VETO MESSAGE OF GOV. GEARY.

Increase of the Capital Stock of the Pennsylvania Railroad Company.

Governor Geary sent the following message to the Legislature yesterday:

EXECUTIVE CHAMBER, HARRISBURG, March 20, 1867.—To the Senate and House of Representatives of the Commonwealth of Pennsylvania—Gentlemen: The act entitled "An act to repeal an act entitled a further supplement to the act incorporating the Pennsylvania Railroad Company, authorizing an increase of capital stock and to borrow money, approved the 21st day of March, 1866, to authorize the Pennsylvania Railroad Company to increase its capital stock, to issue bonds, and to secure the same by mortgages," has received that careful consideration from me which the importance of the subject seemed to demand, and, notwithstanding the high respect I entertain for the two branches of the Legislature, and the extreme reluctance I have at any time to differ with them, I am induced by my convictions of duty to dissent from the propriety of the provisions of the bill, and to return it with my objections to the Senate, in which it originated.

Lest my opinions should be misconceived and misrepresented, I deem it due to myself to make a brief exposition of some of the enactments of the Legislature for the benefit of the Pennsylvania Railroad Company since the original act for its incorporation, approved April 13th, 1846, so far as relates to its capital stock.

By the first section of the act of incorporation, the capital stock was fixed at seven millions five hundred thousand dollars.

The twentieth section is as follows: "That if any increase of the capital stock shall be deemed necessary, in order to complete or improve the said railroad or appurtenances, it shall be lawful for the stockholders of said company, at any annual meeting, or at any special meeting convened for that purpose, in manner as aforesaid, to increase and dispose of any additional number of shares, not exceeding fifty thousand, so that the whole amount of said capital stock shall not exceed ten millions of dollars, and receive and demand the moneys for the additional shares, in like manner, subject to the same conditions heretofore provided for the original subscriptions, or shall be provided for in the by-laws of said company."

The manner prescribed for the increase and disposition of the stock in the foregoing fection is certainly most unexceptionable; it being under the direction of the stockholders, and not at the option of the directors, as is provided in the bill under consideration, and which is deemed objectionable.

The twenty-second section imposed a tonnage tax as one of the conditions upon which the original charter was obtained, which has since been repealed by statute, and the accumulated tax released.

By act approved April 23, 1852, the capital stock was increased to thirteen million dollars; May 6, 1852, to fourteen million dollars; March 23, 1853, to eighteen million dollars; May 2, 1855, to twenty million dollars, and March 2, 1866, to thirty million dollars.

With no other objects on my part than to be serviceable to my countrymen, to preserve and transmit unsullied the great principles and true policy of our government, and honorably to perform the trusts, duties, obligations and responsibilities committed to my charge, I proceed in the performance of these objects as I understand them. I am sincerely friendly to all the railroads and other companies that have aided in the development of the wealth and resources of the State, and while I cheerfully accord the same sentiment to your honorable bodies, I can but regret that there should be any difference of opinion between us on the proposed enactment. And if in stating the objections I shall use expressions which may be regarded as too strong, my apology will, I trust, be found in the importance of the subject. I will state them frankly, and with as much brevity as possible.

Waiving objections to the first section of the bill under consideration, and waiving also an inquiry as to the legal rights to thus authorize the change of the fundamental law of a corporation, and bind the stockholders, I proceed to the consideration of the second, which confers powers of the most extraordinary character upon the directors of the company: * * * "providing further facilities required by the increase of the business upon the road and its connections, and for such other purposes connected with the business as the board of directors of said company may deem expedient, it shall be lawful for the said board of directors, from time to time, to issue additional shares of capital stock of said company, to such amount as they may determine, and to apportion or dispose of the said shares in such manner, and upon such terms, as they may think best; and also, for either or all of the said purposes, to issue, from time to time, bonds of the said company, payable at such time as they may appoint.

* * * * * * *

One of the objects of this bill is, for its further increase of the capital stock, to retire its present indebtedness, which, according to the president and director's last annual report to the company, is upwards of twenty-six million dollars. Thus, in this way alone, increasing the stock over one hundred and thirty per centum, and makes it amount to over forty-six million dollars. But this is not all. It is further intended to increase the business facilities upon its roads and connections, "and for such other purposes connected with its business as the directors may deem expedient."

Were this bill to became a law, to what amount may not the directors extend the capital stock, with such unlimited privileges? To what branches of business shall it be confined, and to what may it not be extended? And where is the power to keep it within its legitimate functions if it should deem it proper to depart from them? Its tremendous power, in irresponsible hands, would be unlimited and uncontrollable by any other power short of revolution. It has already obtained, in the various chartered privileges, the preoccupancy of nearly every possible railroad route in Pennsylvania, with the privilege of branches and lateral roads in a large majority of the counties. As shown by official reports, it has, besides nearly eleven hundred miles of roads in Pennsylvania, its extensions to Marietta, Columbus and Cincinnati, Ohio, and to Chicago, Illinois, and holds large and, in some instances, controlling amounts of stock in other railroad companies. When such extraordinary powers are attempted to be granted for an unlimited period, I consider it palpably contrary to the spirit and intention of our institutions. The present directors, it may be assumed, are honorable gentlemen, for they assert they have good intentions for the public interests, as well as for those of the company; but time may effect a change, and a new Board, that may not recognize its duty to the stockholders and to the rights and interests of the people, and forgetting its patriotism, might be found arrayed against the country when its services were required. It is not an impossible hypothesis that its capital stock might be extended to one thousand millions of dollars, or even to an smount equal to the present national indebtedness.

The whole control of the institution, and of the issue of its bonds, necessarily lie in the hands of a few directors, and not in those of the stockholders, whose real interests should be represented. The facilities by which any board of directors could perpetuate power in its own hands might be an inviting temptation to monopolize or engross a sufficient number of shares of stock by purchase, and proxies from non-residents too confidingly given, or perhaps by fraudulent issue, to control the vote of the stockholders. The same board might by fair means thus be perpetuated, or by a dexterous mixing or misrepresenting of accounts, with not much risk or responsibility on their part, might fraudulently control forever the affairs of the company. In my opinion the stockholders themselves, who, like the people in our form of government, are the true source of power, should closely examine into the responsibilities just presented if they would preserve and perpetuate their own rights within the corporation.

I am not aware of any instance where a company has been destroyed by the immediate action of its stockholders, but where too much power has been placed in the hands of directors and officers of reckless, speculative and adventurous character, the instances of failures and disgrace are almost innumerable. In all the bearings which can be taken upon this measure, in the event of the directory of the road passing into the hands of ambitious and unscrupulous men, I can see nothing but an eventual monopolization of all the railroad privileges of this State, and perhaps of the United States, and "such other purposes connected with its business as the board of directors of said company may deem expedient." They being their own judges, what might not be considered as connected with their business? May not any and almost every branch of industry—manufacturing, agricultural and commercial—be included?

There is danger, too, that with such vast power, such ramifications in the business departments of the country, and such unlimited capital, there might be reason to tremble for the purity and sanctity of our elections, or what is equally as bad, that our Governors, legislators and other State authorities might be affected with the blandishments of its power, its offices and its wealth.

They could "make the rich richer and the poor poorer." They could, in a word, make their organization a monopoly—a term which a distinguished jurist and law-giver defined to be "that which grinds the people between the upper and nether millstone;" and its power would become so great, that should any citizen, or even an officer of the government, attempt to restrain it within its chartered limits and proper franchises, he would be made to feel its withering influences. There is always danger in the creation of monopolies, for in proportion as they are increased are the rights of the citizen abridged. Had such a proposition been made in the early days of the commonwealth, or even a quarter of a century ago, or when this company applied for its charter, it would have been rebuked by the people, without distinction of party, upon its first announciation.

I am not inimical to the Pennsylvania Railroad Company, but I am positively its friend. I honor the management for the energy displayed in the share they have taken with others in the development of our State, and am determined that it and all other corporations shall be protected and defended in all their rights, privileges and franchises already derived, or that may hereafter be derived from legislative action; but when they ask for unlimited privileges which can and may be used as engines to threaten, endanger and control the interests, and perhaps the very action of the government, by the absorbtion of our internal improvements and every branch of interest within the State, and the holding of many thousands of our people in a dependent condition, they must be refused.

It is said that other corporations have had unlimited powers conferred upon them, and no evils have resulted. But as far as such cases have been cited, I find, upon examination, that they were, almost without exception, conferred upon the stockholders on terms, and with limitations, and not upon the directors. And if there were such, and they were known to be wrong in principle, it is one of the best and strongest reasons why the practice should be discontinued. If it is right that the Legislature should confer unlimited powers upon one institution, it has a right to multiply such corporations at its pleasure, and if they should be managed by those whose predilections and interests would be similar, the control of the commonwealth would be irretrievably committed to their hands, and the sovereignty would depart from the people. If it is deemed necessary for the proper management of the company that its capital should be increased, let it be done as heretofore requested by them, gradually by the Legislature, just as the necessity for such increase can be clearly demonstrated, and after due notice, that it is intended to make application for such increase of capital, and then only at the request of the stockholders.

Prior to the late election, I found among the people throughout the State that the important question of railroads, in all its shapes and guises, could not be properly ignored. It was regarded as a matter of such paramount importance that pledges were asked of the gubernatorial candidates, and certain interrogatories addressed to them to which answers were required. One of the interrogatories addressed to myself was in these words, viz:—"Will you, if elected Chief Magistrate of Pennsylvania, faithfully exert the power of your administration to defeat any and every attempt made, by legislation or otherwise, for the monopoly and control, by any one corporation, of the railroad policy of the State?" To which I, in good faith, replied, "that while I believe it to be improper to bring the influence of the executive department to bear upon the Legislature, in anticipation of its action, except in the way of recommendation, I am heartily opposed to the creation of any monopoly of the railroad system of the State, or giving any artificial body, created by the law, powers which would place it above and beyond the reach of the Legislature." And in my reply I further stated that "the spirit of monopoly in this and other matters should be discouraged in a republican government, and I have no sympathy with any policy which may be designed for its encouragement."

And in speaking of railroad companies I further remarked, "while these corporations continue to act their part as public servants, they should be carefully protected. They should not be permitted to overstep their legitimate functions. As creatures of the law, they should obey, and be, in every respect, subservient to the law."

In accordance with the doctrines thus pronounced the public have rendered their verdict, and expect of me a strict compliance of the pledges then given. These are not new doctrines or principles. They were fearlessly enunciated in the incipient part of the campaign, and were discussed freely by the people, by the press and by public speakers generally throughout the State. I feel that I am solemnly bound to obey these pledges, and I have no desire or intention to evade or disobey them. The people may rest satisfied and assured that neither this nor any other pledge given them when I was asking their suffrage, shall be violated.

That the people have an indisputable and inherent right to instruct their public servants and to mould and fashion their institutions to suit themselves, no one, believing in a republican form of government, will for a moment pretend to deny, and I believe the correlative obligation, that those holding office are bound to obey, is equally true. These instructions were conveyed to me in the best possible mode, through the ballot-box. Viewing this question without prejudice, no man can doubt that our citizens are earnestly opposed to the granting to corporations any unlimited powers which may be converted into monopolies, and which cannot be held subservient to the Legislature and to the true interests of the State.

A solicitous regard, therefore, for truth and justice, has impelled me to the course I have taken upon this subject, and with the full assurance that I have done my duty, I herewith return the bill without my signature. JNO. W. GEARY.

Lizards, Scorpions, and "Grubs" in Sourkrout.

To the Editor of The Evening Telegraph:—

SIR:—I have just read an article taken from a Western journal of late date, giving an account of the generation of lizards from sourkrout which had been prepared in an unusual way. Instances of this character, though somewhat rare, are well known to scientific persons. In portions of Europe, such as Styria and the sub-Pannonian districts of the Alps, not only lizards, but scorpions and various species of spiders and earth-worms, have at different times been found in decomposing sourkrout. One case is celebrated in the criminal annals of Germany. About the year 1723, in the little village of Hochstand, on the Eipp, a family of twelve persons were seized about the same time with violent attacks of vomitting, during which they threw from their respective stomachs specimens of the *epithoralia volcitans*, a boring insect, which, when full grown, is nearly three inches in length. A neighbor who had a bad reputation, and who was known to bear ill-will towards the family of Fetzhaben, fell under suspicion, and was arrested upon a charge of sorcery.

After a lengthened trial he was convicted of witchcraft, and was broken on the wheel, according to the stupid and barbarous jurisprudence of the time. A year after his execution, the same extraordinary event occurred in another family in the village, though with less violence. On investigation, it was discovered that these last had, at the sale of the effects of the family Fetzhaben, bought their self-same sourkrout-tub. Experiments were made, and it was found that when the fermentation of the krout in this tub was conducted with too great rapidity, so that considerable heat was evolved, the development of *epithoralia volcitantes* took place. The proceedings against the supposed sorcerer were therefore annulled, and an indemnity paid to his relatives. See "Handlieben Lehrbuch für Crim. Praxis," vol. ix, p. 171.

It is absurd, however, to attribute cases of this kind to spontaneous generation. Most physicists regard them as simply the development, by means of heat and *anastamosis* during the fermentation of the cabbage, of the *ova* contained in the wood of which the sourkrout-tub is made. It often happens that these *ova* are deposited by *epithoralia*, scorpions, and many other insects and reptiles in the young timber, over which the bark closes and hardens before the egg has had time to come to maturity. They consequently remain in the wood undeveloped until, under the extraordinary stimulus of the sourkrout fermentation, which is the most vivid and energetic known to chemists, they suddenly spring into life. This simple explanation relieves the article referred to above, as well from the imputation of exaggeration as from that of being an attempt to bolster up the exploded doctrine of self-production. I admit that such a development of lizards is not so usual; but there are some small species of that reptile which lay their eggs in cracks of wood, and this, very probably, was the case in the instance under consideration.

I may add, in conclusion, that in Von Eigheimer's "Iconographia Lacertorum," at page 193, plate 13, will be found a picture of a lizard closely resembling the description given in the Western paper of those into which the sourkrout is alleged to have turned itself.

Yours, truly,
F. G., M. D., S. A. S., Berlin.

Philadelphia, March 20, 1867.

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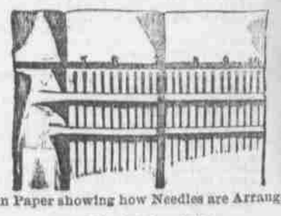

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