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BY TELEGRAPH.

THE STATE CAPITAL.

THE ELECTION BILL PASSES THE SENATE—THE INCORPORATION OF CHARLESTON COMPANIES AND SOCIETIES—THE SAVANNAH AND CHARLESTON RAILROAD BILL FAVORABLY REPORTED ON BY THE RAILROAD COMMITTEE—CONSOLIDATION OF THE CHARLOTTE AND SOUTH CAROLINA RAILROAD AND THE COLUMBIA AND AUGUSTA RAIL ROAD.

[SPECIAL TELEGRAM TO THE DAILY NEWS]

COLUMBIA, February 12.—IN THE SENATE the following bills passed a second reading and were ordered to be engrossed: A bill to incorporate the Union Star Fire Engine Company of Charleston, S. C.; a bill to incorporate the Sumter Fire Engine Company of Sumter, S. C.; a bill to incorporate certain fire engine companies of Charleston, S. C.; a bill to amend an act to lease the State Road running from the County of Greenville across the Saluda Mountain to Henderson, N. C.; a bill to amend an act to define the jurisdiction and regulate the practice of Probate Courts; a bill to amend an act to regulate attachments; a bill to define the manner of confession of judgments; a bill to authorize a loan for the relief of the treasury; a bill to authorize the consolidation of the Charlotte and South Carolina Railroad Company and the Columbia and Augusta Railroad Company.

The following bills received a third reading: A bill to confirm and declare valid the recent election of Mayor and Aldermen of the City of Charleston; a bill to amend an act entitled "An act to determine and perpetuate the homestead;" joint resolution to authorize the County Commissioners of Oconee County to sell the interest of the State in the Keowee and Tuckaseegee Turnpike Road; a bill to incorporate the Ashley Fire Engine Company of Charleston; a bill to regulate the formation of incorporations; a bill to provide for the revision and codification of the statute laws of South Carolina.

The following acts were ratified: An act to incorporate the Mission Presbyterian Church of the City of Charleston; an act to enforce the provisions of the Civil Rights bill of the United States Congress; an act to authorize the building of a bridge to connect the Islands of Wadmalaw and John's; an act to incorporate the Wilson Bridge Company; an act to incorporate certain Fire Engine Companies; an act to incorporate the Citizen's Savings Bank of South Carolina; joint resolution relieving E. W. Oliver of a five per cent. penalty.

Corbin introduced a bill to prevent and punish bribery and corruption, which was read the first time.

IN THE HOUSE, the bill from the Senate to validate the Charleston election was read the first time and referred to a committee, consisting of the Committee on Elections and the Judiciary Committee.

The Charleston and Savannah Railroad bill was reported on favorably by the Railroad Committee.

The bill to incorporate certain societies in Charleston was passed and sent to the Senate.

Webb introduced a bill to authorise Wilson & Company to build a dock and collect wharfage, at Beaufort.

The Mount Pleasant and Sullivan's Island Ferry bill was discussed until adjournment.

CONGRESSIONAL.

BINGHAM DENOUNCES BUTLER AS A REVOLUTIONIST—PRIZE MONEY FOR THE KEARSAGE—PROVISIONAL GOVERNMENT FOR MISSISSIPPI—BUTLER DEFEATED AND BOTTLED UP—MILITARY AND POSTAL RAILROAD.

WASHINGTON, February 12.—The spirit pervading the House may be imagined from the following extracts from yesterday's proceedings:

Mr. Butler. I take back nothing.

Mr. Bingham. Then I ask the House to compel you to take back your revolutionary resolution—that is something that the gentleman cannot retrace and I denounce it here today, before the House and before the people of the country, as being as unwarranted as any act of secession. I denounce, as a representative of the people, this attempt to inaugurate revolution on the floor of this House. I will oppose the reference of the resolution, as seeming to commit the House in some sort to a challenge of your own law. How would it look for us to refer another resolution suggested by the speech of the gentleman (Mr. Butler), and that is, that the House should be authorized, to use the gentleman's language, if the Senate would not retire from the joint convention to kick it out. The gentleman from Massachusetts should be the captain in the kicking operation. [Laughter.] I think the gentleman cannot gainsay his speech in that which brought down the galleries and split the ears of the groundling, and it illustrated the *animus* of his resolution. I denounce it here as a resolution of revolution—I denounce it as a resolution of anarchy. The idea of the House of Representatives kicking the Senate of the United States! About the time that you will have kicked the law-making power out of existence, you will have proved yourselves greater architects of your country's ruin than did the million of men who, for four years, waged war upon your constitution and your laws, drenching your land with blood and ridging it all over with graves.

Mr. Butler (aside). I always did like that speech of Mr. Bingham's. [Laughter.]

Mr. Schenck. I have not the slightest idea of proposing the censure of the Speaker. I think he was excited like the rest of us.

Mr. Colfax. He was not.

Mr. Schenck. There is only a difference of opinion about that.

IN THE HOUSE, the bill allowing the crew of the Kearsage one hundred and ninety thousand dollars prize money for destroying the Confederate cruiser Alabama was passed.

The Reconstruction Committee reported favorably on the bill organizing a provisional government for Mississippi. It authorizes the reassembling of the convention forthwith by order of the president thereof, and in case of his failure to order it within thirty days, by order of the commanding general of the district. The said convention, in addition to its present powers, shall appoint a provisional government, and may remove and appoint all State, county and other officers of the provisional government, and authorizing the provisional governor to remove and appoint registrars and judges of elections, and submit to the people, with or without amendments, the constitution heretofore framed by the convention. The bill exempts from attachment or sale household property or improvements to the value of $500. It authorizes the convention to pass ordinances. It is not to remain in session over thirty days, or to have a per diem of more than $5 and ten cents mileage. The ordinances will remain of force until disapproved by Congress, or the State is admitted into the Union. Trials for offences against the State shall be by jury. The President of the United States may at any time remove the Governor and appoint a successor. Poll tax shall not exceed $1 50 per year.

After a severe struggle, Butler's resolution, with accompanying amendments, were tabled.

The bill authorizing a military and postal railroad between Washington and New York, was passed by a vote of 100 to 54.

WASHINGTON.

GENERAL LONGSTREET—THE UNDERWOOD CASE.

WASHINGTON, February 12.—It is stated that General Longstreet is a candidate for the New Orleans collectorship.

James Lyons, Esq., addressed the Supreme Court in support of the suit of prohibition against Judge Underwood. H. B. Guizon, Esq., who represents Jeter Philips, released from sentence of death for wife murder by Judge Underwood's decision, was in court but made no argument against the suit.

EUROPE.

THE CONSERVATIVES IN PARLIAMENT—A NEW LEADER.

LONDON, February 10.—The Conservatives are making preparations to carry on a vigorous opposition in Parliament. Lord Cairns will replace the Earl of Malmesbury as their leader in the House of Lords.

REMODELLING THE SPANISH NAVY.

MADRID, February 10.—Admiral Topete, Minister of Marine, has issued general orders for the remodelling of the Spanish Navy.

MADRID, February 12.—The city is profusely ornamented in honor of the assembling of the Cortes. Serano delivered a congratulatory address.

FAVORABLE ACTION OF THE GREEK GOVERNMENT—THE PARIS PRESS INDIGNANT AT AN ASSERTION OF BISMARCK'S ORGAN.

PARIS, February 10.—Count Walewski has left Athens on his return to this city. He is bearer of a satisfactory reply from the Greek Government on all points to the proposals of the Paris Conference.

The press of this city deny with much indignation the truth of the assertion made by Bismarck's organ in Berlin, to the effect that they have been bribed by the Prussian Government.

CUBAN AFFAIRS.

ATTEMPT TO BLOW UP FORT PRUNTER—THE PLANTERS AND MERCHANTS ASSISTING THE GOVERNMENT.

HAVANA, February 11.—A person painted black climbed the outer wall of Fort Prunter for the purpose of exploding the powder magazine. He was slightly wounded by the sentinel. The planters have held a meeting and passed resolutions guaranteeing a $9,000,000 loan, with one-tenth of their property. The merchants had a meeting to-night for the purpose of raising money to aid the government.

DREADFUL STEAMBOAT DISASTER.

NEW ORLEANS, February 12.—A dispatch from Jefferson to-day reports the burning of the steamboat Mattie Stevens in Caddo Lake, Red River, last night at midnight. Sixty-three lives were lost; the survivors, forty-three in number, were taken to Jefferson on the steamer Dixie. Boat and cargo total loss.

FROM THE STATE CAPITAL.

Leslie and the Militia Bill—A Novel Procedure—The Savannah and Charleston Railroad Bill—The Opinion of the Attorney-General Thereon—Its Early Passage Probable.

[FROM OUR OWN CORRESPONDENT.]

COLUMBIA, S. C., February 11.—The Militia bill came up again before the Senate to-day. The original bill has been committed, recommitted and referred so many times as to almost lose its identity. It was passed by the House at the special session, sent to the Senate, received its first reading, and then quietly laid over until the regular session. To-day it was taken up for the fourth time with the report of the committee.

Swails, chairman of the Committee on the Military, made an able and vigorous speech in favor of the immediate passage of the bill, but some friends of the measure were out "eating groundnuts" just when the matter came up, so Mr. Leslie obtained the floor, and and gradually growing warmer and more earnest as he spoke, produced such an effect on some lukewarm senators as to be able to carry his point by a majority of one vote. He described the affair as a big job to be pressed through for the purpose of giving a few individuals fine uniforms, brass buttons, big cocked hats, spurs, white horses, and big salaries to pay electioneering expenses. But he warned Republican senators that it would be the most powerful weapon that could be used to defeat the Republican party, and that muster day, with a little whiskey, would afford a splendid opportunity for the Democrats to test the merits of their Winchester eighteen-shooters. He moved that the bill be referred to a special committee of one, consisting of the senator from Barnwell, with instructions to report a substitute, and that the same be made the special order for Tuesday next.

Swails rose to a point of order and desired the decision of the president on the question whether, as against all parliamentary practice, a bill could be referred to a member who was opposed to it in toto, as in the case of the senator from Barnwell. At the request of the senator from Williamsburg, the rule relative to the question as laid down in Jefferson's Manual, page 84, was read by the clerk.

The president decided that, as a question of parliamentary law, it had no direct application in this case. The senator from Barnwell had expressed himself not wholly opposed to the bill, but simply to some of its features.

After some attempts at "filibustering," Leslie's motion prevailed.

On motion of Mr. Leslie, it was

Resolved, That the message of his Excellency the Governor, No. 32, and the bill therein referred to, be referred to the Judiciary Committee, to report whether the bill had or had not become a law by reason of its non-return to the Senate by his Excellency within the time prescribed by the constitution with his approval or disapproval, and that they report on Tuesday next, and that their report, bill and communication or message, be made the special order for that day at one P. M.

IN THE HOUSE, Sasportas, from the Committee on Engrossed Acts, reported as duly and correctly engrossed for a third reading a bill to amend an act entitled "An act to regulate the manner of keeping and disbursing funds by certain officers." The bill was taken up, read the third time, passed and ordered to be sent to the Senate.

C. D. Hayne introduced the following resolution, which was adopted:

Resolved, That the Committee on the Judiciary is hereby requested to report as early as practicable on a bill referred to them to punish persons violating Section 3 of Article XVI of the amendment to the Constitution of the United States.

The Speaker announced the following named members as the committee of two from each Congressional District to consider the bill and substitute to establish a Board of Commissioners of Public Lands, viz:

First District—Feriter and Lang.
Second District—Smalls and Jervey.
Third District—L. Cain and Henderson.
Fourth District—Neagle and McDaniels.

Elliott then reported favorably on a concurrent resolution relative to the appointment of a joint committee to consider and report upon the present railroad system of the State.

On motion of Mr. Tomlinson, the report was laid on the table to take up the concurrent resolution.

The resolution was taken up, adopted, and ordered to be sent to the Senate for concurrence. Adjourned.

The early passage of the Savannah and Charleston Railroad bill, and its prompt approval by the Governor, is now confidently anticipated by the friends of that important measure. None of the objections urged by the Governor in the case of the Greenville and Columbia Railroad bill apply to this bill. Indeed, its leading features are said to have originated with the Governor himself. The following is the opinion of Attorney-General Chamberlain in regard to the bill:

OFFICE OF THE ATTORNEY-GENERAL, COLUMBIA, S. C., February 6, 1869.

R. B. Elliott, Chairman Committee on Rail roads, House of Representatives:

DEAR SIR—I have the honor to submit my opinion, as called for by your communication of the 3d instant. In 1856 the State authorized the Comptroller-General to endorse the guarantee of the State upon bonds of the Charleston and Savannah Railroad Company to an amount not exceeding five thousand dollars per mile.

The third section of the act provides that as soon as any such bonds shall have been endorsed, as aforesaid, they shall constitute a lien upon road-bed and stock and equipment of the road, and the State of South Carolina shall be invested with said lien or mortgage for the payment of said bonds, with interest thereon.

The provisions of the act were complied with, the bonds of the company issued, and the guarantee of the State endorsed thereon.

Subsequently the company issued other bonds, and to secure them executed a first mortgage deed, which was thus the second lien on the road and property of the company.

Again, in April, 1861, the company issued other bonds, and secured them by a second mortgage deed, in reality the third lien.

In February, 1867, the bondholders under the first mortgage deed foreclosed their mortgage and sold the property. It was purchased by the bondholders under first mortgage deed, who were subsequently incorporated as the Savannah and Charleston Railroad Company.

It is assumed that the proceedings in foreclosure were regular and legal, and that all proper parties were made.

If this is correct, then, by the sale and purchase, the Savannah and Charleston Railroad Company took the property of the Charleston and Savannah Railroad Company free from all lien or incumbrances, except the statutory lien or mortgage to the State to secure it against its guarantee of the bonds.

The Savannah and Charleston Railroad Company have now memorialized the Legislature for permission to issue new bonds for the completion of the road, and for the postponement by the State of its statutory lien on the road, so that the same shall work hereafter as a second in lieu of a first lien.

The question submitted to me for consideration is: Can the State legally effect such postponement of its lien without the assent of the parties holding the bonds guaranteed by the State?

The statutory lien which the State holds is its indemnity against the liability incurred. The contract of indemnity is one made between the State—the surety and the debtor—the corporation; and it is clear that those who are competent to make a contract are competent, by mutual consent, to alter or vary the terms of it.

Conceding the equitable doctrine which allows the creditor to be subrogated to, and to avail himself of, all the securities held by the surety, (Dearing vs. Earl of Winchelsea; Leading Cases in Equity, 87; Wright vs. Marley, 11 Wesey, 21) the doctrine goes no further than to entitle the creditor to the benefit of the securities which the surety holds. It is an equity growing out of the relation of the parties, not a right derived from contract.

But the contract for indemnity is a contract between the surety and the debtor, to which they alone are parties; and as the surety is the party to be protected, it is for him alone to decide upon the terms and measures of his indemnity. Although the creditor may derive benefit from the indemnity, it is only incidentally, and through the surety, that he derives it. He cannot stipulate for himself or his interests, but must accept that which the surety has accepted as a sufficient identity. He is entitled, in a word, to the securities which the surety holds, but not to determine what those securities shall be. Any other construction would make the indemnity of the surety depend, not upon his own judgment or his own contract, but upon the assent of one (the creditor) who was not a party to the contract.

The considerations above stated become much stronger when applied to a State.

To aid a work of great public utility, the State indorses the bonds of the corporation. To secure the bondholder, she pledges the faith and credit of the State for the punctual payment of the bond. The indorsement of the State is the security, upon the faith of which the bond is taken.

To secure herself from loss by the indorsement, the State imposes a statutory lien upon the property of the corporation. But it is competent for the State, with the assent of the corporation, to alter the terms of the contract; or it may repeal altogether the law creating the lien. The considerations of policy under which the lien was enacted may have ceased to exist. A due regard to the public benefit, the protection of the State and the interest of the corporation may require that the law enacting the lien should be repealed. These are matters of public policy, and the consideration and determination of them belong solely to the Legislature, and, if they deem it proper, the law creating the lien may be repealed or modified. The only limitation imposed upon the power of the Legislature to repeal existing laws is that the repeal shall not divest vested rights, and shall not impair the obligation of the contract.

Does the postponement of the lien in this case do either?

As has been already stated, the creditor has no vested right in the security which the surety holds. He has merely an equity to be subrogated to them if they exist and as they exist; and a change of security which the surety regards as beneficial and affording additional indemnity cannot, in any sense, be regarded as impairing any right which the creditor has; and still less can it be considered a vested right.

Neither does a postponement impair the obligation of the contract; for the only contract of the bondholder is in the bond, and the obligation of that is not impaired, but is recognized, and additional protection is sought to be given to it.

The practice of the State has also been in conformity to the views here expressed.

In 1835, when guaranteeing the bonds of the Louisville and Cincinnati Railroad Company, the State imposed a statutory mortgage as indemnity, and to that lien postponed all other debts which the company then owed.

And when, in 1865, the State authorized the Charleston and Savannah Railroad Company to issue new bonds for the repair and construction of the road, she postponed her lien, and made it a second incumbrance, and this without the assent of the bondholders being required.

My opinion is that the State has the right to postpone her lien and subordinate it to the mortgage to be executed to secure the bonds authorized by the act now proposed by the present Legislature.

Very respectfully, your obedient servant,
D. H. CHAMBERLAIN, Attorney-General.
Charleston, S. C., February 5, 1869.

THE RAGE FOR BLONDE HAIR at the New York theatre, having elicited some invidious comments from the critic of the Herald, the blonde who is just now the leading lady at Niblo's, comes out in the following tart card:

"NIBLO'S GARDEN, February 8, 1869.

"*To the Editor of the Herald:*

"I am really ashamed to trouble you on a subject so very unimportant as my hair, but for the lengthy article that appeared in the Herald of Sunday last, in which my name is brought very conspicuously forward—excuse me if I am wrong—as a cloak to give some critic a somewhat spiteful opportunity of contrasting real with imaginary 'blondes.' Now, as I some time ago felt compelled to tell the public, through the press, that my hair was not brought to its present hue by any artificial means, but that I was born a blonde and blonde I will 'die,' it seems strange that the writer of the article in question should be ignorant of that fact, as it found publicity in several New York papers; therefore, it impugns my veracity, and on that ground alone I beg to trouble you with this letter, which I trust you will kindly publish. I am quite willing to submit my head, with its 'tawny' colored and offending crop, to be analyzed, if such a process can be effected; and, as your critic facetiously infers that I have little else either inside or outside my head but my hair, I don't imagine that any chemical process can do much harm. At any rate, as my hair seems to form one of my chief attractions, its color and legitimacy must be protected by your most obedient servant, LYDIA THOMPSON."

THE HOMESTEAD LAW.

Opinion of Judge Carpenter Deciding it to be Unconstitutional.

The following is the full text of the recent opinion of the Hon. R. B. Carpenter, Judge of the First Circuit, in which he decides the Homestead law of this State to be unconstitutional:

Joseph Purcell, for the use of C. B. Northrop, vs. Dr. James E. Whaley.

On the 27th day of May, 1867, the plaintiff obtained a judgment by confession against the defendant for $3,368 70, with interest from the day of its rendition, at twelve per cent per annum, and costs of suit. On the same day a writ of *fieri facias* was lodged in the office of the Sheriff of Charleston County (then District). On the 8th day of June, 1867, Purcell assigned the said judgment to C. B. Northrop for a valuable consideration. After delay, arising from causes not necessary to be here stated, the sheriff, under and by virtue of said writ, levied upon the plantation of the defendant, containing about four hundred acres of land, and advertised the same for sale. The defendant gave notice to the sheriff, in writing, that he claimed a homestead under the act of the General Assembly, passed the 9th day of September, 1868. The case is now before this court, upon the motion of the plaintiff, to order the sheriff to proceed to sell the property levied upon, without reference to the provisions of the act above mentioned.

Section 20, Article 1, (Constitution of State of South Carolina,) provided that "a reasonable amount of property as a homestead shall be exempted from seizure or sale for the payment of any debts or liabilities, except for the payment of such obligations as are provided for in this constitution."

Section 32, Article 2, provides that "the family homestead of the head of each family residing in this State, such homestead consisting of dwelling house, outbuildings and lands appurtenant, not to exceed the value of one thousand dollars and yearly product thereof, shall be exempt from attachment, levy or sale, on any mesne or final process issued from any court." By the same section, it is made "the duty of the General Assembly to enforce the provisions of this section by suitable legislation."

In the act of the General Assembly, before referred to, Section 1 provides that "whenever the real estate of any head of a family, residing in this State, shall be levied upon by virtue of any mesne or final process, issued from any court upon any judgment obtained upon any right of action, whether arising previous or subsequent to the ratification of the Constitution of the State of South Carolina, if the same be the family homestead of such person, the sheriff or other officer executing said process, shall cause a homestead, such as the said person may select, not to exceed the value of $1000, to be set off to said person."

The single question in this case is, are the provisions of the constitution and the act of the General Assembly, above cited, within the provisions of the clause of the tenth section of the first article of the Constitution of the United States, which prohibits a State from passing a law impairing the obligation of contracts?

The difficulty in determining this question lies in ascertaining where the line of demarcation exists between the acts of the Legislature, which affect the remedy only, and those which, under the pretence of affecting the remedy, do impair the obligation of the contract. It has never been doubted that the Legislature has the authority to pass such general laws in regard to remedies as may seem most humane and wise, where the character and amount of the exemption do not substantially interfere with the contract itself. The only question is, does the legislative act overstep that bound, and under the guise of legislation upon the remedy, attack and impair the obligation itself?

In considering the case before me, two questions present themselves:

First. What is meant by the term "obligation of contract," as used in the constitution; and secondly, what constitutes an impairment of that obligation?

The highest legal authorities have answered both questions. A contract is an agreement to do or not to do a particular thing specified therein, and its obligation is that which binds the promisor to perform the agreement. It is not the promise of the mere duty, but it is the remedy which the law gives against the defaulting party.

This provision of the constitution was inserted to compel the several States to maintain the integrity and secure the faithful execution of contracts throughout the Union.

The framers of that instrument had before them in the legislation of the States, anterior to the adoption of the constitution, ample exemplifications of the evils incident to the impairment of these obligations. Under the pressure of the struggle for independence, many of the States had passed laws prejudicial to private rights. By some of them the payment of debts was suspended. In others, debts were authorized to be paid by instalments in violation of the contracts. Property, real and personal, might be tendered by the debtor in payment of his obligation, and the creditor was compelled to take such property at an exorbitant appraisement. Such legislation produced its natural results in a system of fraud which destroyed all public confidence, and crippled all private industrial enterprise. As far as I am advised, however, even those States never had the temerity to utterly abrogate the contract, although they did impair it by annulling the remedy.

Now, the right and the remedy are so intimately connected, that the destruction of the former is the impairment of the latter; the constitutional provision was designed to protect both. In the language of the Supreme Court of the United States: "It would ill become this court under these circumstances to depart from the plain meaning of the words used, and sanction a distinction between the right and remedy, which would render this provision illusory and nugatory—mere words of form, affording no protection and producing no practical result."

In the present case, upon the rendition of the judgment, a lien was vested in the plaintiff, whereby he was to receive from the real estate of the defendant the amount of said judgment. This unquestionably was a legal right. At the time the judgment was rendered, and the lien became vested, there was no law in South Carolina which exempted any portion of the defendant's land from sale under that execution. Could the Constitutional Convention or the General Assembly enact a law, after the rendition of this judgment, which divested the plaintiff of his right in this land without impairing the obligation of the contract?

"To deny any remedy under a contract, or by burdening the remedy with new conditions and restrictions to make it useless, or hardly worth pursuing, is equally a violation of the constitution." (1 Kent, Com. 419.)

"It seems to me that looking at a contract legally and practically, as an instrument by which rights of property are created, and on which they repose, obligations and remedy are strictly convertible terms. Take away the whole remedy and it is admitted the contract is gone. And it seems to me the only logical rule to hold, that any legislation which materially diminishes the remedy given by the law to the creditor at the time his contract is made, just so far impairs the obligation of the contract." (Sedgwick, Stat. and Common Law, 652.)

Judge Parsons, in his work upon Contracts, says: "That an exemption of property from attachment (by which is meant levy, or a subjection of it to a stay law, or appraisement law, impairs the obligation of a contract." He adds: "Such a statute can be enforced only as to contracts made subsequently to the law."

"Under these cases it has at length become definitely settled that a State law which impairs the obligations of a contract, whether that contract be found in the express terms and conditions of the written contract between the parties, or is engrafted upon the contract by the law of the land, as it existed at the time the contract was made, is within this prohibiting clause of the Federal Constitution, as well also as all laws aimed or nominally directed to the remedy, when they so effect the remedy as to impair the right itself." (Smith's Com. on Stat. and Const. Con., 395.)

Judge Story, in his great work on the constitution, remarks: "But, generally speaking, when we speak of the obligation of a contract, we include in the idea some known means acknowledged by the municipal law to enforce it. Where all such means are denied, the obligation of a contract is understood to be *impaired*, though it may not be completely annihilated."

An act of the Legislature of Vermont, releasing the body of a debtor from imprisonment, and directing that the bond which he had given to the sheriff for the prison liberties, and which the sheriff had assigned to the creditor, should be discharged, was held by the Supreme Court of that State to be void. (1 Chit. Rep., 257.)

Statutes of limitations which do not allow a reasonable time after their passage for the commencement of suits on existing causes of action are unconstitutional. (Call vs. Hagger, 8 Mass. 430; Proprietors of the Kennebec Purchase vs. Labonel, 2 Green, 294; Blackford vs. Peltier, 1 Blackford Rep. 36.)

A statute passed after a contract made extending the time of replevin on a judgment rendered on such contract, is void. (McKinney vs. Carroll, 5 Mowr. 98; Grayson vs. Lilly, 7 Mowr. 11; Lapsley vs Brasheurs, 4 Litt. 53; Blair vs. Williams, 4 Litt. 34.)

A statute of Kentucky directing sales under decree in chancery on a longer credit than at the date of the contract, was declared by the Appellate Court of that State to be void. (January vs. January, 7 Mowr, 544.)

The statute of 1842 in New York exempting certain property from sale on execution, is unconstitutional in relation to executions issued on judgments rendered prior to its passage. (Dauks vs. Quackenbush, 3 Denio, 594.)

The Legislature can pass no law interfering with vested rights, or transfer them to another against the owner's consent. (8 Smeder & Marshall, Miss Rep., 9.)

In the State vs. Carew, Chief Justice Dunkin in a learned and exhaustive opinion decided that the stay law of South Carolina was unconstitutional, on the ground that it impaired the obligations of the contract, and all the chancellors and judges concurred with a single exception.

In Ogden vs. Saunders, 12th Wheaton, p. 213, the court said: "The obligation of a contract as spoken of in the constitution, is a legal and not a mere moral obligation. It is the law which binds the party to perform his undertaking. The obligation does not inhere or subsist in the contract itself *propria vigore*, but in the law applicable to the contract; and this law is not the universal law of nations, but it is the law of the State where the contract is made. Any law which enlarges, abridges, or in any manner changes the intention of the parties, resulting from the stipulation in the contract, necessarily impairs it."

Again, in the same case, it was said the great principle intended to be established by the constitution, was the inviolability of the obligation of contracts, as the obligation existed and was recognized by the laws in force at the time the contracts were made. Whether the law professes to apply to the contract itself, or to regulate the remedy, it is equally within the true meaning of the constitution, if it in effect impairs the obligation of existing contracts.

In Green vs. Biddle, 8th Wheaton, 381, the court said: "A right to land includes the right to enter upon it, and to recover possession where withheld. Nothing could be more clear upon principles of law and reason than that a law which denies to the owner of land a remedy to recover possession of it when withheld by any person, or clogs his recovery of it by restrictions or conditions tending to diminish the value of the thing recovered, impairs his right to an interest in the property. If the remedy afforded be qualified and restrained by conditions of any kind, the right of the owner may indeed subsist, but it is impaired and rendered insecure according to the nature and extent of such restrictions."

In Bronson vs. Kinzie, 1st Howard, 311, the venerable Chief Justice Taney said: "Whatever belongs merely to the remedy may be altered according to the will of the State, provided the alteration does not impair the obligation of the contract. But if that effect is produced, it is immaterial whether it is done by acting on the remedy, or directly on the contract itself. In either case it is prohibited by the constitution. * * It is manifest that the obligation of a contract, and the rights of a party under it may, in effect, be destroyed by denying a remedy altogether, or may be seriously impaired by burdening the proceedings with new conditions and restrictions, so as to make the remedy hardly worth pursuing." * * * * *

Citing Mr. Justice Blackstone: "The remedial part of the law is so necessary a consequence of the declaratory and directory parts, that laws must be very vague and imperfect without it, for in vain would rights be declared—in vain directed to be observed, if there were no method of recovering and asserting those rights." * * * * * "It is that part of the municipal law," resumes the Chief Justice, "which protects the right, and the obligation by which it enforces and maintains it. It is this protection which the clause in the constitution now in question mainly intended to secure, and it would be unjust to the memory of the distinguished men who framed it, to suppose it was designed to protect a mere barren and abstract right without any practical operation upon the business of life."

In McCracken vs. Hayward, 2d Howard, 609, the Supreme Court said: "The obligation of a contract consists in its binding force on the parties who make it. This depends on the laws in existence when it is made. These are necessarily referred to in all contracts, and form a part of them, as offering the measure of obligation to perform them by one party, and the right acquired by the other. There can be no other standard by which to understand the extent of either, than that which the terms of the contract indicate, according to their legal settled meaning. When it becomes consummated the law defines the duty, and the right compels one party to perform the thing contracted for, and gives the other the right *to enforce the performance by the remedies then in force.*

If any subsequent law affect or diminish the duty, or impair the right, it necessarily bears on the obligation of the contract in favor of one party to the injury of the other. Hence any law which, in its operation, amounts to a denial or obstruction of the rights accruing by a contract, though professing to act only on the remedy, is directly obnoxious to the prohibition of the constitution. This principle is so clearly stated and fully settled in Bronson vs. Kinzie, that nothing remains to be added to the reasoning of the court, or requires a reference to any other authority than is therein referred to. Alluding to the case then under consideration, the court said: "The obligation of the contract between the parties in this case was to perform the promises and undertaking contained therein. The right of the plaintiff was to damages for the breach thereof, to bring suit and obtain judgment, and to take out and prosecute an execution against the defendant till the judgment was satisfied pursuant to the existing laws of Illinois. These laws giving these rights were so perfectly binding on the defendant and as such a part of the contract, as if they had been set forth in its stipulations in the very words of the law relating to judgments and executions. * * * * Any subsequent law which denies, obstructs or impairs this right by superadding the condition of the sale, affects the obligation of the contract, for it can only be enforced by the sale of the defendant's property. Prevention of such sale is the denial of the right. * * * * The same power in a State Legislature may be carried to any extent, if it exists at all. If the power can be exercised to any extent, its exercise must be a matter of uncontrollable discretion in passing laws relating to the remedy which are regardless of the effect on the right of the plaintiff."

In Curran vs. the State of Arkansas, 15th Howard, 319, the same court says: "One of the tests that a contract has been impaired, is that its value has, by legislation, been diminished. It is not by the prohibition of the constitution to be impaired at all. This is not a question of degree, or manner, or cause, but of encroaching in any respect on its obligation, and dispensing with any part of its force." * * * * Mr. Justice Curtis in the same case says: "It by no means follows because a law affects only the remedy that it does not impair the obligation of a contract. The obligation of the contract in the sense in which these words are used in the constitution is that duty of performing it which is recognized and enforced by the laws; and if the law is so changed that the means of enforcing this duty are materially impaired, the obligation of the contract no longer remains the same."

Judge Woodbury, of the Supreme Court, before which this subject came under consideration, in the case of the Planters' Bank vs. Sharp, 6th Howard, 327, said: "When every form of redress on a contract is taken away, it will be difficult to see how the obligation of it is not impaired. * * * And if in professing to alter the remedy only the duties and rights of a contract itself are changed or impaired, it comes just as much within the spirit of the constitutional prohibition. Thus, if a remedy is taken away entirely as here, or clogged by a condition of any kind, the right of the owner may indeed subsist, and be acknowledged, but it is impaired."

In the case of Hawthorne vs. Calif. 2d Wallace, 10, the same court, by Mr. Justice Nelson, recognized and re-affirmed the principles decided in Bronson vs. Kinzie, and the several subsequent cases of that class. He held that the acts then under consideration so expressly affected the remedy of the mortgages as to impair the obligation of the mortgage contract within the meaning of the constitution, and declared them void.

The decisions of the Courts of the several States are somewhat conflicting upon this question, but the majority are in accordance with the rulings of the Supreme Court above cited. The decisions of the latter tribunal alone are binding upon this court, and it is in accordance with them that the decision in this case must be made.

In the case of Bronson vs. Kinzie the decision was upon a statute of Illinois, passed after the execution of the mortgage, which forbid the sale of any mortgaged property in that State unless it brought two-thirds of its appraised value. The case of McCracken vs. Hayward decided that a statute of Illinois, which provided that property levied on under an execution should not be sold unless two-thirds of its value was bid therefor, was void.

The facts in this case show that the judgment was rendered more than a year before the passage of the Homestead law; that the only real estate owned by the defendant is the tract of land containing about four hundred acres levied on; that at sheriff's sale it will not sell for more than twenty-four hundred dollars, although its real value for planting purposes is between four and five thousand dollars.

The judgment was by law a vested right, a lien, a contract. Had the State the constitutional power to divest the plaintiff of his rights and vest them in the defendant?

Upon the principles involved in this case, there is no difference between liens by mortgage and by judgment. The former are specific, the latter general, but both are vested, legal rights, entitling the holders to a sale of the property, or so much thereof as will be sufficient to satisfy the demand.

In my judgment, so much of the act of the General Assembly as exempts any portion of the land levied on from sale under this execution, is in conflict with the Constitution of the United States, and void.

It is therefore ordered that the sheriff proceed to sell the property levied upon and advertised for sale in this case, without regard to the provisions of the law in relation to the homestead, passed since the rendition of the judgment, and that he execute the process of the court, enforcing the judgment according to the remedy existing at the time of the rendition of the judgment and the making of the contract between the parties.

R. B. CARPENTER, Circuit Judge.
January 29, 1869.

AFFAIRS IN THE STATE.

Chester.

We are pleased to learn that Dr. Eli Cornwell has been commissioned as a magistrate for Chester County by Governor Scott.

We regret to learn the death of Mr. Lewis H. Gill, on Tuesday, the second instant. He was buried at Fishing Creek Church with Masonic honors by Bascomville Lodge.

John S. Dickey, a very intelligent and promising boy, about six years of age, was accidentally drowned in a branch on Fishing Creek, near the dwelling of Mr. John Dickey, Sr., on the third instant.

Kershaw.

The Camden Journal says: "On Tuesday night last two colored prisoners confined in the jail of this district, charged with horse stealing, made their escape. We understand that when the jailor went to give them their supper, he was seized and held by one while the other went down the stairs, and forcing the lock, opened the door, when the other released the jailor and soon gained the street. The sheriff offers a reward of fifty dollars for their apprehension."

—The enormous capital of Trinity Church, in New York, of which the annual income is $800,000, has never yet paid a dollar's tax to the government.

ON THE WING.

More about Stealing—Society Hill—Past and Present—Business Firms—Railroads—The Bridge—Price of Land—"Contracts" for the Present Year—Rates of Wages—Prospects.

[FROM OUR OWN CORRESPONDENT.]

SOCIETY HILL, February, 1869.—On my way from Darlington to Society Hill, I was conversing with a stalwart yeoman, who gloried in his independence of the negro. He, his wife and his children work in the field, and the past year had made a good crop, both of corn and of cotton. The great trouble now was to keep it from being stolen. He told me that some time ago, about six miles from Darlington village, a band of negroes attacked a house, shot promiscuously and put nine ball holes through a lady's dress hanging against a wall. One bullet came very near killing a child. A few nights before they had taken Mr. ——'s fattening hogs; then they came again, and carried off his milch cow, and now they stormed the house. People living at a distance from the centres of population find it difficult to protect themselves against these outlaws, who go around in gangs of ten, fifteen or more. They kill stock, steal cotton, in short carry things with a high hand generally. A party of these romantic revellers has been known to pick clean from six to eight acres of cotton on a single moonlight night. The difficulty of guarding against these nocturnal marauders will be better appreciated when it is remembered that honest and industrious people who work hard the live long day, and day after day, are fatigued when night comes, are apt to sleep soundly, while these robbers, like the beasts of prey, lie close all day, and go forth to plunder at night.

By way of showing me what can be done by hard-working white men, my informant told me of one of his neighbors who, with his little son, last year made thirteen bales of cotton, all planted and cultivated by themselves alone. In picking season he hired a few hands to help get it out. I have heard of several such instances, and may, perhaps, recur to the subject again in the course of these letters.

Society Hill, on the line of the Cheraw and Darlington Railroad, about one hundred and twenty-five miles from Charleston, is one of the oldest and best known settlements in the eastern part of the State. For more than half a century it was the centre of wealth, intelligence and refinement. In fact, I think I risk nothing in saying that the society there was more elegant during all that period than in any place in the State outside of Charleston or Columbia. Enjoying a high and healthy location, a dry, sandy soil, second for salubrity to no other spot in South Carolina, the wealthy planters of the Upper Peedee here at first spent their summers, and then fixed their permanent abode here.

Many are the names, high and distinguished in the annals of the State, that have reflected honor on Society Hill. The late J. J. Evans, for years an honored judge of this State, and afterwards United States Senator, made this his home, and here several of his sons now reside. The venerable Dr. Thomas Smith, still among the living, has shed lustre for many years on this small portion of his native State. The names of Gregg, Williams, Witherspoon, Wilson, McIntosh, and others, who have lived and died here, are known and honored in distant parts of the State. It was here also that General John McQueen died two years ago, after having spent many of his best years in the service of the State, and earned honor and glory for himself in the councils of the nation. I must not omit mentioning the venerable brothers Coker, the oldest merchants in the Peedee country, distinguished no less for their honor and integrity than for their industry and other sterling business qualities.

The village has received some valuable accessions since the war, foremost among whom I would mention Major B. D. Townsend, a name well known through the length and breadth of the State, and far beyond her borders. Major T., late President of the Bank of Georgetown, afterwards President of the Cheraw and Coalfields Railroad, and now President of the Cheraw and Salisbury Railroad, has latterly in a great measure withdrawn from public life, and is now pursuing the even tenor of his way as a planter of cotton, corn and potatoes—in my opinion, a most sensible proceeding on his part.

The merchants of Society Hill are as follows: Messrs. C. Coker & Brother, A. Smoot, W. A. Carrigan, T. A. Gandy, Theo. Sompayrac, John Douglas, Mr. Wicker, together with a few others. There are two physicians here, who appear to do a good practice—Dr. S. H. Pressley and Dr. P. E. Griffin. Lawyers there are none here, but I am told that there is a good opening here for one. There are two churches here—the Baptist, Rev. Mr. Rice, pastor, and the Episcopal, Rev. Mr. Hay, rector. The planters residing in Society Hill have formed a planters' club, which meets monthly, for the discussion of topics interesting to farmers, &c.

For years the Peedee River was the only means Society Hill had of communicating with Charleston, and this was slow and uncertain, and sometimes, in seasons of low water, altogether impracticable. In good time the North-eastern Railroad was built, and so also its continuation, the Cheraw and Darlington Railroad, which runs past Society Hill, and has brought it within a few hours' ride of Charleston. I have always thought that there should have been only one line and one company from Charleston to Cheraw, and I think so yet. In fact, I think it of more importance now than it ever was before. Rival interests will soon come in and bid for privileges which now are naturally, and by a tacit pre-emption, ours. But Charleston should not rest till this past and present good will on the part of her Peedee friends is permanently assured to her, and this can only be done by consolidating the two companies. True, there may be difficulties in the way; still, the interests are sufficiently identical to have the two roads managed by the same superintendent. There cannot, therefore, it would seem to an outsider, be any insurmountable obstacles to such a union, and I earnestly hope that the nuptials may soon be celebrated.

Society Hill heretofore was connected with Marlboro', and the parts beyond, by means of a ferry—one of the most important, because most frequented on the river. Dublin, the ancient Charon, who had poled the flat across for many years, and who is an original character worthy a more extended notice than I can accord him here, is now put on the retired list. His occupation is gone. The ferry is no more. A bridge has taken its place. This bridge had been talked of years before the war, but was not commenced till a year after the cessation of hostilities. It was built by Major J. B. Lasalle, of Columbia, at an expense of about $25,000. This amount, in the then impoverished condition of the country, it was of course, not an easy matter to raise. Still it was done, thanks to the unwearied efforts of a few public spirited men. But alas, after the work had been completed, and in operation only sixteen days, a great freshet washed away the centre pier, which dragged with it another pier and two of the spans. Previous freshets had done considerable damage while the work was in progress, but this last calamity seemed irreparable. The old company was bankrupt. What remained of the bridge was sold out and bid off at $2000 by some of the creditors of the old company. A new company was formed, capital about $15,000, and the bridge rebuilt. It is not yet weather-boarded or roofed. This will cost about $2000 more, and is to be done in the course of this year, I believe. The rebuilding of the bridge is due principally, if not solely, to the untiring and self-sacrificing energy and public spirit of Mr. W. A. Carrigan.

The bridge is a splendid job, a regular first-class Howe truss, equal to any in the country, having an opening of sixty feet. The machinery is so perfect that a child can turn the draw. The Cheraw bridge, rebuilt since the war, cost $25,000, and yields an income of $125 a week during the business season. The length of the Cheraw bridge is six hundred and twenty feet, and that at Society Hill about five hundred and twenty feet.

The lands about here, formerly among the most valuable in the State, have not yet recovered their former price. There is not yet a sufficient surplus of money in this part of the country to warrant much investment in lands, and there is, therefore, no reliable data upon which to base an estimate of the market. In Marlboro', on the other side of the river, from some reason or other, there has been more evidence of recuperative power, and lands have sold at very fair prices, sometimes for quite as much as they would have brought ten years ago.

As regards the never-to-be-solved question of labor, I find upon inquiry that various plans are in use, each offering advantages and disadvantages, and each having advocates and opponents. Most of the plantations in this vicinity are organized for the present year, the laborers mostly being hired for wages, but some are employed "on shares." In regard to wages it is difficult to say what are the rates paid. There would seem to be no fixed rule, each party of course doing the best he can for himself. Thus I have heard of prime hands getting from $8 to $12 per month and "found." There are but few women comparatively hiring out as field hands. Where they make contracts they usually only receive two-thirds of full rates.

Those who "crop" with the hands give, I think, about one-half the proceeds, less the current expenses. Some, from necessity, have been compelled to agree to receive service from the freedmen in lieu of rent. That is to say, those not having the means or the credit to provide the requisite outlay wherewith to maintain hands and working animals during the spring and summer, have agreed to rent land to negroes, with the stipulation that, in lieu of rent, these tenants are to work two days in the week for their landlords. If I have been correctly informed, these are the terms upon which many of the sea island plantations are being worked this year.

On the whole, I think the farming prospects, for this year are fair in this part of the State and most of the planters are hopeful. Indeed, all classes are in better spirits, and not a few are in a fair way of making money. January has been a fine month for plantation work, and, as far as I can judge, every thing is well advanced in the way of preparation for the ensuing crop. BIRDS-EYE.