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When space will permit. The Tribune is always glad to print short letters from its friends bearing on current topics, but its rule is that these must be signed. for publication, by the writer's real name: and the condition precedent to acceptance is that all contributions shall be subject to editorial revision.

SCRANTON, MARCH 22, 1900.

REPUBLICAN NOMINATIONS.

Legislature.

First District-T. JEFFERSON REY. NOLDS Second District-JOHN SCHEUER, JR.

The president, it is understood, wishes congress to pass a law enabling him to put Generals Fitzhugh Lee and Joseph Wheeler on the regular army retired list as a token of recognition of their recent services and as a compliment to the Confederate veterans and their sons who fought for a reunited country in the war with Spain. Such an action would be most appropriate.

An Agreement at Last.

HE BASIS of agreement at last reached in the senate upon the subject of Puerto Rico's needs is twofold in

character: First, the refunding of tariff duties already collected, and second, 15 per cent, of the Dingley duties for revenue purposes until the island government itself shall certify that such revenue is no longer needed.

This wise arrangement," to quote from the Philadelphia Press, "meets every possible objection. It safeguards constitutional rights. It arrests the plenary power of congress in dealing with the new territories. It stills all doubt or fear as to the position of the Philippines. But at the same time it regards first and chiefly the needs of Puerto Rico in levying a tariff and determining its permanence."

One thing has been thoroughly established during this discussion over Puerto Rico. The conscience of the American people is watching over the new dependencies, and spoliation, if it should be attempted, would meet with swift rebuke. As to the immediate details of the pending legislation, the country has visited censure unfairly and will soon perceive and regret its mistake; but its intent commands the highest respect and teaches that our republic may be trusted upon the whole to perform its new duties well.

General Lew Wallace says he fears that President McKinley is trying to make himself the emperor of a colonial empire. It is too bad that Lew should be so susceptible to fright.

How It Works.

AST YEAR the government lost \$29,000,000 in handling second-class mail matter; that is,

tor class of Filipines all believe that American occupation will mean an increase of prosperity for the islands." And the bishop adds:

"I was much pleased with the gen eral condition of affairs in the islands. The war seemed to me to be practically over. The only activity among the insurgents was a disposition to make raids of a guerilla character, that resemble more or less the freebooter wars of the adventurers of southern Italy, The great majority of the Filipinos are friendly to us; they have all confidence in our soldiers and are perfectly willing to come under our government. It interested me a great deal to see how this friendly feeling was shown by the children, who are devoted to our soldiers.'

Why is it that every intelligent ob server who makes the journey that Bishop Potter has just made, no matter what his opinions at the outset, comes back glad that the flag is afloat over Manila and the Philippines and certain that it is afloat to stay?

In the act of damning the Transvaal war and praising the valor of the Irish soldiers in one breath, Hon. John Redmond gives an example of b lowing hot and cold that would be difficult to excel.

Bryan's Platform.

HE PLATFORM of the Nebraska Democracy, adopted at Lincoln last Tuesday, and

more familiarly known as "Bryan's platform," because he wrote t, is worthy of some examination as

a curiosity in political literature. Like its indefatigable author, it pops at every head that sticks up as well as at many heads which have no existence in fact, and the man who can't find in it a plank to fit his hobby is mentally

deaf, dumb and blind. Let us condense its multifariousness: Endorses the Chicago platform. Wants income tax and direct election

of United States senators. Favors municipal ownership of mun icipal franchises.

Urges the initiative and referendum. Is willing to give liberal pensions to deserving soldiers and dependents. Approves the Nicaragua canal. Then come a host of condemnatory planks to signify how thoroughly the

boy statesman of the Platte is "agin the government." Among the objects and subjects sandbagged are:

The Dingley tariff law, which is called a trust breeder. Trusts in general, and the "money

trust," the "industrial trust" and the "international law grabbing trust" in particular. The Republican party for a variety of reasons. It has "abandoned American ideas and ideals"; has "plotted

against the financial independence of the individual"; is about to "nullify the Declaration of Independence"; and wants to "put the dollar above the man."

21	The gold standard	
0	National banks.	
-	Monopolies,	
w	The Puerto Rican Wars of conquest	
	sessions; also trade cannon's mouth.	purchased at the
17	Militarism	18

OPINION IN THE RAILROAD CASE

JUDGE PURDY'S DECISION IN THE MATTER.

240

Erie and Wyoming Valley Company Has No Authority to Build a Branch Road from Hawley to Lackawaxen-Erie Company Had No Lawful Right to Fill Up Bed of Canal Under Its Bridge or to Construct the Track Which It Laid Across the Canal.

The opinion of Judge Goorge Purdy in the equity case of the Erie and Wyoming Valley Railroad company against the Eric Railroad company, which was filed Monday at Milford, Pike county, is in part as follows:

This is a proceeding by bill, by the Erie and Wyoming Valley Railroad company, to restrain the Erie Railroad company, to restrain the Erie Railroad company from interfering with the plaintiff's use for railroad purposes, or otherwise, of a strip of land formerly the waterway of that portion of the Delaware and Hudson canal which ex-tended through Pike county from Haw-ley to Lackawaxen, with fifteen feet in width on each side of said canal; and to compel the removal by the defend-ant of all material deposited or placed by it on the said land, on or after the twenty-first day of November, 1899.

After stating the facts which he had deduced from the evidence the judge

Says: Upon the foregoing state of facts we reach the following conclusions of law: First—At the time of the conveyance of the canal property by the Cornell Steamboat company, to the plaintiff, the canal was not a parallel or competing line, with the plaintiff's rail-road, within the meaning of Section 4 of Article 17 of the Constitution of

of Article 17 of the Constitution Pennsylvania. Second—The plaintiff corporation ac-y quired no right, by virtue of its pur-chase from the Cornell Steamboat company, either to continue the opera-tion of the canal, or to construct and operate a railroad thereon. Third—So far as the plaintiff corpor-ation has authority to locate the pro-posed line of railroad, from Hawley to the state line, at Lackawaxen, it has

the state line, at Lackawaxen, it has taken the requisite legal steps to do so.

NOT A BRANCH.

Fourth-The plaintiff's proposed rail-road from Hawley to Lackawaxen is not a "branch" within the purview of Section 9 of the Act of April 4, 1868. Fifth-The plaintiff corporation has no authority in law to construct the proposed railroad, from Hawley to Lackawaxen. Lackawaxen. Sixth-The plaintiff acquired no title

to, or right in, the land in question by reason of its acts in locating and adopt-ing the route, from Hawley to the state line at Lackawaxen, for railroad pur-Seventh-At the time of the acts by

the defendant, of which the plaintiff complains, the plaintiff had possession of the land upon which these acts were committed, under a paper title coming from the Delaware and Hud-

son company—the former owner. Eighth—The right of the Delaware and Hudson company to transfer the land, involved in the issue, to the Corland, involved in the issue, to the Cor-nell Steamboat company, and the au-thority of the latter company to trans-fer same to the plaintiff, cannot be questioned by the defendant corpora-tion in this case. Ninth—The defendant corporation had no lawful with other to fill the

Ninth—The defendant corporation had no lawful right, either to fill the canal basin under its railroad bridge, or to construct the railroad track, which it built about November 26, 1899, across the canal west of the bridge. The platform solves all our weighty

as an extinguishment of these condi-tions and restrictions, and gave the defendant the free use of the land at the railroad crossing, for any neces-sary purpose connected therewith, so long as the limit of three tracks in width is not exceeded; and cite, in support of this theory, Ladd vs. City of Boston, 151 Mass., 555; Trustees of Columbia College vs. Thacher, 87 N. Y., 311; Orne vs. Friedenburg, 143 Pa., 47, and numerous other cases. This question is treated at length in a foot-note to Ladd vs. City of Boston, 21 am. St. Rep., 484; and undoubtedly it is the rule, as there stated, that "a covenant, condition, or agreement, in a deed of conveyance will not be en-forced in equity, where such changes have taken place, since the deed was executed, as to render specific perform-ance of the covenant inequitable." As, where enforcement of the contract would impose great hardship upon the defendant and be of little benefit to the plaintiff; Columbia College vs. Thatcher, infra. But the case before us is not a grant of land with a restriction as to its use; it is a grant to the New York and Erie Railroad company, and its successors, of a right of way over, and at a certain height above, the land of the grantor. What was not granted remained in the grantor. The grantor does not reserve, to itself and its successors, the right to pas with its boats, etc., under the bridge to be constructed by the

to itself and its successors, the right to page with its boats, etc., under the bridge to be constructed by the grantee; it reserves nothing—respect-ing the matter in contention—out of what is granted, but the right to con-nect with the grantees railroad. Noth-ing beneath a point seventeen feet above the bed of the canal, was in-cluded in the grant; and we concluded that the Canal company and its suc-cessors in title have the right to use this land beneath the bridge—includ-ing the space which defendant filled, for any lawful purpose which is not detrimental to the bridge or to its use.

PLAINTIFF'S REMEDY.

As to plaintiff's remedy at law, etc. Proceeding upon the assumption that the plaintiff has no lawful right to

and who comparable injury to the plaintiff and why compensation for the highry cannot he recovered in a common law action. It is not a case where the damages are estimable only by con-jecture. There is nothing to show that this land is, in itself, of any special value or that it is appropriate for any marticular use other then for plain.

previously served, leads to the con-clusion that the prime motive of the defendant, in the premises, was to ob-struct and hinder the plaintiff in its operations respecting the location and construction of its projected railroad, regardless of the defendant's belief in its legal right to do this filling. The guise under which the defendant con-structed this switch is too transparguise under which the defendant con-structed this switch is too transpar-ent to conceal its identity. It is true the defendant's division superintend-ent, who did the work, was permitted by us (and, doubtless, improperly so) to say for whom he did it. But there is no evidence in the case of the cor-porate existence of any such body as the Delaware and Southern railroad; no evidence that the work was author-

the Delaware and Southern railroad; no evidence that the work was author-ized by any one, other than the de-fendant, and it was done by the em-ployes of the defendant, under the di-



Buy your Watches of an old reliable house. Not some Wyoming avenues. Providing that no ordinances providing agent who will open shop for two or three months and then skip out. We are here to

434 Lackawanna Avenue

White Clover Seed,

Lawn Seed,

for city improvements be considered by councils if not accompanied by plans and specifications. Providing for one electric light in the Fourteenth ward. Providing for one electric light in the Sixth ward.

Sixth ward. Adjusting the pay of permanent firemen. Providing for a sewer on the easterly side of Washington avenue, between New York and Marion street.

Fork and Marion street. Providing for the payment of claims for the furhishing of Crystal hose house, Providing for the construction of side-walks on South Main avenue.

waits on south Main avenue. Providing for the payment of the claim of William Connell for the constructing by him of pavement in front of Connell building. Providing for the construction of gut-ters in the Nineteenth ward.

NEVER REPORTED.

A large number of ordinances and resolutions which were referred to the committee never got beyond them. The fire department committee has the largest number of these to its credit Among them are the following:

Ordinance providing for the payment of claim of Spruks Bros. against the city. Ordinance providing for the appoint-ment of two additional permanent men in order to give the present paid firemen twenty-four hours leave of absence when they desire.

Ordinance providing for additional per-manent man for the Cumberland Hose

company. Ordinance creating the office of assistant fire chief and fire marshal. Ordinance providing for a fire hydrant in the Twentleth ward.

Ordinance providing for a fire alarm box in the Twentieth ward.

The only thing that the judiciary committee held back was the resolu-tion directing that ex-Patrolman Martin D. Flaherty be paid \$216.17, same being his salary while suspended from duty during Mayor Bailey's term. The light and water committee didn't report on the resolution providing that

pany be asked for how much they would turn over their plans for bringing the water of the Susquehanna river

hibiting the blocking of the West Lackawanna avenue crossing.

The sewers and drains committee held up a resolution directing that the city clerk advertise for proposals for the construction of a sewer in the Ninetcenth sewer district, while the sanitary committee failed to act upon the resolution requiring physicians to tack up notices of contagious disease. The box set aside for the papers resolutions and ordinances referred to special committees is full, and contains numberless claims and a large number of miscellaneous resolutions.

MARRIED IN CALIFORNIA.

Well Known Scrantonian Weds in Gunster Far Off Fresno. rriage of Arthur Albright



Fil de Soie, Peau de Soie, Dotted Swiss and Swiss Grenadine, Anderson's Silk Cord Scotch Ginghams, Irish Dimities, Madras, Cheviots, Linen Ginghams, French Percales, Etc. Etc. most of the above. 510-512

WASH

GOODS

One-half hours personal

iuspection of our

this land is, in itself, of any special value or that it is appropriate for any particular use, other than for plain-tiff's contemplated railroad; and we can see nothing to prevent the owner of the land from showing how, and to what extent, it is damaged by this filling and from recovering such dam-ages—up to the limit of the value of the property before the trespass was committed. We are unable to see why this rem-edy is not complete and adequate. It is claimed by the defendant that the filling was done for the sole pur-pose of strengthening its bridge and making it safe for the heavy traffic over it; and, that it was infringing no right in so doing. If its operations had ended with the filling, we might adopt this view of the matter. But, considering this work in connection with the subsequent act of the defend-ant in hastily constructing a switch across the canal, in utter disregard of the injunction order, which had been previously served, leads to the con-clusion that the prime motive of the to this city.

the Lackawanna Iron and Steel com-

The rallways committee held up several resolutions, the most important of which was the one directing the chief of police to enforce the ordinance pro

expe nanoling it was \$20,000,000 more than the postage received. Had the Loud bill been in force, it would have overcome this difference and cleared about \$4,000,000 on the transaction.

Some of the big publishing houses which are fighting the Loud bill issue novels at stated intervals and call the issues periodicals, thereby securing the advantage of the cent-a-pound postage rate when other books are

charged for at the rate of 4 cents a pound. On this basis the government receives \$22.40 a ton and has to pay of the stuff, not to speak of the cost of clerk-hire, organization, etc. These book publishers have no more right to expect Uncle Sam to lose money in

Of course there are other abuses of the mails. The free seed business is we don't blame congressmen for distributing their share. The wholesale franking of stump speeches for political effect is an abuse and a bad one. Political committees cught to pay for their mail privileges just the same as ordinary citizens have to. Maybe the railroads charge too much for hauling the mails. If they do, that, also, should be remedied. But at present the subject before the house is the Loud bill and it ought to pass.

More than 200 applications have been made to the comptroller of the currency at Washington by persons wishing to take advantage of the new currency law to organize national banks in small communities where banking facilities do not exist. This feature of the law will unquestionably prove to be a widespread benefit.

The Invariable Rule. HE WORDS of Bishop Potter descriptive of the change in his opinions wrought by a personal view of the Philip.

er we ought or ought not to have entered, into the possession of them is, he asserts, purely an acedemic matter. longer having practical value.

But what of their future? "I believe," says this former colleague of Schator Hoar, ex-Secretary Boutwell regular and frequent means of commu-nication with South America on both and other anti-imperialists, since converted to the administration's side by personal study of the facts, "I believe that 'fof' a' while a military form of government is the only feasible one. The Filipinos cannot govern them-selves, or at any rate they cannot or-genize a government of their own. It is-nonsense for any one to say that they cha. It is only in the rarest cases that any of them have shown any reat capacity for governing. Several friends of Aguinaido came to me when I was in Hong Kong and told me that they were satisfied that there could be no success for his undertaking. The betverted to the administration's side by

reas for his undertaking. The bet- ping

war problems with easy dexterity. It airily affirms that the "constitution follows the flag"; blithely favors "an immediate declaration of the nation's purpose to give the Filipinos, first, a

stable form of government; second, independence; and, third, protection from outside interference"; and modestly wants to "extend the nation's influence, not by force but through the persuasive power of a high and honorable example."

John Bull.

The gem of the platform we reserve for the last. "Instead of a system which would chain our nation to the almost \$150 a ton for the mere hauling gold standard and compel it to participate in all the disturbances which come to European nations, we demand," it says, "an American financial system, made by the American people for themthis way than they would have to selves, to be secured by the immediate ask him to pay their printers.

restoration of the free and unlimited coinage of gold and silver at the present legal ratio of 16 to 1 without waltan abuse, although so long as it exists ing for the aid or consent of any other nation."

And there you have the whole story of Bryanism, self-told and self-illustrated

The endorsement of the clergy is one of the most effective of arguments in favor of expansion. None realize more fully than those interested in spreading the gospel to the unenlightened the futility of attempting missionary work in the Orient unless under the protection of the flag of free-

The disasters which have overtaken those extremes of enterprise, "Sapho" and the Christian daily, indicate that it is perhaps better to aim at the happy medlum after all.

The Ameer of Afghanistan appears to be about the only monarch who has thus far resisted the invitation of the yellow journals to make a newspaper war upon England.

QUESTIONS.

pine producm are instructive. "We shall keep the islands now," he says, although at one time he wanted to give them up, "because there is no way to get rid of them honorably." Discussion of the guestion as to wheth-

the predominating commercial maritime power in the Pachic as soon as possible? To enable the United States to become the controlling commercial maritime pow-cr of the Caribbean and Gulf of Mexico before a canal is cut through the 1sthmus?

To establish under the American flag oceans? To win for the United States & respect-

Tenth-With regard to the operations of the defendant in filling the canal be-neath the railroad bridge, the plaintiff

has an adequate remedy at law. Eleventh—The defendant should be required to remove from the land in question, the railroad switch, con-structed by it after the injunction or-der was served; and should be enjoined from any further acts upon or about the land in question until it has ac-quired a legal right in the premises. Tweifth-The defendant should pay the costs of this proceeding.

Considerable space is devoted to a discussion of the plaintiff's rights under the purchase from the Cornell Steamboat company and the opinion then proceeds as follows:

PLAINTIFF'S RIGHTS. As to the plaintiff's right to construct

As to the plaintiff's right to construct the road as a "branch." But if it be conceded that this pur-chase of the canal by the plaintiff gave it a perfect title thereto, it gave it no right to construct a railroad thereon. Such right must have some other foundation than ownership of the soll over which it is located. If, under the branching power, the plaintiff may build the contemplated railroad from Hawley to Lackawaxen, it may also build another branch from Hawley to Port Griffith, and thus have two distinct and independent lines be-tween its terminal points, under one

tween its terminal points, under one charter. And if the topography of the county would permit the construction of a third line, and some other carry-ing corporation were likely to get in its way, it might again go into the branch-me business and remost the branching business and repeat the proceeding on the other side of its present line: or it may build from Port Griffith to Lackawaxen direct, instead of from

Hawley. We believe it was never the inten-We believe it was never this act, to tion of the legislature, by this act, to give any such wholesale license to raiload corporations.

road corporations. The operation of the plaintiff's pres-ent road by the defendant would not, perhaps, preclude it from constructing a branch from the main line at Lacka-waxen to Hawley. But it is bound, by the terms of the lease, to pay for the use of plaintiff's line. fifty thousand dollars a year for eleven years yet to come, unless relieved by failure of the plaintiff to furnish coal for transporcome, unless releved by latture of the plaintiff to furnish coal for transpor-tation over the line, as provided in the contract of lease; and, so long as the lease is in force, it has no use for an-other line, over the same territory. But doubtless it is the purpose of the plain-tiff, in constructing another line, to carry the coal of the Pennsylvania Coal carry the coal of the Fennsylvania Coal company, heretofore delivered to the defendant for transportation; in which case the defendant would be forced to terminate the lease. Then the plain-tiff would own and control two lines of railroad from Hawley to Lacka-waxen, and the defendant would have a section of railroad from Hawley to

waxen, and the defendant would have a section of railroad from Hawley to Honesdale, with no connecting link from Lackawaxen and with no feasible route over which to construct one. There is no express provision in the lease, requiring the plaintiff to furnish freight to the defendant and no stipu-lation that plaintiff shall not construct another line, but, in view of the situa-

another line, but, in view of the situa-tion we do not feel it our duty to strain any points in aid of the plaintiff's operations.

ABOUT FILLING CANAL. As to the right of the defendant to

As to the fight of the defendant contend fill the canal: Counsel for the defendant contend that the conditions and restrictions contained in the grant of May 1, 1848, by the Delaware and Hudson Canal company to New York and Erie Rail-road company were intended by the parties only for the benefit of the Conal company and its successors in the operation of the canst; and that the discontinuance of the use of the canal, as a waterway, and its allena-tions by the Canal company, operated fill the canal:

rection of its superintendent. ASCERTAINING DAMAGES.

same way as those for the filling. But the circumstances, under which this

Jones to Miss Ellazena Byxbee was solemnized at the home of the bride's parents in Fresno, California, on Tuesday evening last. The groom is a son of Mr. and Mrs. Cyrus D. Jones, It may be said that the damages for the construction of the switch may be ascertained and compensated in the

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& Connell

of this city. The parents of the groom, his brother and sister and a number of other persons from Scranton were present at

latter work was done, are entirely dif-ferent, and are such that we should not permit the act to pass unrebuked. We think the defendant should be rethe wedding ceremony. We think the defendant should be re-quired to undo what it has done in ap-parent contempt of the order of the court; and, in view of the disposition manifested by this latter proceeding, we think the defendant should also be OFFICE

we think the defendant should also be enjoined from any further illegal acts in the premises, and be required to pay the costs in the case. Since the final hearing of the case, counsel for the defendant have called our attention to the case of North Shore Railroad Company vs. Pittsburz, Fort Wayne and Chicago Railway, 193 Pa., 641, holding that a court of equity has no jurisdiction where the title to land is involved. Doubtless it is the rule that when there are material facts in dispute between the parties, respecting the title to land, equity has no jurisdiction.

But in the present case there are no questions of fact in dispute relating to the title: and if the question were to be settled in a common law action, the court must declare the rights of the present of the set of the parties, as in the present case. But, were it otherwise, it is too late to raise this question, as the case in 193 Pa.,

This dustrial, and the data in his fat, in accordance with these views we make the following order and decree: This case having been heard on bill, answer, replication evidence and argu-ment of counsel, after due considera-tion of the questions involved in the ment of counsel, after due considera-tion of the questions involved in the issue. Now, March 19, 1900, it is or-dered, adjudged and decreed, that the preliminary injunction heretofore awarded be and the same is, amended or modified so as to enjoin and re-strain the defendant, the Erle Rail-road company, its agents, servants and employes, from depositing material of any kind upon, and from any inter-ference with the land known as the Delaware and Hudson canal, and the strip of land fifteen feet in width on either side thereof, formerly owned by the Delaware and Hudson Canal com-pany and situated in the county of Pike and state of Pennsylvania. And it is further ordered that the said Erle Railroad company within ten days it is further ordered that the said Erie Railroad company within ten days from the time it is served with a copy of this order, remove from the land aforesaid, the railroad switch or track, and all materials connected with the construction thereof, which was built by it, or by its employes, on or about the 26th day of November, 1899, across said canal and land, in the vicinity of Lackawayen, in the county of Pike

Lackawaxen, in the county of Pike aforesaid. EFFECT OF DECREE. This order and decree, however, is

This order and decree, however, is not to be construed to prohibit or pre-clude the said defendant, the Eria Railroad company, from taking any legal steps, desired by it, to acquire any of said lands, or any rights there-to or therein, by virtue of the power of eminent domain or other lawful means, either with respect to its present line of railroad, or with regard to any branch or other railroad which it may desire to construct. desire to construct. And this order and decree is not to

And this order and decree is not to be construed to preclude the plaintiff from recovering, in a common law oc-tion against the defendant, for any damage sustained by the plaintiff by reason of the filling of the cendant, as stated in the blaintiff's bill of com-plaint. And as thus, changed and modified the injunction is continued and made permanent and final. And it is further ordered and decreed that the defendant, the Erie Railroad company, pay the costs of this pro-

company, pay the costs of this

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> The heaviness is more apt to be due to indigestion than to heart or lung disease. A feeling of heaviness in the chest region is not a symptom of heart or lung affections. Take a Ripans Tabule and eat oranges, figs or apples every morning."