

The Dispatch

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PITTSBURGH, TUESDAY, OCT. 11, 1892.

TWELVE PAGES

CHIEF JUSTICE FAXON'S CHARGE.

The charge of Chief Justice Paxson in the Homestead treason cases yesterday is one of the most notable contributions to judicial literature that the courts of Pennsylvania have so far afforded. That the magnitude of the disturbance at Homestead and the unusual character of the latest charge against the strikers were calculated to raise grave and broad reflections in the judicial, as they did in the public mind, must be conceded; and when the Chief Justice, at the close, said, "The one great question which concerns the people of this country is the enforcement of the law and the preservation of order," of course every intelligent person will agree with him.

The strong statement of the illegality of acts of violence, the clear definition of the mutual rights of employers and employees so long as they keep within the limits of order, and the forcible declaration of the necessity of enforcing the law, to preserve society against anarchy and ruin, amount in their general bearing on the Homestead disorders to a public service. Condemnations of violence and lawlessness, whether from the bench or from individuals, will be supported and applauded by all good citizens. The added force of such a condemnation given by the Chief Justice, sitting as a Judge of Oyer and Terminer, is valuable enough to compensate for possible embarrassments which may arise from that departure from the usual course in criminal hearings. For the forcible and radical declaration against violence, lawlessness and force, the law-abiding element of the State will recognize its obligation to Judge Paxson.

But comment upon the opinion would be incomplete if it failed to note that the Chief Justice establishes a different view of treason than that which was most widely entertained. The Treason Act was passed March 31, 1867, and this is the first prosecution under it. It had been in previous prosecutions under that act, the decisions of the courts would have established its intent. But it has been reserved for Chief Justice Paxson to declare the meaning of the Legislature. The act is as follows:

If any person owing allegiance to the Commonwealth of Pennsylvania shall levy war against the same, or shall adhere to the enemies thereof, giving aid and comfort within the State or elsewhere, and shall be thereof convicted upon confession in open court or on the testimony of two witnesses to the same overt act of treason, he shall be deemed to have committed such treason, and shall, on conviction, be adjudged guilty of treason against the Commonwealth and be sentenced to pay a fine not exceeding two thousand dollars and undergo an imprisonment by separate and solitary confinement at labor not exceeding twelve years.

As this statute was passed at a time when political and armed combinations were already being made to overthrow the Government of the United States, and when apprehensions of similar attempts upon the State Government were felt, the supposition was held by many that it was framed to punish, as ex-Chief Justice Agnew put it, breaches of allegiance, express conspiracies and war against the State Government rather than mob violence, or however extensive a scale, so long as these latter were wanting in the motive of attack upon and subversion of the State itself. The fact that in the years since, including the great railroad riots, there were numerous instances of planned mob violence, without the act being invoked to establish or punish these as treason, might well heighten the supposition. So well known a jurist as Daniel Agnew, who himself sat as Chief Justice for Pennsylvania, took this view in a recent open letter, written with direct reference to the Homestead riots. He held that a succession of illegal and violent acts of a mob, such as in the riots of '77, did not come within the spirit and intent of the Act. That undoubtedly, up to yesterday, was the public belief. That the lawless and criminal—these offenses were committed to which a greater penalty than treason is affixed—of mob violence, known; but that there was any purpose to upset or levy war against the State Government itself, was not generally believed. But Chief Justice Paxson holds that the tendency and effect of the strikers' proceedings were to overthrow the authority of the State at Homestead; that they virtually "levied war against the Commonwealth," and that just what they did.

There will doubtless be a great deal of discussion yet in the courts upon the construction and application of the Treason Act, and it is to be regretted that the proceedings were not so framed as to come before the Supreme Court in the usual way. As they have gone, the prosecution of the opinion of the Chief Justice in the start seems not specially calculated to dispel the mind of the court of last resort to that attitude of freedom from pre-conceptions which is so greatly to be desired in reviewing the administration of penal statutes.

However, these are points for the lawyers who are concerned in the cases. The general effect of the charge of the Chief Justice will be to hold up to the public the determination to suppress lawlessness and violence. The Supreme Court shows a more active spirit in this line than the executive arm of civil authority. If the Court, having taken the advance of the labor their limitations will now extend to the vigilance and energy to taking the initiative against such combinations of corporate

capital as destroyed the South Penn Railroad and set up the R-rading coal monopoly in defiance of the Constitution of the State, it may complete a character for impartial usefulness in supplying the weakness and inefficiency of the executive arm of the Government.

THE QUESTION OF PRINCIPLES.

While Mr. Cleveland and Senator Hill have used due diligence in getting away from their party platform, and the Democratic organs have as a rule taken special pains to explain that its leading planks do not mean what they say, these utterances stand as the formal declaration of party principles. It is not enough to say that the candidate would not carry out the destructive ideas of the party. The party will be put into power if Cleveland is elected. The candidate is but one man and cannot stand against his whole party. As is simply illustrated by his own career. Life is uncertain, and behind the Democratic candidate for President is a candidate for Vice President whose only public characteristic is his recklessness in doing whatever he considers popular in his party.

Under these circumstances it is pertinent to continue, as Mr. George Ticknor Curtis does, in the exposure of the foolishness of the Democratic declaration of the unconstitutionality of a protective tariff. Mr. Curtis shows that the Democratic platform is Calhounism of the most virulent type, since Calhoun voted for the tariff of 1816, and only discovered the unconstitutionality of tariffs when preparing for his nullification campaign in 1830. Mr. Curtis' most striking point is the comparison of the Democratic platform with an official document of the highest authority. The Democratic platform asserts that there is "no constitutional power to impose and collect tariff duties except for the purpose of revenue only." Mr. Curtis produces the preamble of the first tariff act ever passed—that of July 4, 1789. Ten members of the Constitutional Convention were in the House which originated this measure. It was passed under the leadership of Madison. It was signed by President Washington, and in his Cabinet at the time were Hamilton, Jefferson and Randolph. It would be hard to imagine a measure which by its circumstances could be more authoritative on the constitutional question. This bill in its preamble recited among its purposes for laying "duties on goods, wares and merchandise imported;" the following: "and the encouragement and protection of manufactures."

When a party in the present day turns its back on the principles of the men who founded, framed and preserved the Government, such as Washington, Jefferson, Madison, Jackson and Lincoln, and espouses the principles of Calhoun, by which the dissolution of the Union is sought, it shows itself to be incurably wedded to the most vicious phases of its record.

JUSTICE SHIRAS.

Mr. George Shiras, Junior, of Pittsburg was yesterday transformed into Justice Shiras of the United States Supreme Court by the brief, formal ceremony usual in such cases. He has reached the highest bench in the land, and the limit of a lawyer's professional ambition, excepting only the Chief Justiceship of the same court.

The one who knew little of the Junior Justice has received him with favor from an estimate based partly on the manliness of his bearing and partly on his published reputation. Those who know him best realize that he will add to the good repute of the institution by an appointment to which he has been honored. A man of strong character, a sound lawyer, free from prejudice, honest in thought and fearless in action, the new Justice will add to the high standing of America's most respected legal body.

EASILY ANSWERED QUERIES.

The Boston Herald thinks that it finds a defense for the Democratic proposition to return to the wild-cat State bank currency of ante-bellum days in the following words: "The currency of the Union is now, on conviction, be adjudged guilty of treason against the Commonwealth and be sentenced to pay a fine not exceeding two thousand dollars and undergo an imprisonment by separate and solitary confinement at labor not exceeding twelve years."

1. Is it not a fact that the national bank circulation, as at present arranged, is a temporary expedient, for which in a relatively short time some substitute must be found? 2. Does not the fact that the circulation of national bank currency was more than \$23,000,000 in 1882, and is now but \$17,000,000, indicate that the time has come for definitely considering what this substitution shall be?

3. Are there any other means of providing a substitute but these: permitting State banks to undertake the business, creating a great United States bank something like the Bank of England, or granting the unique right to the United States Treasury of issuing paper money?

There is an air in the putting of these questions which indicates a belief that they are unanswerable. Yet they are questions which every intelligent thinker on monetary matters had answered to his own satisfaction without ever mooted the necessity of throwing the subject into the chaos and uncertainty of forty-four different kinds of State legislation. Taking up the queries seriatim, the replies to them are as follows:

1. No. It is a fact that the use of United States bonds as a basis for national bank circulation is coming to an enforced end, but that does not necessitate the abandonment of the national bank circulation on an equally secure basis.

2. The time for discussing and determining how this question shall be settled came up two years ago, and THE DISPATCH has frequently urged legislation on the subject.

3. There are other means. Prominent among them is the obvious one that has long been urged and never opposed, except on the general ground of enmity to the national system, of permitting the national banks to deposit their first-class securities as a basis for circulation. To ignore that long discussed proposition would be a remarkable display of ignorance, if it were not explained by the exigencies of the campaign; but it is not more so than speaking of "granting the unique right to the United States Treasury to issue paper money." As this right has been exercised by the United States Treasury for over thirty years, it is not a matter of novelty. It is not to be condemned by a misplaced affectation.

THE DISPATCH has constantly urged the maintenance of the national banks, for their stability and the elasticity which their currency provides. But if the choice is between the uncertainties of the State banks and the uniformity of Treasury notes, the latter is manifestly the most conservative and stable currency.

THERE is a growing feeling of distrust, the Governor of Oklahoma says, as to whether the policy of allowing the choicest lands to the homesteaders is making them alienable and non-taxable for twenty-five years is fair and just, and whether, if this policy be persisted in, the future prosperity of the Territory will not be retarded. Of course any delay in the advance of the newly opened Territory to the rights of statehood, or any hindrance to the path of affluence of the white settlers and land-holders would be a terrible evil to con-

template. But it will be well for those concerned to remember that there are such things as Indian rights, and that the untutored aborigines have theoretically more claim to decide what constitutes fairness and justice than have the civilized, and supposedly more or less Christian, invaders of his lands.

CITIZENS OF NEW YORK AND AMERICA.

In general one can find no better form of celebrating the four hundredth anniversary of their country than by considering which President, to the election of whom the Democratic ticket represents the most patriotic principles and votaries accordingly.

It is perfectly true that the discovery of America opened up an incalculable mine of wealth to the human race as a whole. It is just as indisputable that by the practice of protection the American nation of to-day is insured an infinitely greater share in the riches and natural advantages of its country than it could obtain in any other way. "America for Americans" is no empty sentimentality; it expresses the most practical policy as even the Democrats would admit. It is a policy which will carry that body this year. Such a contingency is possible, but it is not equal to that of 1860. Chairman Carter's idea undoubtedly is to arouse the people of the United States to a realization of the fact which would mean the tariff and currency systems should such an event occur. The Democratic platform is a policy of the entire government of the country falling into the control of the party which stands for the tariff. It is a policy which the Republican committee to be calculated to awake the business interests of the nation to the necessities of the situation.

TO-DAY is the first date for registration in New York City and Brooklyn, and for some days past Tammany Hall has been sending out wagons on the outside of the city to collect the names of voters. "Register on Tuesday" inside of the city is a slogan that is being used by the party to induce the registration of Tammany voters.

ACCORDING to the best advice from New York the Republican plan of campaign in that State is not a novel one, but it is being carried out with a thoroughness that has not characterized the Republican movements in that State in several years. It will require the most vigilant and most energetic efforts of the Republican managers now in the country to vote. He ran well in the city, where the Democratic majority was much below Richard Croker's expectations.

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CAMPAIGN NEWS AND COMMENT.

FOUR weeks from today the Presidential contest will be in the full swing, and there is every indication that politics will be lively enough to suit the most captious from now until November. The campaign has not really opened. Toronto has gained, red-hot heat has been given to the race, but it has not really opened. Perhaps the most important declaration of the moment is that of Chairman Carter, backed by Senator Sherman and Aldrich, to the effect that if President Harrison falls of re-election both branches of Congress will be lost to the Republicans. By this it is meant that if Mr. Cleveland carries the States necessary to secure a majority of the electoral college, the same States will insure a Democratic Senate and House of Representatives. The statement that the Senate is in danger will strike conservative Republicans as rather an alarming announcement, as even the Democrats would admit that they will carry that body this year. Such a contingency is possible, but it is not equal to that of 1860. Chairman Carter's idea undoubtedly is to arouse the people of the United States to a realization of the fact which would mean the tariff and currency systems should such an event occur. The Democratic platform is a policy of the entire government of the country falling into the control of the party which stands for the tariff. It is a policy which the Republican committee to be calculated to awake the business interests of the nation to the necessities of the situation.

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TENNYSON'S OBSEQUIES.

Preparations for the body of Lord Tennyson will be conveyed from Balmore to London to-morrow. The transfer is to be made without display of any kind and as quiet as possible. When the train bearing the remains arrives at Waterloo station the casket will be placed in a plain hearse and conveyed to Westminster Abbey. Here the body will be met by the Dean and will be taken to the choir of the cathedral, where it will remain until the funeral, which will take place on Wednesday. Prior to the ceremony on Wednesday the relatives and friends of the dead poet will form a procession behind the coffin and will follow it up to the nave. The Prince of Wales and Lord Salisbury will attend the services. Lady Tennyson, Hallam Tennyson and his wife, and the other members of the family will follow. They will be followed by the dead poet's grandchildren and the other members of the family, including the Hon. Robert Lincoln, U. S. Minister to Great Britain, which reached him at Liverpool. The funeral will be held on Wednesday at 12:30 at Westminster Abbey.

Minister Lincoln replied: "Your telegram regarding the funeral of the late Lord Tennyson is received. I regret most deeply that my departure prevents me from accepting your kind invitation to attend the funeral. I am, however, representing my countrymen on this occasion, so afflicting to all the world and no less mournful to America than to England."

Lord Tennyson was an anxious to have America represented among the pall-bearers, and to-day they asked Mr. Henry White, Secretary of the American Legation, to act in place of Mr. Lincoln. Mr. White has signified his acceptance of the invitation, and the pall-bearers will be a family assembled at Aldworth to-day to take their last look at the dead before the body is conveyed to the funeral. No change had occurred in the features since death, and the poet looked as though he had just fallen asleep. The hair of his face had been raised by the hands of death, and calm and peaceful was the face which looked for the last time. Lady Tennyson was the last to leave the room in which the coffin had been laid, and she was seen to stand in the sacredness of her sorrow she bade a final adieu to him who was all the world to her. After the funeral had finally withdrawn the laurel wreath that encircled the brow of the poet was removed, but a number of its leaves were left at the head and feet. The arms were then brought forward and the hands were crossed upon the chest.

THOUSANDS LEFT TO ART.

A Wealthy Iron Manufacturer's Will a Big Benefit to Bostonians.

Boston, Oct. 10.—(Special.)—By the will of the late Arthur G. Tompkins, the well-known iron merchant of this city, he established two trusts, the first being \$100,000, the income of which was to be given to his mother during life, and at her death to his brother, who was living. At the death of both the sum is to be given to the Boston Museum of Fine Arts, to be used for the purpose of purchasing works of art, or for the maintenance of the Tompkins Central Hospital, 2500 Broadway, Boston.

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