading and chatting in groups inside and outside the chapel.

COMMENCEMENT DAY.

Thursday was Commencement Day. The spacious chapel had been full at every gathering, but to-day it was *packed* with the yeomanry, the chivalry and the beauty of Mississippi, and as one sat upon the rostrum fronting the vast audience, he could not help thinking that in her yeomanry, her chivalry and her beauty, Mississippi is second to no other land or State. Audience and speakers caught the spirit of the day, and the young men who bade farewell to their alma mater could not have received a more flattering send-off. Enthusiasm was upon every face. Oliver Wendel Holmes has likened such an occasion to the starting moment in a race. Fresh from the trainers' hands, they start abreast in the race of life, a race where wind and muscle will win. In this race not *one* but is the favorite of anxious friends here or elsewhere. Fathers, mothers, sisters, sweethearts, friends, watch and applaud the start. We might follow them in this life-race, and picture how this mettlesome fellow shall lose his wind, that one strain a muscle, another stumble over an obstacle, a fourth fly the track—but no, we will hope all will win. There is no thought of failure in any heart, and they will need all their enthusiasm to carry them through. As they pass the ten year mile post, perhaps they will give us the score.

The speakers selected from the Academic Departments were Messrs. J. P. Petty, M. M. Hooper, J. C. Catchings, R. A. Bettis, J. W. Scott, R. D. Gage; and from the Law class, Mr. P. K. Ewing. All did well, but one or two so well that even strangers are counting high on their future.

The Chancellor then called upon all the graduates to assemble in front of the rostrum. To the call answered eighteen to receive the degree of Bachelor of Laws; fourteen to be dubbed Bachelors of Arts; one Bachelor of Science; eleven to receive the degree of Bachelor of Philosophy; two to receive the degree of Master of Arts—Professors J. W. Kilpatrick of the class of 1876, and Dabney Lipscomb of the class of 1879. Department diplomas and certificates of proficiency were awarded to some fifteen others. The Chancellor's Baccalaureate address was brief, and every word to the point. The parchments were distributed, and the Commencement exercises of 1881 were over.

THE BALL.

Your correspondent did not go to the ball, but at 10 P. M. lights glimmered about the Preparatory Hall, and at 11 the sharp notes of the cornet and the dull boom of the bass fiddle announced that the ball had begun. At 4 P. M. the Racket made his slumbers uneasy, and at 5 he heard parties rolling homeward. Never was there a more pleasant season for commencement—refreshing rains, cool breezes, smooth roads, all outside circumstances conspired with the efforts of those who participated in the exercises to make the whole occasion enjoyable. A large number of visitors were present, among whom were very many young ladies, a large number of Alumni, Professors from other colleges, several editors and candidates for Secretary of State.

THE BOARD OF TRUSTEES

were in session every day from Monday to Thursday evening. Much had been said about corrections needed in the University. A year ago a committee was appointed to look after its affairs internal and external. Everything proved to be sound, and now there is a better feeling than before among all parties connected with the University. Rev. Dr. Jas. A. Lyon, on account of failing health, had to leave the University a month ago, and resign his professorship. The Board meet again in September to elect his successor, and to elect a professor of Natural Science and an instructor in Modern Languages. The faculty were empowered to make needed changes in the curriculum and in the commencement exercises. The course in law was extended over two years. The rest of the work of the Board consisted of routine matters, and certain changes conducive to the convenience and comfort of students.

THE WORK OF THE SESSION.

The University sends forth 42 graduates; 18 are already lawyers, and will probably practice their profession. Of the graduates in the literary course, 3 expect to preach; 5 to study medicine; 2 to go into the banking business; 1 to teach, and the balance will probably study law or farm. There have been 347 students in attendance. The discipline of the Faculty has been more rigid than heretofore, and consequently less frequent cause has been found for its exercise. With the exceedingly low rates for board, the ample accommodations and facilities for instruction, the good feeling and spirit of hearty co-operation existing among all connected with it, and throughout the State, there is every reason to believe there will be a large increase in the number of students. There are 50,000 white boys in Mississippi who need to be educated. There should be a thousand here and a thousand at Starkville.

Yours truly,

B.

FOR THE WOMEN.

Hattie Osborne, of Brooklyn, has made over one hundred attempts at suicide and still lives. We don't suppose she ever tried tight lacing or cosmetics.

"Mother, may I go out to sweep?"
"Yes, my charming dutter;
But leave your broom in the dining-room
And don't go near the gutter!"

"Olive Logan," says the New Haven Register, "will never be young again." Well, good gracious! hasn't she been young about sixty years? Such an experience as this is calculated to enfeeble the stoutest of us.

A girl, says the Philadelphia Chronicle, who has had several years' experience in a hair store, is well qualified to become a switch-tender. She ought also to have acquired a good knowledge of bear's grease in order to qualify her to become a bar-tender.

A young woman in Maine is about to be informed that her supposed father and mother are not her relations. It is hoped that the blow from this sad intelligence will be softened by the fact that she is an heiress to her father's estate in Salem, Mass., who was supposed to be a poor man until he died and left a large property.

Supervisory Power of the Legislature Over Railroads.

Argument of Hon. W. W. Humphries in the State Senate upon the Veto Message of the Governor Touching the Power of the Legislature over Railroad Corporations.

The British Parliament is said to be sovereign and omnipotent. Blackstone says that Parliament can do anything that is not naturally impossible. 1 Bl. Com. 161. De Lalme says it is a fundamental principle with English lawyers, that Parliament can do anything, except make a man a woman, or a woman a man. De Lalme on Const., Eng. 134.

And yet, Sir, I have shown by authority, that the sovereign, omnipotent Parliament of England can pass no law which a subsequent Parliament cannot change or repeal. But in our government of limited powers, where sovereignty resides in the people alone, it has been established by the Dartmouth College case, that one Legislature of a State may make laws creating odious monopolies and privileges which no subsequent Legislature can touch. Blackstone says, it was a known apophthegm of the great Lord Barleigh, "that England could never be ruined but by a Parliament." 1 Bl. Com., 161. The danger to our institutions lies in the same direction. They have survived war and pestilence, and sectional madness, and many other evils, but I fear they cannot survive this assumption of legislative imperialism. In the Dartmouth College case—that Pandora's box in the history of affairs of this country, where the baneful doctrine was first asserted, the Supreme Court of the United States were divided. Judge Duvall dissented. 4 Wheat, 714. In the Piqua Bank, etc., vs. Knoop, that Court affirmed the doctrine, but Judges Catron, Daniel and Campbell dissented. 16 How., 392-415. In Ohio Life Insurance Co. vs. Debolts, Judges Catron, Daniel, Campbell, and others, dissenting. In the dissenting opinion of Judge Daniel, is this language: "I never can believe that, to my mind, suicidal doctrine, which confers upon one Legislature, the creatures and limited agents of the sovereign people, the power, by a breach of duty, and by transcending the commission with which they were clothed, to bind forever and irrevocably their creator, for whose benefit and by whose authority alone they are delegated to act, to consequences however mischievous or destructive. The argument of the Court in the case, leading, in my apprehension, to a justification of abuses like those referred to, I must repudiate that argument." 16 How. 443.

In Dodge v. Woolsey, Judges Campbell, Catron, and Daniel again dissenting from the doctrine. I read from the dissenting opinion of Judge Campbell, in that case, in which the other two dissenting Judges concurred, as follows: "Certainly no question, more involving a more essential or important principle, has ever been submitted to a judicial tribunal.

It involves the operation and efficiency of the fundamental principles on which the American Constitutions are supposed to rest. The proposition of this confederacy of some fifty banking corporations, having one-fortieth of the property of the State is, that by the law of their organization, for the whole term of their corporate being, there exists no power in the Government, nor people of the State, to impair the concessions made in the act of 1845, particularly that determining the amount of their contribution to the public revenue. This proposition does not depend for its truth upon the limitation of time imposed upon the corporate existence of the banks. It would not affect the proposition if the charters were for a century or in perpetuity. Nor does the proposition derive strength from the fact that the statute applies only to banking corporations, or corporations confined to a single form of commercial dealing. The proposition would have the same degree of accuracy, if the act had been universal, applicable to all private corporations, whether for manufactures, trade, intercourse, mining, morals or religion.

A concession of the kind contained in the Act, by a careless or corrupt Legislature for a term, or in perpetuity, would impair in many States their resources to an alarming extent.

Writers on the condition of the Turkish Empire say, that three-fourths of the landed property of the empire is held in mortmain as rakuf by Mosques or charitable institutions for their own use, or in trust for their owners. This property ceases to contribute to the public revenues, except in a specific form of objectionable taxes or produce, and is inalienable. It held in trust, it is exempt from forced sale and confiscation, and on the death of the owner, without children, passes to the Mosque or other charitable trustee. In that Empire the ecclesiastical and judicial is the dominant interest, for the Ulemas are both priests and lawyers—just as the corporate monied interest is dominant in Ohio, and in either country that interest claims exemption from the usual burdens and ordinary legislation of the State. The judgment of this Court would establish the permanent existence of such an incubus upon the resources and growth of that country, if that interest should have taken their privileges in the form of a contract and had such a Constitution as ours.

Yet the first step towards the regeneration of Turkey, according to the wisest statesmanship, is to abolish the rakuf.

Bentham, treating upon constitutional provisions in form of contracts, says: "If all contracts were to be observed, all misdeeds would be to be committed; for there is no misdeed, the committal of which may not be made the subject of a contract; and to establish in favor of themselves or any other person or persons, an absolute despotism, a set of legislators would have no more to do than to enter into an engagement—say with a foreign despot, say with a member of their own community—for this purpose. And were this to happen, should it be that a State of this Union had become the victim of vicious legislation, its property alienated, its powers of taxation renounced in favor of chartered associations, and the resources of the body politic cut off, what remedy has the people against the misgoverment? Under the doctrines of this court none is to be found in the Government, and none exists in the inherent powers of the people, if the wrong has taken the form of a contract. The most deliberate and solemn acts of the people would not serve to redress the injustice, and the over-reaching speculator, upon the facility or corruption of their Legislature, would be protected by the power of this court in the profit of his bargains. Where would the people find a remedy? Let the case before us form an illustration. Congress cannot limit the term nor abolish the privileges of these corporations; they are corporations of a State, and beyond her limits they have no legal existence—they live in the contemplation of her laws and dwell in the place of their creation. 13 Pet., 512; 16 How., 314.

Nor can Congress enlarge the subjects for State taxation, nor interfere in the support of the State Government. They could not empower the State to collect taxes from these corporations, were the resources of the State oppressed with the burden of a Turkish rakuf. Congress could not afford relief. The faculties of the judicial department are even more fatal to the State than the impotence of Congress. The courts cannot look to the corruption, the blindness, nor mischievous effects of State legislation, to determine its binding operation. Fletcher v. Peck, 6 br., 87. The court, therefore, becomes the patron of such legislation by furnishing motives of incalculable power to the corporations to simulate it, and affording stability and security to the successful effort. Where, then, is the remedy for the people? They have none in their State Government, nor in themselves, and the Federal Government is enlisted by their adversary.

The first observation to be made upon this is, that these extraordinary pretensions of corporations are not unfamiliar to an inquirer into their nature and history. The steady aim of the most thoroughly organized and powerful of the corporate establishments of Europe, has ever been to place themselves under the protection of an external authority, superior to the Government and people where they dwell—an authority sufficiently powerful to shield them from responsibility and to secure their privileges from question. Such a doctrine will establish on the soil of every State a caste made up of combinations of men for the most part under the most favorable conditions in society, who will habitually look beyond the institutions and authorities of the State to the central government for the strength and support necessary to maintain them in the enjoyment of their special privileges and exemptions. The consequence will be a new element of alienation and discord between the different classes of society, and the introduction of a fresh cause of disturbance in our distracted political and social system. *In the end the doctrine of this decision may lead to a violent overthrow of the whole system of corporate combinations.* The claim made for the court to be the final arbiter of these questions of political power, I can imagine no pretensions more likely to be fatal to the Constitution of the court itself. If this court is to have an office so transcendant as to decide finally the power of the people over persons and things within the State, *a much closer connection and a much more direct responsibility of its members to the people, is a necessary condition for the safety of popular rights.*

Justice Woodbury, in Tuther vs. Borden, 7 How., 52, has exposed this danger with great discrimination and force. He said: "Another evil, *alarming and little foreseen*, involved in regarding these as questions for the *final arbitrament* of judges, would, in a dispute among the people, *depend on our decision finally.* We would possess the power to decide against them, as well as for them; and under a prejudiced or arbitrary judiciary, the public *liberties or popular* privileges might thus be much perverted, if not entirely prostrated. And if the people in the distribution of power under the Constitution, should ever think of making judges supreme arbiters in political controversies, when not selected by, nor amenable to them, nor at liberty to follow the various considerations that belong to political questions in their judgment, they will dethrone themselves and lose one of their invaluable birth rights, building up in this way slowly, but surely, a new sovereign power in this republic in most respects irresponsible, unchangeable for life, and one in theory at least, more dangerous than the worst elective monarchy in the worst of times."

The inquiry recurs, have the people of the State deposited with this tribunal the authority to overrule their own judgments upon the extent of their own power, over institutions created by their own government and commorant within the State? The fundamental principles of American Constitutions, it seems to me, is that to the people of the several States belongs the resolution of all questions, whether of regulation, compact, or punitive justice, arising out of the action of their municipal government upon their citizens or depending on their constitutions and laws, and are judges of the validity of all acts done by their municipal authorities in the exercise of their sovereign rights, in either case without responsibility or control from any department of the Federal Government. This I understand to be the import of the municipal sovereignty of the people within the State.

A material distinction has always been acknowledged to exist as to the degree of the authority that a people could legitimately exert over persons and corporations. Individuals are not the creatures of the State, but constitute the State. They come into society with rights which cannot be invaded without injustice. But corporations derive their existence from society, on the offspring of transitory conditions of the State; and with faculties for good in such conditions, combine durable dipositions for evil. They display a love of power, a preference of corporate interests to moral or political principles or public duties and an antagonism to individual freedom, which has marked them as objects of jealousy in every epoch of their history. Therefore the power has been exercised in all civilized States to limit their privileges, or to suppress their existence means the exigencies either of public policy or political necessity. Sir James McIntosh says: "Those public acts which form or endow corporations are only ordinary expedients of legislation. The property of individuals is established on a general principle, which seems coeval with civil society itself. But corporate bodies are instruments fabricated by the Legislature for a specific purpose, which ought to be preserved *while they are beneficial, amended when they are impaired, and rejected when they become useless or injurious.* Vind. Gal., 48 note.

Who in the United States is to determine when the public interests demand the suppression of bodies whose existence or modes of action are contrary to the well-being of the State?

If the powers of a people of a State are inadequate to this object, then their sworn and solemn declarations of their rights, and their authority over their governments, and the ends for which their governments were formed, and the responsibility of rulers and magistrates to themselves are nothing but "great swelling words of vanity." To acknowledge that such power resides alone, in the Federal judiciary, would be to establish the alarming doctrine that the States of the Union, over their revenues is not to be found in their people, but in the numerical majority of the Judges of this Court.

Nor does the opinion that this department can exert such an empire over the people of Ohio derive support, in my opinion, from the clause in the Constitution on the subject of the obligations of contracts, nor the decisions of this court upon that clause of the Constitution. That the people of the State should have released their power over the artificial bodies which originate under the legislation of the representation, or over the acts of their own functionaries, is not to be assumed. Such a surrender was not essential to any policy of the union, nor required by any confederate obligation. Such an abandonment could have served no other interest than that of the corporations or individuals who might profit by the legislative acts themselves. Combinations of classes in society, united by the bond of a corporate spirit, for the accumulation of power, influence, or wealth, by the control of intercourse or trade, or the spiritual or moral concerns of society, unquestionably desire limitation upon the sovereignty of the people, and the existence of an authority upon which they can repose in security and confidence. But the framers of the constitution were imbued with no desire to call into existence such combinations, nor dread of sovereignty of the people. The power to interfere with private contracts is one of the most delicate and difficult, in its exercise, of any belonging to the social system, and one which there is constant temptation to abuse. That its exercise is sometimes necessary, is proved by the history of every civilized State. Its judicious exercise constitutes the title of Solon and Sully to fame, and has been vindicated by the most enlightened statesmen. But the people reserved for themselves to determine the exigencies which should call it into existence. The prohibition (in regard to contracts in the constitution) is a limitation upon the ordinary government and not upon popular sovereignty. 18 How., 380.

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No opinion of any court was ever distinguished by profounder learning or broader views of patriotism and statesmanship, than the dissenting opinion of Judge Campbell and his dissenting associates.—Mechanics and Traders Bank vs. Debutt, 18 How., 389. The same firm and learned judges, Campbell, Daniel and Catron, again dissenting from the doctrine. In the House of the Friendless vs. Rouse, 8 Wall, 430. and in the Washington Union vs. Rouse, 8 Wall, 439, Chief Justice Chase, and Judges Miller and Field dissented, and denied the doctrine. I beg to read their entire dissenting opinion.

Mr. Justice Miller delivering it, said:

"The Chief Justice, Mr. Justice Field, and myself, do not concur in these judgments. It is the settled doctrine of this court, that it will, in every case affecting personal rights, when, by the course of judicial proceedings the matter is properly presented, decide whether a State law impairs the obligation of contracts; and if it does, will declare such law ineffectual for such purpose, and it is also settled, beyond controversy, that the State Legislatures may, by the enactment of statutes, make contracts, which they cannot impair by any subsequent statutes.

"It may be conceded, that such contracts are so far protected by the provisions of the Federal Constitution, that even a change in the fundamental law of the State, by the adoption of a new Constitution, cannot impair them, though express provisions to that effect are incorporated in the new Constitution.

"We are also free to admit that one of the most beneficial provisions of the Federal Constitution, intending to secure private rights, is the one which protects contracts from the invasion of State legislation. And that the manner in which this court has sustained the contracts of individuals, has done much to restrain State Legislatures, where urged by the presence of popular discontent under the sufferings of great financial disturbances, from unwise, as well as unjust legislation.

"In this class of cases, where the validity of the contract is clear, and the infringement of it by the Legislature of a State, is also clear, the duty of this court is equally plain. But we must be permitted to say that in deciding the first of these propositions, namely: the validity of the contract, this court has in our judgment, been, at times, quick to discover a contract that it might be protected, and slow to perceive that which are claimed to be contracts were not so, by reason of a want of authority in those who profess to bind others. This has been especially apparent in regard to contracts made by the Legislatures of States, and by those municipal bodies to whom, in a limited measure, some part of the legislative function has been confided. In all such cases, when the validity of the contract is denied; the question of the power of the legislative body to make it, necessarily arises, for such bodies are but the agents and representatives of the greater political body—the people—who are benefitted or injured by such contracts, who must pay when anything is to be paid, in such cases. That every contract fairly made out to be performed is a proposition which lies at the basis of judicial education, and is one of the strong desires of every well organized judicial mind. That under the influence of this feeling, this court may have failed in some instances to examine, with a judgment fully opened to the question, into the power of such agents, is to be regretted, but the error must be attributed to one of those failings which lean to virtue's side. In our judgment, the decisions of this court, relied upon here, as conclusive of these cases, belong to the class of errors, we have described.

We do not believe that any legislative body, sitting under a State constitution of the usual character, *has a right to sell, to give, or to bargain away power—the taxing power of the State.* This is a power which in modern political societies is absolutely necessary to the continued existence of any such Society. While, under such forms of government, the ancient chiefs or heads of government might carry it on by revenues owned by them personally, by the action of personal service from their subjects, no civilized government has ever existed that did not depend upon taxation, in some form, for the continuance of that existence.

To hold that any one of the annual Legislatures can, by contracts, deprive the State forever of the power of taxation, *to hold that they can destroy the government which they are appointed to serve, and that their action in that regard is strictly lawful.* It cannot be maintained that this power to bargain away, for an unlimited time the right of taxation, if it exists at all, is limited in reference to the subject of taxation. In all the discussions of this question, in this Court, and elsewhere, no such limitation has been claimed. *If the Legislature can exempt*, in perpetuity, *one piece of land, it can exempt all land.* It it can exempt all land, it can exempt *all other property.* We can as well exempt persons as corporations. And no hindrance can be seen in the principle adopted by the Court, to rich corporations as Railroads and Express Companies, or rich men making contracts with the Legislatures as they best may, and with such appliances as it is known they do use, for perpetual exemption from all the burdens of supporting the government. The result of such a principle, under the growing tendency to special and partial legislation, would be to exempt the rich from taxation *and cast all the burden of the support of government and the payment of its debts on those who are too poor or too honest to purchase such immunity.*

With a full respect for the authority of former decisions as belong from teaching and habit to Judges trained in the common law system of jurisprudence, we think that there may be questions touching the power of legislative bodies which can *never be finally closed by the decisions of a Court*, and that the one we have here considered is of this character. We are strengthened in this view of the subject by the fact that a series of dissents from this doctrine by some of our predecessors, shows that it has never received the full assent of this Court; and referring to these dissents for more elaborate defence of our views, we content ourselves with thus *renewing the protest against a doctrine which we think must finally be abandoned.*

But in the light of authority, there is a stronger view growing out of the police power of the State against the doctrine of Dartmouth College than I have presented.

The police power of the States were not delegated to the General Government and are retained by the States, and cannot be assumed by the National Government.

Fertilizing Co. vs. Hyde Park, 97, U. S. 667.
Rores on Inter-State Laws, 227.
Cooley on Const., 574.
U. S. vs. DeWitt, 9 Wall, 41.

It is said to be difficult to define, with sharp precision, what this power is.

Railroad vs. Husen, 95 U. S., 470.

But it is certain that it is one of the sovereign powers of the State—that it is of the very essence of government. It was said by Chief Justice Taney, in the License Case, 5 How., 583, that the police powers of a State "are nothing more or less than the powers of government inherent in every sovereignty to govern men and things within the limits of its dominion." And this definition of the power is sustained by the authorities.

Cooley on Const., 572-576.
Mume vs. Illinois, 94 U. S., 124-155.

Quoting the language of the Supreme Court in the leading case of Thorp vs. Rutland and Burlington Railroad Co., 27 Vt., 149, in delivering the opinion of the Supreme Court of the United States in Railroad vs. Husen, 95 U. S., 471, Mr. Justice Strong said the police power of the State "extends to the protection of the lives, limbs, health, comfort and quiet of all persons, and the protection of all property within the State. According to the maxim *sic utere tue est atienism non laedas*, which being of universal application it must, of course, be within range of legislative action to define the mode and manner in which every one may so use his own as not to injure others. Under this power, persons and property are subject to all kinds of restraint and burdens, in order to secure the general comfort, health and property of the State; of the perfect right of the Legislature to do which, no question ever was, or upon acknowledged general principles, ever can be made, so far as national pensions are concerned."

Dillion says "that it is well settled that laws and regulations of this character, though they may disturb the enjoyment of individual rights not unconstitutional, though no provision is made for compensation of such disturbance. They do not appropriate private property for public use, but simply regulate its use and enjoyment by the owner. These regulations rest upon the maxim *"salus populi suprema est lex."* 1 Dillon, Mun. Corp., 2d edition, sec. 93, Vanderbilt vs. Adams, 7 Cow., 351.

In the exercise of this power, it has been held that a State may, as a matter of domestic concern, when necessary for the public good, regulate ferries, common carriers, hackmen, bakers, millers, warfingers, innkeepers, warehousemen, etc., and in doing so, fix a maximum of charge for service rendered. Mume Illinois, 94 U. S., 113.

May fix the number of hours in the day or week in which a person may be employed in a particular business. Com. vs. Hamilton vs. Manf. Co., 120, Mass., 383.

May require Railroad Companies to fence their tracks and make them liable for all beasts killed by going over them. Rorer vs. Inter-State Law. 247.

Cooley, on Const., 579. Purdy vs. New York and New Haven R. R. Co., 61 N. Y., 353.

Thorp vs. Rutland & Burlington R. R. Co., 27 Vt., 156. New Albany & Salem R. R. Co. vs. Tilton, 12 Ind., 3. Same vs. Maiden, Ibid, 10. Same vs. McNamara, 11 Ind., 543. Ohio & Miss. R. R. Co., vs. McClelland, 25 Ill., 135. Madison & Ind. R. R. Co., vs. Whiteneck, 8 Ind., 230. Md. & Cin. R. R. Co., vs. Townsend, 10 Ind., 38. Same vs. Kercheval, 16 Ind., 34. Corione vs. N. Y. & Erie R. R. Co., 13 N. Y., 42. Horn vs. Atlantic & St. Lawrence R. R. Co., 36, N. H., 169; and Ibid 356 and 36. Ibid 440, Bulkley vs. N. Y. & N. R. R. Co., 27 Com. 479. Jones vs. Galena & Chicago R. R. Co., 16 Iowa, 6. Winona & R. R. Co. vs. Waldson, 11 Miss., 515. Bradley vs. Buffalo & R. R. Co., 34 N. Y., 429. Sawyer vs. Vt. and R. R. Co., 105 Mass., 166. Tenn. R. R. Co. vs. Riblet, 66 Penn. St., 164.

May regulate the grade of Railroads; may require them to ring bells or blow whistles immediately before passing highways, at places where their approach might be dangerous to travel; and adopt all necessary legislation for the purpose of enforcing the obligation of railroad companies as carriers of persons and goods to accommodate the public impartially; to make every reasonable provision for carrying with safety and expedition.

Cooley on Const., 581, and authorities.

May regulate traffic in all kinds of products.—Gaines et al. vs. Coates, 51 Miss., 335.

May regulate or altogether prohibit the sale of intoxicating liquors, even when the party engaged in such business has received and paid for a license from the government of the United States, to carry on such business.

Cooley on Const., 581-585.
Rohrbacher vs. Mayor, etc., of Jackson, 51 Miss., 735.
License Tax lease, 5 Wall, 462.
Puryear vs. Com., 5 Wall, 475.

May prevent desecration of the Sabbath day, and enforce its observance, save against those who recognize, and whose consciences require them to observe and keep a different day as the Sabbath day, and such regulations are not unconstitutional though they may have the effect to destroy the value of a lease of property to be used on the Sabbath, or to make void a contract for Sunday services.

Cooley on Cont., 476, 477-588-596.
Linden Muller vs. people, 33 Barb., 576.
Ex parte Anderson, 18 Cal., 678.
Ex parte Bird, 19 Cal., 130.

May make quarantine and health laws of every description, sometimes carried to the extent of ordering the destruction of private property, when infected with disease or otherwise dangerous, and may exclude from introduction into the State contagious and infectious diseases, and criminals, convicts, paupers, idiots, lunatics, and others likely to become a burden of public charge.—Cooley on Const., 585; Rover on Inter-State Laws, 246.

May interfere with the control by individuals of their property, and even destroy it, where the owners themselves have fully observed all their duties to their fellows and to the State, but when nevertheless, some controlling public necessity demands the interference, or destruction. Here the individual is in no degree in fault, but his interest must yield to that necessity which knows no law.—Cooley on Const., 594-595.

And finally, may not only amend, but absolutely repeal charters granted by Legislatures in the exercise of unquestionable authority and render the business carried on under such charters criminal.

Beer Co. vs. Mass., 97 U. S. 25.
Fertilizing Co. vs. Hyde Park, 97 U. S., 659.
Boyd vs. Ala., 94 U. S., 545
Moore vs. State, 48 Miss., 147.
Com. vs. Intoxicating Liquors, 115 Mass. 153.
Brick Presbyterian Church vs. Mayor of N. Y., 5 Cow., 518.
Vanderbilt vs. Adams, 7 Cow., 349.
State vs. Sterling, 8 Mo., 697.
Freleigh vs. State, 8 Ib., 666.
Hiram vs. State, 1 Ohio, U. S., 15.
Calder vs. Cersby, 5 Gray, 597.
Brimmer vs. Boston, 102 Mass., 19.
Metropolitan Board of Excise vs. Barrie, 34 N. Y., 627.

It seems to be settled that the exercise of this power by the States, is not affected or abridged by that provision of the Federal Constitution, which prohibits the State from passing laws impairing the obligation of contracts.

"All contracts and all rights, it is declared," I quote from Cooley on Const., "are subject to this power: and not only may regulations which affect them be established by the State, but all such regulations must be subject to change from time to time, as the general well being of the community may require, or as the circumstances may change, or as experience may demonstrate the necessity."—Cooley on Const., 574, 578.

Throp vs. Rutland and R. R. Co., 27 Vt., 140.
Suydam vs. Moore, 8 Bart., 358.
Waldson vs. Rensseleur and Ib., 390.
Galena & Chica W. R. R. Co. vs. Loomis, 13, Ill., 548.
Fitchburg R. R. vs. Grand Junction R. R. Co., 1 Allen, 552.
Veazie vs. Mayo, 45, Me., 560; Peters vs. Iron Mt. R. R. 23, Mo., 104.
Grannchau vs. Hanibal R. R. Co., 30 Mo., 346.
Ind. & Cin. R. R. Co. vs. Kerchevar, 16, Ind., 84.
Galena & Chicago W. R. R. Co. vs. Appleby, 28, Ill., 283.
Blair vs. Wilwaukee R. R. Co., 20 Wis., 254.
State vs. Matthews, 44 Mo., 523.
Commissioner vs. Holyoke Water Works, 104 Mass., 446.
Commissioner vs. Intoxicating Liquors, 115 Mass., 154; 2 Dillon on Mun Corls, see 454 and authorities.
Bur. Co. vs. Mass., 97, W. S., 25.
Fertilizing Co. vs. Hyde Park, Id., 659.
Boyd vs. State, 94, Ib., 645.
Moore vs. State, 48 Miss., 147.
Brick Presbyterian Church vs. Mayor of N. Y., 5, Cow., 583.
Vanderbilt vs. Adams, 7 Ib., 349.
State vs. Sterling, 8 Mo., 697, Ib., 606.
Him vs. State, 1 Ohio, N. S., 15.
Calden vs. Kusby, 5 Gray, 597.
Brimmer vs. Boston, 102 Mass., 19.
Metropolitan Board Excise vs. Barrie, 34 N. Y., 657.

I must admit, sir, that after declaring the law as I have just quoted it, Cooley states that the limit to police regulations, with reference to private corporations, must be this:

The regulations, must have reference to the comfort, safety, or welfare of society; they must not be in conflict with any of the provisions of the charter; and they must not, under the pretence of regulation, take from the corporation any of the *essential rights and privileges*, which the charter confers. In short they must be police regulations in fact, and not amendments of the charter in curtailment of the corporate franchise;" and cites for authority Washington Bridge Co. vs. State, 18 Conn.; 53 Bailey vs. Phil., etc.; R. R. Co., 4 Harr., 389; State vs. Noyes, 47 Me., 189.

Pingrey vs. Washburne, 1 Aiken, 268.
Miller vs. N. Y. & Erie R. R. Co., 21 Barb., 513.
People vs. Jackson, etc., R. R. Co., 9 Mich., 307.
Benson vs. Mayor of N. Y., 10 Barb., 245.
People vs. Mayor, etc., of N. Y., 32 Barb., 102, 116.
Com. vs. Penn. Canal Co., 66 Penn., St., 41.
Higimen vs. Western R. R. Co., 13 N. Y., 1.

But do these authorities sustain this assertion? If they do, they are based on intolerable error, and is the right to fix and regulate charges an essential, indispensible right and privilege, to these corporations etc., etc.; and sir, this Bill does not propose to take from them, within the bounds of toleration.

But, Mr. President, the very authorities that sustain the doctrine of the Dartmouth College case, that a charter to a private corporation a mere legislative enactment is a contract within the operation of the Federal Constitution, forever irrevocable by the State, deny, that a Legislature by contract, or otherwise, can divest the State of any of its police powers. This has been positively settled by the Supreme Court of the United States, and that too, since the third edition, which is the latest edition I have seen, of Cooley on the Constitution, was published.

Beer Co. vs. Mass., 98, W. S., 25; Fertilizing Co. vs. Hyde Park, Ib. 659; Boyd vs. Ala., 94 645; Moore vs. State, 48 Miss. 147; Com. vs. Intoxicating Liquors, 115 Mass., 153; Cooley on Const., 283-284.

And if the Legislature had not *authority to abandon, surrender or convey away, the sovereign power as well as the duty of the State to control and govern the railroads*, as she does other persons and property, how can the conclusion be reached or maintained, that the State is *forever estopped* by the act of the Legislature? Since I have shown by authority, including the latest utterances of the Supreme Court of the United States on the subject, that the police power of the State, the power to control the conduct of persons, and the use of property within its dominion, *is an acknowledged sovereign power of which she cannot be divested* by legislative act, I conclude that *we are not* barred or precluded by the charters of these railroads from doing what is proposed to be done by the bill—regulate their tolls and charges to reasonable rates, just as was said by Chief Justice Waite, in Munn vs. Illinois, supra, "It has been customary in England from time immemorial, and in this country from its first colonization, to regulate ferries, common carriers, hackmen, millers, wharfingers, inn-keepers, warehousemen, etc., and in doing so to fix a maximum of charges for services rendered." Mr. President, if I do not misconstrue simple facts, it has come to pass in this country that the toiling masses, those who rely on personal industry and honest means for support, and independence are the abject slaves of corporations? This is not truer in Mississippi, than in other States. It has resulted from the establishment of the legal heresies which I have attempted to combat to-day. With these convictions and the authorities I have presented, I should have been untrue to myself and faithless to my constituents if I had not submitted this argument. I might say more, Mr. President, of the necessities which require and justify the passage of this bill, or some law similar to it, something of the oppressive and discriminating charges made by at least some railroad corporations in this State, something of the complaints of our citizens that they destroy cattle and stock and refuse to make any compensation for the same; something of their paying their just quota of taxes in some States through which they pass, and paying none here. I might say something of the peculiar status of these corporations, their being in the hands of receivers, so-called, and of their being not only above the Legislature, the sovereign power of the State, as it is claimed, but positively out of the jurisdiction of the Courts of the State, so that no citizen of Mississippi, enjoys the poor privilege of suing them in the Courts of the State, and obtaining a nulla bona return on his judgment, for any wrong or injury they may commit, but must go to a Federal Court, and obtain the gracious privilege of a Federal Judge, before he can sue them at all. I might enquire how long these pretensions and conditions are to continue—how long they will be tolerated by the freemen of Mississippi. But I will not go into these matters now; I prefer to rest on the legal argument which I have attempted to make in behalf of the sovereign power of the people of Mississippi.

Our Colored Voters.

Correspondence of the Gazette.]

HINDS COUNTY, June 17, 1881.

EDITORS GAZETTE: I read your article of last week, on "Colored Voters," and feel moved by its conservative spirit to say a few words on the subject it discusses, with your permission. There are some great palpable truths, and some formidable objective facts which the white people of the State ought to recollect when they approach the consideration of this problem. I note these truths as follows: 1. The good government of any country depends upon the intelligence and virtue of those who are charged with its administration, and these upon the intelligence and virtue of the people at large. 2. The prosperity of the State can be promoted by the continued control, for some years at least, of the Democratic Conservative party, which is essentially a party of intelligent white men, the negroes as a rule, having neither the capacity nor experience to make laws, interpret laws or execute laws. 3. Elections for public offices must be conducted fairly and openly, thus giving unquestioned titles to our officials or the work of their hands must perish. Indeed, with fraudulent elections the intelligence and virtue of the people become an impotent factor in government. I might amplify here, but let this suffice.

The great objective facts are, 1st, the presence in our county of a majority of colored voters. 2d. These voters, as a rule, are indisposed to act with us in politics, and on the contrary when interested enough to vote are disposed to vote against us at all elections. 3. They are attached to our soil and will remain among us, multiplying from year to year, much more rapidly than the white people. 4. The amalgamation of the two races is prohibited by law, and properly. The colored people are put on their metal and are beginning the race of competition for power and place with us. They are not now fit to govern; in a score of years they may be.—What then?

I take it to be undeniably true that the white people cannot consent to be dominated by the colored people, who had ten years lease of power and well nigh ruined us, until the latter have been prepared by education and otherwise for the execution of the great trusts of government; and even then race antagonisms must prevail to a greater or less extent. A well regulated government, therefore, in which both races participate, seems to be necessary in order to satisfy both. But how are you to accomplish this result? We must come down from our stilts and give the colored people some part in the government of our county and then representation in the Legislature. I believe this will satisfy them, and is the only mode in which we can ever expect to attach them to our political faith. There is no great difficulty to be encountered here. The policy has been tried in several counties of this State with the most gratifying results. I would not advise the nomination of colored men by the Democratic Convention, because I do not think it politic or just. How could the Convention know that the colored men were representatives of the feelings, instincts, wishes and purposes of their race? Our idea is, that said Convention which meets to send delegates to the State Convention should pass a resolution instructing the Executive Committee to request the holding of a Convention by the colored people of the county, and the appointment by them of an Executive Committee of their very best most moral and intellectual men, for the purposes of consultation with our committee, and to agree upon a fair basis of settlement in respect to county nominations. When the offices and places are fixed for the colored people let them nominate and let us have but one ticket in the field. Is there anything improper in this? Anything unwise? Is it not the way to promote good government, fair elections and honest counts?—to reconcile the colored people to us, and educate them up to the proper discharge of their duties as citizens.

I throw out these suggestions for your consideration and in order that the people may consider the proposition. I am sure the policy would result in much good. What do you say?

W. L. N.

VARIETY.

A New York milkman has been arrested for putting milk in his water.—N. O. Picayune.

A young lady who didn't admire the custom in vogue among her sisters of writing a letter, and then cross-writing it to illegibility, said she would prefer her epistle "without an overskirt."

Lieutenant Commander Gorringe says the obelisk will endure in our climate for 8,640 years. All right; Billy McGarrahan and Mrs General Gaines will see it out.

Peter Herdic, of Philadelphia has invented a system of cheap cabs, which will be run in New York city after the style of the London "hansoms" at the rate of 25 cents per half mile for the use of a cab holding four persons.

The two weeping willows over the tomb at St. Helena, where the remains of Napoleon lay for so many years, have been nearly striped of their bark and smaller limbs by persons seeking mementoes of the sanguinary little Corsican.

A Boston doctor advertises for a wife who, among other qualifications, must have less brains than the advertiser. Should think he would have great difficulty in finding such a women—outside an insane asylum.—Norristown Herald.

"Do you think," asked a college student of a professor of theology, "that the lion and the lamb have never yet lain down together?" "I don't know," answered the Professor, "but if they have, I have no doubt that the lamb was missing from that date."

HIGH-MINDED Arabian mothers are said to give the parting benediction to their newly-married daughters in the following admonitory strain: "Thou art now parting with those who gave thee life; thou fliest from the nest which has sheltered thee until now, from which thou hast gone often before to try thy strength in learning how to walk, and thou art finally leaving it now to follow a man whom thou knowest not, to whose society thou art not accustomed. Let me advise thee to be his slave if thou wishest him to be thy servant. Be contented with little. Be circumspect as to the things his eyes may see, and have a care that they may never discover what is blamable. Watch over his food as well as over his sleep; hunger causes irascibility, sleeplessness produces ill-humor. Husband his property, treat his family with affection. Be mute about his secrets. When he is cheerful be not angry, when he is angry do not appear cheerful. If thou doest thus, Allah will bless thee."