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YANKTON, DAKOTA TERRITORY, SATURDAY MORNING, MAY 13, 1876.

No. 16.

[Supreme Court—Continued from 4th page.]

question of aiding the Dakota Southern railroad company was submitted and voted on, was unauthorized, illegal and a nullity, and all subsequent acts done and performed pursuant to that vote were void. The county possessing no power to contract that kind of an indebtedness, it is clear the commissioners could not bind the county by issuing what purported to be its bonds, and the county having no authority, originally, to authorize their issuance, it could not ratify the act after it was done, they are therefore void, even in the hands of innocent holders, and the collection of the tax levied to pay the interest thereon, should be perpetually enjoined.

With the question of good or bad faith on the part of the county, and the bar to the innocent holders of these bonds, I have nothing to do. Were this a case in which the power in the county was unquestioned, and involved only irregularities in its proper exercise, such considerations could be urged with great propriety, and would be entitled to much weight. But that is not the case. It is certainly well, that in this early period of the history of our territorial jurisdiction, the limit of the power of municipal corporations should be carefully defined and guarded. That those who deal with them should understand that they are charged with the knowledge of the nature and extent of the powers and duties of these corporations and their officers; and that they need not expect to go upon the markets and purchase, blindly, what purports to be their bonds and other evidences of indebtedness, issued without authority of law, and find courts of justice ready to enforce their payment, on the ground, simply that they are in the hands of innocent holders, and with the mad dog cry against repudiation of spurious securities, which in contemplation of law, the corporation never issued.

Municipal corporations are the creatures of the statute; they have no powers except such as are conferred, they can do no act unless authorized. And any act done, which transcends their lawful or legitimate powers, or which they are not authorized to do, is simply the act of the corporation, and there it ends, and against any legal proceedings instituted thereon, it may interpose the plea of ultra vires. The sooner these well settled principles are thoroughly understood and acted on, the better it will be, both for the corporations, and those dealing with them.

I desire to notice briefly another point, which I deem sufficient in itself to warrant my conclusions in this case. Admitting that the act of congress rendered valid the territorial act, and legalized all proceedings had thereunder, did it not do more? The pretended territorial act provided that aid might be extended to any railroad company, in one of three ways. First, by donation, 2d, by loan of credit, 3d, by subscription to capital stock. It is alleged in the complaint that the voters of Yankton county, voting at the election held September 2, 1871, voted to extend the aid of the county to the Dakota Southern railroad company, by a donation or gift to the amount of two hundred thousand dollars, in the bonds of the county. Now the last proviso in the second section of the act of congress, reads as follows: "That said Dakota Southern railroad company shall issue to the respective counties and townships, voting aid to said railroad, paid up certificates of stock in the same, in amounts equal to the same voted by the respective counties and townships." This provision clearly requires the county to issue paid up certificates of stock, and as clearly requires the county to receive and accept them, and by implication prohibits the extending of aid to railroad companies, by counties and townships, by way of donation or loan of credit. There is no pretense that Yankton county has ever voted to subscribe to the capital stock of said company. The bonds were issued after the passage of the act of congress, and it nowhere appears from the record in this case, that the county has ever assented to the change made in its contract with the company, or even ratified the acts of the commissioners. If the county can be bound at all it must be in manner provided by the act of April 21, 1871, and the only method therein pointed out, is by the voice of the people expressed through the ballot-box, and after it has made its contract, as therein directed, I know of no earthly power that can change it against the will of the county. It may be said that the change was in the interest of the county, but that matters not; parties to contracts must be the judges as to what is their interest and what not. The county may think very differently on this point. This provision if accepted made the county a stockholder in said company, with all the liabilities and responsibilities which attach under the provisions of the statutes of the Territory under which said company was organized and incorporated, and these may be of such a character that no county would desire or wish to assume them. This Yankton county virtually refused to do by voting aid by aid of a gift or donation. There is just one way of escaping the logical conclusions to which we are driven, and that the people of a county is entitled to no voice in determining the nature, character and amount of the pecuniary liabilities with which they are to be burdened. When that point is reached, despotism will have displaced law, and arbitrary power will make and construe its own decrees.

The judgment of the court below, sustaining the demurrer is reversed, and the cause remanded.

The adverse opinion of Chief Justice Shannon will be given to-morrow, to be followed on Tuesday by Associate Justice Barnes' opinion, the latter concurring with the opinion published to-day.

TELEGRAPHIC.

4 O'clock, a. m.

For Additional Telegrams See Third Page.

CONGRESSIONAL.

The Senate Finds Itself Thinly Attended, and Soon Adjourns.

The House Considers the Post-office Appropriation Bill.

Looking Into the Congressional Printing Department.

Mr. Vance Thinks He has Discovered Something.

And Calls for the Impeachment of the Printer.

SENATE.

The chair laid before the senate a communication from the commissioners of the District of Columbia in answer to a resolution of Mr. Edmunds, in regard to the management of white and colored schools in the district. The commissioners state that no discrimination exists in the management of the schools, and no national legislation is required to secure equality in the schools. Referred.

Mr. Sherman moved to take up the house bill authorizing the appointment of receivers of national banks, and for other purposes. Mr. Edmunds said there were but few senators present, and the senate adjourned till Monday.

HOUSE.

Mr. Cox was elected speaker pro tem during the continued absence of Mr. Kerr.

The House went into a committee of the whole on the postoffice appropriation bill. The question being in regard to abolishing the letter carrier system in cities of less than forty thousand population. The proposition was defeated, 25 to 29.

After reading of a few further lines in the bill, Mr. Foster moved to insert an item of \$35,000 additional for the letter carrier system in cities of less than forty thousand inhabitants. Mr. Holman made a point of order that the line in the bill at which such amendment could be offered, it was passed.

The chairman, Mr. Springer, sustained the point of order, and against that ruling Mr. Foster took an appeal.

The committee then rose and the appeal was reported to the House.

The speaker pro tem affirmed the ruling of the chairman, and Mr. Foster further appealed.

The appeal was laid on the table, 86 to 64. The House then again went into committee of the whole and resumed consideration of the bill.

Holman moved an amendment, increasing the item for inland transportation from 14,000,000 to 15,000,000, specifying it as follows: "Transportation by railroad, 8,862,149; by Star routes, steamboats and all other than railroad routes, 623,785. He proceeded to explain it. He stated the plan to be to allow five mills per lineal foot of car room where mails are carried less than 25 miles an hour, and 6 mills over that rate of speed.

Mr. Harrison moved to increase the item by 350,000.

Mr. Reagan offered an amendment that no railroad company shall receive more than \$450 per mile per annum for carrying mails. He stated that railroads on the route between New York and Chicago would receive for fast mails over \$1,000 a mile per year if they were paid seven cents a mile per lineal foot of space.

After a long discussion all the amendments but that offered by Mr. Holman's was rejected. Mr. Holman's was adopted without discussion and the committee arose.

Mr. Vance, chairman of the committee on printing, made a partial report on the subject of the government printing office. The report states that the congressional printer has for the work of the executive department an excess rate of from 30 to 125 per cent. beyond the regular rates. That he has been paying more than the ordinary market prices for many of the articles purchased for the office. That he has invariably purchased supplies from middle-men allowing them heavy profits. That prices paid for labor are greatly in excess of those of any other establishments while the day's work is only eight hours against ten in private establishments and that as at present management the printing and binding for congress and the departments cost more than it could be done for by private parties. The waste of gold

leaf for the last seven years, which had been appropriated by the superintendent of binding department is estimated at \$14,000.00. The report declares that a system of unparalleled extravagance pervades every department of the government printing office. In regard to printing congressional records, the committee is of the opinion that it would be in the interest of economy to remove its publication from the government printing office. The report describes the book-keeping to have been of so loose a character as to be entirely unreliable and that the congressional printer demonstrated fully to the mind of the committee his utter unfitness for a proper discharge of his duties. That his subordinates are very little better in that respect than their chief. The internal management of the office is represented as worse if possible than the book-keeping and as being of such character as would ruin the most substantial private establishment. The management comprised lending of machinery and material to provide parties, employment of men on account of political influence who were totally unfit to earn their wages, payment of employees while absent at elections, selling of records on credit in violation of law, execution of work for private parties for any of balances and falsifications of accounts. The report closes with resolutions instructing the speaker to certify to the testimony to the district authorities to the end that the congressional printer may be indicted and prosecuted and instructing the judiciary committee to inquire whether he is an officer who may be impeached and instructing the committee on appropriations to report in the sundry civil appropriation bill sections for the abolition of the government printing office and providing for printing and binding for all departments of the government. The report was ordered printed and recommitted.

The speaker's leave of absence was extended for ten days. Adjourned.

MISCELLANEOUS.

The Methodists Still Continue Their Work at Baltimore.

Southern Baptists Hold a Convention.

A Fire in the Ohio Coal Mines.

General Miscellany of News.

The Methodists

Baltimore, May 12.—At the general conference to-day a resolution requesting the bishops to appoint a commissioner to arrange for a general council of Methodists to consider the position, work and responsibility of Methodists for the world's evangelization was referred to the committee on the state of the church. M. H. Fleming, of Des Moines, submitted a resolution to enquire into the expediency of dissolving the Washington Lexington and Delaware conferences and to merge them into adjacent conferences.

The reception of the fraternal messengers from the Methodist Episcopal church south was most interesting. The building was crowded and many stood during the entire proceedings. The scene was a happy combination of christian and florid welcome. Rev. Foss, president of the Middletown University, and Rev. J. H. Newman, of Washington, were finally introduced to Bishop James and the conference. The fraternal messengers Rev. James A. Duncan, D. D., president of Randolph, Macon college, Va. and Landan C. Garland, L. L. D., chancellor, Vanderbilt University of Nashville. Bishop James welcomed the messengers in an eloquent address. The address reviews the progress of Methodism generally. During the reading there were frequent manifestations of sympathy and approval. Dr. Duncan then read an able address. He was followed by Mr. Garland. The remarks of both these gentlemen were in a most fraternal spirit and were cordially received. The matter of appointing a commission to meet that was appointed by the church south adjust legal points at issue was referred to a special committee of seven to be appointed. Adjourned.

Religious

Richmond, Va., May 12.—In the Southern Baptist convention to-day, the subject of foreign missions was discussed during the entire day. A resolution was adopted to largely increase the work in China, Africa and Italy during the coming year.

The Crops

Chicago, May 12.—The times to-morrow will publish reports from the Northwestern states of a large number of reports about the condition of

the winter wheat crop from which the following analysis is made. From Illinois 12 counties report but small amount of wheat in farmers' hands, 12 report a large quantity, 23 report the acreage of growing crops less than last year and 12 report it more, 32 gives its condition as good or fair and 9 as bad. From Indiana, 21 counties report a small amount and 7 a large quantity of old wheat on hand, 11 have a larger and 13 a smaller average sown than last year, 20 report growing crops in good or fair condition, and 9 as bad. From Michigan 15 counties report little, and 9 report much old wheat on hand, 18 planted more and 2 less winter wheat than last year, and growing crops everywhere is in good or fair condition. In Ohio 11 counties have small and 8 have large quantities on hand, 6 report greater, 5 less and 7 an average acreage sown, 16 report good or fair condition and 5 bad. In Missouri 10 have small and 1 a large stock on hand, 3 planted more and 8 less winter wheat than last year and all show promising crops. There is little old wheat in Kansas but there was more sown last fall than the year before.

Official Letters Relating to the Ft. Lincoln Transaction

The following correspondence, published in the Washington Republican, relates to the charges of fraud in corn transactions at Ft. Lincoln:

THE ADJUTANT GENERAL'S LETTER. ADJUTANT GENERAL'S OFFICE, WASHINGTON, May 4, 1876.

Gen. W. W. Belknap, Washington, D. C.—In accordance with the instructions of the secretary of war, to whom your communication of the 29th ultimo was submitted, I have respectfully to transmit herewith, copies of papers recently received from the Department of Dakota, relative to the corn transaction at Ft. A. Lincoln, referred to in Col. Custer's testimony before the committee on expenditures in the war department, and also copy of correspondence transmitted at the same time, relative to the assignment of the 6th infantry to the Department of Dakota, except such portion thereof as has heretofore been furnished you.

Under the secretary's instructions, copies of all these papers will also be furnished the committee on expenditures in the war department.

Very respectfully, your obedient servant.

E. D. TOWNSEND, Adj't Gen'l.

SHERIDAN'S LETTER. HEADQUARTERS MILITARY DIVISION OF THE MISSOURI, Chicago, April 27, 1876.

Brigadier General E. D. Townsend, Adjutant General, U. S. A.—Sir—For the information of the general of the army, and for any other purpose which may seem best to him, I respectfully forward the circumstances and investigation connected with the corn transaction at Fort Abraham Lincoln, Dakota, concerning which Lieut. Col. George A. Custer of 7th cavalry, gave some testimony a short time ago, before the committee of congress on expenditures in the war department.

It is shown by these papers that the corn was received at Ft. Lincoln on the orders of Brigadier Gen. Terry commanding the Department of Dakota, and after a thorough investigation of the whole transaction.

I also forward herewith the orders and correspondence connected with the assignment of the 6th infantry, of which Gen. Wm. B. Hazen is the colonel, to the Department of Dakota, reference to which is made in the same testimony.

On both these subjects Col. Custer was in error, and as there is some reflection on army administration in this command, I trust only to set it right.

These papers are not intended to do any harm to Col. Custer, but to correct the errors he seems to have committed in his testimony published to the country.

Very respectfully, your obedient servant,

P. H. SHERIDAN, Lieut. Gen'l. [Indorsement] HEADQUARTERS ARMY, WASHINGTON, April 29.

Respectfully referred to the honorable secretary of war for such uses as he may deem proper.

W. P. SHERMAN, General.

LETTER FROM GEN. TERRY. HEADQUARTERS DEPARTMENT OF DAKOTA, St. Paul, Minn., April 25.

Adjutant General Military Division of Missouri, Chicago—Sir: With in a few days past I have seen the full report of the testimony given by Brigadier Major Gen. Custer to the committee

of the house of representatives on expenditures in the war department; in reference to certain corn delivered by the contractor at Fort Abraham Lincoln in August last. Gen. Custer states in his testimony that his report to me was forwarded through the proper channels to the war department, and that the order to receive the corn originated from that department. General Custer has in this respect misapprehended the facts in the case. The matter was never brought to the attention of any authority superior to myself, for it was believed that to dispose of it was entirely within the province of a department commander, and if an error has been committed, the responsibility for it rests entirely on me.

The transaction was fully inquired into here, and by evidence given under oath it was shown, conclusively, I think, that no fraud has been committed or attempted. To make assurance doubly sure, however, before payment was made to the contractors, they were required to give ample bonds to indemnify the government in case fraud should be subsequently discovered. After seeing Gen. Custer's testimony, I immediately directed copies of all the papers relating to the case to be prepared. I now forward them. They give a complete history of the transaction, and to them I invite attention.

I am, sir, very respectfully, your obedient servant,

ALFRED H. TERRY, Brigadier General commanding.

The remaining papers are very voluminous, and completely refute, as the letters above show, every charge made by Gen. Custer concerning that transaction which improperly involved General Belknap or any other official.

MARKETS BY TELEGRAPH.

New York, New York, May 11.

MONEY—Easy at 3/64. GOLD—112 1/2 @ 113. GOVERNMENTS—Steady. STOCKS—Irrregular.

FLOUR—Firm. WHEAT—Good demand; No. 1 spring 1 2/8 @ 1 3/2; No. 2 do. 1 1/8 @ 1 1/4; No. 2 northwest choice 1 2/8; No. 2 Milwaukee 1 2/8 @ 1 3/8; winter red western 1 3/8; Chicago mixed 1 1/8 @ 1 1/4.

RYE—Steady; 7/8 @ 80. BARLEY—Quiet and unchanged. CORN—Quiet; mixed no grade 56 1/2 @ 57 1/2; new western mixed ungraded 56 1/2 @ 57.

OATS—Steady; mixed western 30 @ 31. MEAT—Firm at 41. LARD—Firm at 12 1/2 @ 13. EGGS—12 1/2 @ 13. BUTTER—New western 16 @ 17. WHISKY—Firm at 1 1/4.

Chicago, Chicago, May 11.

FLOUR—Steady; common to choice western shipping extras, 42 @ 50. WHEAT—Unsettled irregular and higher; No. 2 1 1/8 @ 1 1/4; closed outside for cash or May; 1 1/8 @ 1 1/4; closed at 1 1/4 @ 1 1/4 for June; 1 1/4 @ 1 1/4 closed at 1 1/4 for July; No. 3, 94 @ 95; closed at 94 1/2; rejected, 83 @ 84 1/2.

CORN—Moderately active firm and higher; high mixed, 47 @ 47 1/2; new high mixed 45; new mixed 43 1/2; No. 2, 4 1/2 @ 4 3/4; closed outside for cash, 46 1/2 @ 47; closed at 46 1/2 for May; 46 1/2; closed at 46 1/2 for June; 46 1/2 @ 47 1/2; closed at 47 1/2 for July; new rejected 42 @ 42 1/2.

OATS—Dull weak and easy; No. 2 30 @ 30 1/2; closed at 30 1/2 for cash or May; 30 1/2 @ 31 1/2; closed outside bid for June.

RYE—No. 2, 63. BARLEY—Dull and easier; No. 2 65 for cash or May; 69 for June.

PORK—In fair demand and higher; 20 @ 20 7/8 for cash; 20 7/8 for June; 20 9/8 for July; 21 1/8 @ 21 1/2 for August.

LARD—Active and higher; 12 1/2 @ 12 3/4 for cash or June; 12 4/8 @ 12 4/8 for July; 12 5/8 for August.

MEATS—Fair demand; shoulders 7 1/2; short rib 11; shorts 11 @ 11 1/2. BUTTER—Steady at 22 @ 23. EGGS—Strictly fresh, 11 1/2 @ 12. WHISKY—Steady at 1 1/4.

CALL BOARD—Wheat stronger; 1 05 1/2 for June; 1 06 1/2 for July. Corn weak and lower; 46 1/2 for May; 46 1/2 for June; 46 1/2 for July. Oats dull and lower; 30 for cash or May; 30 1/2 for June; nominally 30 1/2 for July. Pork strong and higher; 20 7/8 bid for June; 21 1/8 for July. Lard firm and higher; 21 1/2 bid for July.

Milwaukee, Milwaukee, May 11.

FLOUR—Quiet and firm. WHEAT—Opened firm and 2 cents higher; but closed excited and unsettled; No. 1 Milwaukee 1 1/4; hard, 1 2/4; No. 2 Milwaukee 1 06 1/2 for June; 1 06 1/2 for July; 1 07 1/2; No. 3 96.

CORN—Scarce and higher No. 2 30 for cash or May. OATS—Firm and in good demand; No. 2 30 1/2 for cash or May. RYE—Steady; No. 1, 68. BARLEY—Quiet and steady; No. 1 60 1/2.

Liverpool, Liverpool, May 11.

Flour 2 1/4 @ 2 1/4. Winter wheat, 9 1/2 @ 10. Spring 8 1/2 @ 9. White 9 1/2 @ 10. Club, 9 1/2 @ 10. Corn, 26 @ 26. Pork, 82 @ 84. Lard, 56.

EDWARD H BRACKETT, Attorney at Law.

OFFICE: Cedar Street, between 3d and 4th. (Phil. K. Faulk's Law Office.) may 10-11

STEAMBOATS.

1876 Missouri River 1876.

Transportation Co's.

LINE OF STEAMERS

Composed of the following first class boats:

KEY WEST, N. BUESSEN, Master

JOSEPHINE, M. COULSON, Master

CARROLL, T. B. FURLEIGH, Master

E. H. DURFEE, JOHN TODD, Master

FAR WEST, GRANT MARSH, Master

WESTERN, T. D. MARINER, Master

On the opening of navigation the steamer Key West will leave for Fort Benton, to be followed by the steamer Josephine, for Fort Buford, and the Carroll and E. H. Durfee for Fort Benton. The above steamers will run during the entire season, from Yankton to all points on the Missouri river above Yankton.

For freight or passage apply to S. B. COULSON, General Manager, DAKOTA YANKTON, April 8

For Fort Buford!

THE STEAMER

FAR WEST!

Capt. Grant Marsh.

WILL LEAVE Saturday Evening, May 13th, On arrival of train.

For Freight or Passage apply to S. B. COULSON, General Manager, may 10-11

J. G. True & Co.,

YANKTON, D. T.

A complete assortment of Groceries kept constantly on hand and offered for sale at wholesale and retail. The Best of Everything at the Lowest Prices. 12-17

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Notice to Yankton!

I am now prepared to fill any order in the Boot and Shoe line.

A first-class dress boot guaranteed; also a perfect fit or no sale.

The Patent Seamless Shoe

MADE TO ORDER AND AT RETAIL.

Give Us a Call and Satisfy Yourself.

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Yankton, - - - Dakota.

S. C. CROWE, (Late of Boston.)

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AND UNITED STATES DEPUTY SURVEYOR. Will take, give prompt attention to collecting, and negotiate loans on first-class Real Estate Security. SIOUX FALLS, DAKOTA. 22-11