

MEMORIAL MESSAGE.
To the members of the Senate and House of Representatives of the Commonwealth of Pennsylvania.

GENTLEMEN:—An imperative sense of duty constrains me to return to you House bill No. 143, entitled "A further supplement to the act incorporating the Pennsylvania coal company," without my approval.

Apart from other reasons against this measure, a constitutional objection is presented, which, in my mind, is too clear to be overlooked. Among other things it is proposed that the Pennsylvania coal company be "authorized to extend its two tracks of rail road, with necessary turnouts and appendages from any points thereof, in an easterly direction, through the counties of Luzerne, Wayne and Pike, or along Brush Hill in the county of Monroe, to connect with the New York and Erie railroad, or to such point in the States of New Jersey as New York as the respective legislatures of said States may authorize."

The constitutional objection to which I refer, has its origin in the peculiar terms under which this company is organized.—If it were a railroad company furnishing a public highway upon which all persons upon equal conditions, could travel and transport, or be conveyed and have their merchandise and other commodities transported, as on the road of all property or organized railroad companies, no such objection could exist. But such is not the case. The Pennsylvania coal company is not a railroad company. The railway which it has already constructed, although consisting of two tracks of considerable length, is not a public highway, but practically, and by the terms of the act creating the company, it is a private road for the use of the company in the transportation of its coal and other products, and nominally, also, for the use of the owners of adjoining and adjacent lands, who, by connecting with said railroad, by lateral roads, may have the right to transport the products of said lands.

The 25th section of this act confers on the company the right to construct a railroad with one or more tracks, from any point or points on their lands, to intersect with other improvements or works there specified, and provides "that the said company shall not prevent any person or persons, company or companies, hereafter incorporated, being the owner or owners of the lands bordering on the said railroad or railroads, or adjacent thereto, from lateral railroads, to connect them with the said railroad or railroads from their said lands, as the said person or persons, company or companies may conceive necessary for the purpose of transporting their coal or produce upon said railroad or railroads," subject to the payment of certain rates of toll, &c. It is further provided in the last clause of this section, "that the turnouts for such lateral roads shall be so constructed and kept as not to interfere with the use of the main road or roads; and all cars or wagons upon the same shall be subject to such general rules and regulations as may be prescribed by the company, intended to keep the track of said road free and open for the uninterrupted passage of the cars of every person desiring to travel thereon."

It will be perceived that the first clause in the 25th section, as already quoted, limits the use of the said road or roads of the Pennsylvania coal company to such persons only as are the owners of lands bordering on said railroad or railroads, or adjacent thereto, nor is this right in any way extended by that clause in any way which regulates the turnouts and lateral roads, and provides that all kinds of cars and wagons which may run upon the road, shall be subject to such regulations as the company may prescribe, to keep the track of said road or roads free and open for the uninterrupted passage of the cars of every person desiring to travel thereon. There is no authority given to any person to use the road except the owner of the adjacent lands. No rate of toll is fixed for other parties. And consequently no other construction can be given to the provision relative to turnouts and lateral roads, and the regulations relative to cars and wagons, than that the terms "desiring to travel thereon" can only embrace such persons as have the right to do so by being adjacent landholders, and having constructed lateral roads. It could scarcely be contended that all persons who might desire to travel or transport on said road, have the right to do so, and yet that they may travel, either entirely free of charge, or subject to such charges as the company may at will impose.

The Pennsylvania coal company having been created for the purpose of mining coal, and transporting and selling the same, by its terms a corporation for private gain only. It possesses no element of public utility that does not belong to any legitimate pursuit of individuals engaged in developing and sending out the products of the earth. Whatever may have been the original theory as to the public character of the purposes for which corporations should be created, it is too lamentably true, that more modern legislation has widely departed from this theory, and we are compelled to regard certain kinds of corporations in their true and manifest character. I took occasion in my last annual message to designate such corporations as were intended to promote private purposes, and among these I regard the Pennsylvania coal company.

If, therefore, the use and enjoyment of the railway of the Pennsylvania coal company is confined to the company itself and a very small class of persons on the line of the road, and they only for a limited purpose, it is not a public highway or intended for a public use. It must be regarded the private road of the corporation. Should this company be authorized to extend their road through the counties of Luzerne, Wayne, Pike and Monroe, it should be open to the use and enjoyment of the public on reasonable terms, and its operations made in this way to minister to the convenience and prosperity of the people of that section of the State.

Besides, there are no provisions in the original act of incorporation or any of its supplements, requiring the company to furnish cars or other mode of transportation for general tonnage, or even to furnish motive power to the very limited class who have the right to pass over this road. And consequently the company could at pleasure prevent all transportation except their own tonnage. This reasoning, applied to a mere carrying road, could have but little force, for such a company would seek tonnage and business, but this company will supply their own freight, and there may be times when it would be their interest to prevent others reaching the market in which they sell. But if allowed to do so by the bill under consideration, a valuable route to market over the lands of others, for the trade and travel of these counties, rich in their natural resources, may be occupied by the Pennsylvania coal company for its own special use, and a comparatively few others, to the exclusion of the public at large.

The act to which it is proposed to make this bill supplementary, authorizes this company, for the purposes therein contemplated, "to enter upon any land which they shall deem necessary for the construction and completion of the said railroad or railroads, or any part thereof." And further provides for a mode of estimating damages and making compensation to the owners of land over which said road or roads shall pass. The proposed bill authorizes an extension of the railway of said company, a distance of fifty or sixty miles, over lands now held by other parties, and although it does not in express terms, direct the entering upon and taking such lands in the manner provided for in the original act, yet this follows by necessary implication. The bill is called a supplement to the original act, and by its enactment becomes substantially a part of the same. Any new rights conferred by the supplement must be taken in connection with, and will be sustained by the powers conferred by the original act.

Hence, therefore, this right is in effect reaffirmed as regards the extension of the road, as provided for in this bill; and my approval of the same would carry with it the right and power in this company to exercise the Commonwealth's right of eminent domain, to enter upon and take the lands of others for the purpose of making this proposed extension of a road that can be regarded only as a private one.

Should this be done? Can it be done under the constitution? Can the Legislature confer upon a company or individual the right to take private property for private use? The constitution itself, in express terms, furnishes a negative answer. The government is clothed with no such power. The people have not found it necessary to surrender their natural right to acquire and possess property to answer any wise purpose of government. They have, on the other hand, happily protected themselves against such encroachments upon their rights, by declaring, in the organic law of this government, that such right is "inherent and indefeasible," and by providing that no citizen can be deprived of his property, "unless by the judgment of his peers, or the law of the land." It is true that the commonwealth, by reason of her right of eminent domain, and as sovereign, may call upon any of her citizens, for the public use, or for sovereign purposes, to yield, to some extent, the enjoyment of their private property. But even this right is restricted by the 10th section of the 9th article of the constitution, which declares, "nor shall any man's property be taken and applied to public use without the consent of his representatives, and without just compensation being made." It seems to me clear therefore, that the power proposed to be conferred on the Pennsylvania coal company, by this law, is in contravention of the spirit if not of the letter of the constitution.

Other objections have been urged against this measure, which should not be overlooked. It seems to be a subject of much controversy in that region of the State where the operations of this company are located. It has encountered a most vigorous opposition from many citizens of Luzerne county, whilst others have favored its adoption. I have patiently heard all the reasoning for and against it. Much of the feeling of hostility seems to arise from the peculiar topographical formation of the country through which the proposed road must extend, and from jealousy of the enlarged powers enjoyed by this company, under present laws. It is alleged that there are but few passes in that mountainous region, through which a railroad can be constructed—that the eligible route for a public highway or locomotive road from that section eastward or southward may be monopolized under the proposed law, for the use of this private corporation—that this company already enjoys greater privileges and advantages than are usually

conferred on corporations of this kind—that the company are doing a prosperous business, dividing large dividends, and have now one good avenue to market, and that they should not be allowed the opportunity of occupying the only feasible route through the mountains for their own private use, to the vast injury and inconvenience of the public. The coal company, on the other hand, claim that it is unreasonable that they should be denied the opportunity of constructing an avenue to market.

It will be observed that the terms of this supplement to the charter of the company are very broad and quite indefinite, giving to the company the right to commence at any point on their present road, and extend the new road to any point that may promote their interest and convenience. Such a broad right for the construction of a highway, or a mere carrying road where the projectors and owners of the road have no connection with the tonnage with which it is to be freighted, and where the general face of the country is adapted to such improvement, might perhaps be allowed, but it is a dangerous power to confer on a private corporation. Nor is it at all strange, that the people of that section of the State should guard with care and even jealousy the few outlets which can be found for future public use. The allegation that this proposed law is too vague and indefinite as to the location of the contemplated improvement, is well founded and reasonable. It is a very unusual thing to incorporate a company to construct a public highway without fixing the point of beginning and ending. This bill designates no particular point of commencement or termination, nor intermediate point. I can see no reason why this should be the case. It is no answer for the company to say that they are not certain where a proper location can be found; that is the best evidence that could be furnished, that there is no pressing necessity for the proposed legislation; and this very fact has doubtless contributed much toward exciting hostility and local jealousy on this subject.

But I do not wish to be understood as assuming the ground that this company should not be allowed to construct an avenue to market. I only insist that their road should be in express terms and practically a public highway for the use, benefit and enjoyment of the whole people on reasonable conditions—and that such right be given in the ordinary form, so that the citizens generally in that naturally rich and highly flourishing section of the State may participate in the construction of said work if they should see proper to do so, and that its location be confined within reasonable limits. As a public highway, open to the use of all upon the payment of reasonable charges, it might tend to develop the resources of the country through which it might extend, but under the indefinite term of its present charter it might be made the means of wrong to the private citizen; and inconvenience to the public at large.

The wishes and feelings of the people residing in the vicinity of this proposed road, while they might not constitute a sufficient reason for the exercise of the Executive prerogative, are certainly entitled to much consideration, and those citizens will now have another opportunity of being heard before the representatives of the people.

In my difference with you on this subject, I am consoled by the reflection that if I have committed an error it can be corrected. Whilst on the other hand, had the proposed bill become a law, the evil consequences might have been incurable.

WM. BIGLER.
Harrisburg, Feb. 28, 1853.

Harrisburg, March 19.—In the Senate today, another veto message was received from the Governor. There had been attached to the bill incorporating the Waynesburg and Washington Plank Road Company, a section relating to a certain school district in Greene county, and it is upon this matter of special legislation in reference to school districts that the veto is based. The Governor for the same reasons, vetoed a bill yesterday. After the reading of the veto, the question was again taken on the bill, and stood—Yeas 0; nays 24.

COL. BENTON AND THE PRESIDENT.—The New York Times has the following version of the interview between those gentlemen. It differs somewhat from the reports which were received by telegraph.

An amusing story is told of a recent interview between Col. Benton and President Pierce. The Colonel expressed himself heartily gratified at the result of the election, and very desirous to support the new Administration; but he told the President he had one man in his cabinet who would make him ridiculous—a "perfect nondescript, sir," said he—"a perfect nondescript—neither one thing nor the other." The General inquired what gentleman of his Cabinet had been so unfortunate as thus to incur his displeasure. The Colonel named Cushing, and launched out into a repetition of his epithets, which I have given, not exactly in his words, but as nearly so as would be strictly proper—by saying, that he was the only man on earth who seemed to have been created for the express purpose of being a Tyler man.

The President heard his formidable objections to the end, and quietly remarked to the Colonel, that he had been delighted, on reaching Washington, to find so many gentlemen who were quite indifferent as to his election, exceedingly solicitous concerning the welfare of his Administration.

Whether the story is quite authentic or not, I cannot say; but it comes from a Democratic source. True or not, it is certainly good.

The Amazon and Atlantic Slopes of S. America.

We have had the pleasure of presenting to our readers some interesting papers relating to the Amazon, the last of which were of the above title, over the signature of "Inca."

These papers attracted attention not only in this country, but in the countries immediately interested in the free navigation of the Amazon. The last arrival from S. America brings us the gratifying intelligence that Belzu, the enlightened President of Bolivia, by decree of January 27th, 1853, has thrown open all the Bolivian tributaries of the Amazon and La Plata that are navigable, to the commerce of the world, and offered a reward of ten thousand dollars to the master of the first steamer that shall reach any of these tributaries, either by the La Plata or the Amazon.

Lieut. Gibbon, who was sent out about two years ago with Lieut. Herndon, U. S. navy, to explore the Amazon from its source to its mouth, has just arrived. We have had the pleasure of conversing with him upon the subject of this most interesting expedition.

He passed through the Bolivian provinces which are thus thrown open to the commerce of all nations, and describes that whole region as one of the most beautiful, productive, and finest countries on the face of the earth. In his opinion, there are now materials enough there to give rise to a commerce of several millions of dollars a year, and that a commerce of this value would spring up the moment a free transit is secured for it up and down the Amazon, thro' the territories of Brazil.

Considering the large space which that region of country has of late been made to occupy in the public mind in this hemisphere by the publication of the "Inca" and other papers with regard to it, by the recent exploration of it by officers of the American navy, we regard this action of the Bolivian government as a subject of congratulation.

From this decree, we think, will commence a new era for the Spanish republics of South America.

The revolution which the free navigation of the Amazon and its tributaries and of the La Plata and its tributaries is to make in the commerce of those republics will be greater than that which the commerce of Europe underwent in consequence of the passage of Vasco de Gama around the Cape of Good Hope.

Lieut. Gibbon has, he informs us, a list of 10,000 abandoned silver mines in that country, many of them upon this watershed. The silver ore has been taken from the veins until the miners reached the water, and then for the want of the means of drainage, most of the mines have been abandoned.

The machinery heretofore used in the drainage of those mines was only such, our readers should bear in mind, as could be transported upon the backs of mules from the seashore across the Andes. With the Amazon open, it may be taken by water almost to the very spot where it is wanted, and of course, then, with the ability to procure larger machinery, this decree may be expected to give a new impulse to the working of the silver mines of Potosi and elsewhere.

FROM MEXICO—SANTA ANNA FOR PRESIDENT.

We have received Vera Cruz papers to the 26th ult., and Mexico papers to the 20th. In La Union of the former place we find no item of any interest. From the capital we have some news.

It seems to be a settled point that Santa Anna will be elected President. The districts of Queretaro, Michoacan, Oajaca, Tamaulipas, and Vera Cruz had voted in his favor. San Luis was also said to have voted for him. The *Trait d'Union* thinks that Santa Anna will be elected unanimously.

Jalapa had joined Vera Cruz to ask that Santa Anna be invited, by a committee, to return as soon as possible into the republic. Vera Cruz appointed Cassanova and Serrana; the committee from Mexico was to meet it, to go and look for the General. Santa Anna was expected daily.

The *Siglo* of the 17th ult., says that Santa Anna had declared that he would join the liberal party.

Blancarte reached Morelia on the 6th, with a division composed of 1,500 foot and 13 pieces of artillery. It was reported that several inhabitants had been incarcerated in Morelia for political causes. An amount of \$8,770 was raised by subscription in Morelia to aid the government in its financial embarrassment.

Yucatan had joined the Jalisco plan.—Barbachano was re-elected Governor. Gen. Wall had been called to Mexico, where he was expected daily.

Canales is at Mexico, Cardenas is a prisoner at Vera Cruz, and Avalos has just been driven from Matamoros.

The house which is intended for Santa Anna's residence is already secured, and being furnished to receive him.

THE SOUTHWARK TRAGEDY.

Examination and Commitment of Arthur Spring to answer the Double Murder.

We stated in yesterday's *News*, that the son of Arthur Spring, the suspected murderer of Ellen Lynch and Hannah Shaw, had made disclosures which went strongly to implicate the father. We might have said further that the statement of the son, if believed, would fasten the crime without doubt upon him, and convict him of perpetrating one of the foulest human butcheries that has ever been recorded.—Much as we dislike to give the character of that statement with the other facts elicited, lest injustice should be done to the miserable accused, who is entitled to a fair and impartial trial, we nevertheless deem it proper that the public should be put in possession of the truth at once, as such a course will do more to allay excitement, than would from their concealment. Arthur Spring underwent an examination in the County Prison yesterday afternoon, before Ald. Isard, and was represented by Joseph M. Doran, Esq. Mr. Reed represented the Commonwealth. The first witness examined was Patrick Maguire, the keeper of the house in which the accused boarded. He testified in substance, that on the night of the murder, Spring went to bed at about eight o'clock; he could not say whether he was out after that; the witness had seen some gold pieces in Spring's possession, but they were small pieces. Maguire admitted on the cross-examination that the prisoner had been speaking of buying him out, and that \$400 had been named as the sum, which was to be obtained from a friend. Mrs. Maguire testified in substance to seeing a \$5 gold piece in Spring's possession. She knew nothing more bearing upon the case.—Jane McKenney, a girl ten years of age, living with Maguire, testified that she was up in Spring's room on the night of the murder at about 10 o'clock, and that he was not in bed, she had no light, and the night was cloudy but she was satisfied that Spring was not in bed. Charles Leeman, a Jew boy was examined, and testified to selling shirts to the son of the prisoner, who gave him in payment a ten dollar gold piece. Young Spring told him that he wanted the shirts for his father who was sick. Officer McGee, of the Southwark Police, testified to arresting Spring at the house of Maguire, and to finding two bloody shirts of his; also to seeing blood upon his coat cuff and knee. He told the prisoner what he was arrested for, who stoutly protested his innocence, and said that the blood he got upon him in a fight with Carroll. John Carroll and his brother William were examined, and testified to going to the ball on the night of the murder, but they knew nothing bearing upon the prisoner. Bartholomew Lynch, the husband of Ellen, one of the victims, was examined, and testified to speaking of the money he had, about \$150 in gold, in the presence of Spring. The money obtained through young Spring, he thought, was the same. Arthur Spring, the son of the accused, was now introduced, and disclosed one of the most fearful tales of blood that was ever listened to. Young Spring is of rather prepossessing appearance, and is apparently sixteen years of age. He manifested but little reluctance to testify against his father, though in so doing he knew he was pronouncing his doom. He first identified the sheath of the dagger which was found under the arm of Mrs. Lynch, as his, said that it was a present from a friend in Washington, and that the father had borrowed it from him some two or three weeks since. He then said that his father had spoken to him about the money of Lynch, and that he expressed his determination to get it. He had gone there for that purpose on Tuesday night, and had got into a difficulty with Carroll, and in going out he had changed hats. He went again on Wednesday night, he found that there were too many there for him to attempt it. He remarked to Mr. Shaw that he would come the next night and see them, but she said that he need not, as Carroll and his wife were going to the ball, and there would be no one home but herself and Mrs. Lynch. (It was in this way he learned that the females would be alone.) Young Spring went on to say that on the night of the murder, his father, who had been out, returned at about 11 o'clock, and told him that he had murdered the d—d b—s; they were nothing but w—s. The father had gone to the front door and knocked, and was let in by Mr. Shaw, upon whom he commenced an attack, and after stabbing her several times, and when she was nearly overcome, Mr. Lynch came down in her night clothes and interfered, and made efforts to prevent him from murdering her sister. He turned upon her, and stabbed her a number of times; that she fought like a tiger, and it was difficult to subdue her—that at last got her under the settee and he thought he had killed her, but to his surprise she rose again and resumed the fight. The attack was first commenced in the entry, and was continued to the back room. After he had murdered the women, he went up stairs and opened the trunk with the blade of the dirk, and in doing it the point broke off. He got the money, came down stairs, and attempted to set fire to the house. A portion of the money was given to the son, and one of the pieces (\$10 coin) was passed for the shirts. The course of the narrative, the son was frequently affected to tears, as were most present. He had several times to suspend it, so much was he overcome. The prisoner exhibited great nerve, and did not that he had anything to do with the crime, he charges his son with the two others with perpetrating it. The testimony of young Spring being concluded, Mr. Reed asked for the final commitment of the prisoner to answer, which was done. He said that the bill of indictment will be laid before the Grand Jury to-day.

Daily News.

BANK FAILURES.

We cut the following from the money article of the Ledger: "We learn from one of our brokers that intelligence has been received here of the failure of three of the Eastern Banks—institutions, as we are informed, established in Connecticut, and mainly owned in the city of New York. They are the Eastern Bank, at West Killingly; the Bank of North America, at Seymour, and Woodbury Bank, at Woodbury, Connecticut. The banks at the eastward, and especially those owned by New York financiers and located out of the State, are in a very uncertain condition. We have noticed for some time, that there is quite too many of your bills circulating throughout Pennsylvania, and probably the sooner they are discarded the better."

The whole system of establishing wild cat banks, as practised in New Jersey, N. York, and the Eastern States, is erroneous, and should be put down. During the administration of Governor Johnston a great effort was made to introduce it into Pennsylvania, but thanks to the firmness of the Democracy, it failed; and the consequence is that the few banks that we have in Pennsylvania are in good credit, whilst there is constantly a panic in regard to some of the Eastern banking institutions, whose name are legion.

Now that gold is becoming so very plenty, efforts should be made to restrict paper issues and introduce the precious metals more generally amongst the people, instead of covering over the whole land with paper, issued by the thousands of new banks that have been springing into existence in many of the States.

In Pennsylvania the rein has been drawn and we imagine no new bank of issue will be chartered for a long time to come.

The Troubles in Honduras.

Boston, March 19.—By the brig Helen Jane, which arrived at this port this morning from Honduras, we have further advices in relation to the aggressions of the British in that quarter. The dates are from Truxillo to the 27th of February.—The accounts state that Her Britannic Majesty's war steamer *Devastation*, Captain Campbell, arrived at Truxillo at 4 P. M. on the 18th, from Belize, and that immediately upon her arrival an officer was sent on shore with a despatch to the commandant of the port, demanding the removal of certain troops stationed at Limas, on the Roman river, in Honduras territory, but for some time past in the possession of the English mahogany cutters.

The demand was disregarded by the commandant, and a second despatch was afterwards sent from the *Devastation*, demanding that the troops be removed by 12 o'clock on the following day. This demand was accompanied with a promise that the British subjects should not be interfered with for the future. If the demands, however, were not complied with, Captain Campbell stated that he should proceed to Limas to remove the troops by force.

As no resistance could be made by the people of Truxillo, the demand was complied with under protest.

PAPER CURRENCY. In speaking of the attempts being made in Maryland to embarrass the working of the law preventing the passage of small notes in that State, the *Baltimore American* says:—"There is, with some people, a sort of infatuation, by which they are brought into complete subjection to a paper dynasty. They would shut up everything like specie from the public eye, and we doubt not prefer the ghost of a fiat shadowed out upon paper, to the thing itself. And they would heroically wage a modern civil war—that is on paper—in vindication of the sufficiency of the ghost, rather than suffer the original substance to glide into the hands of the people. They would twist, garble, and, if possible, defy the laws of the land, rather than countenance the restoration and establishment of a specie currency. They would commend the banks for violating the law, and no doubt rebuke the mint for being the means of observing it, rather than see the gold and silver thoroughly did out the channels of trade, a of the people in the habit of supposing, with perversity of this sort, the people have little sympathy with us—we have none."