

# THE WILMINGTON POST.

W. P. CANADAY, Ed'r & Prop'r.

WILMINGTON, N. C.  
SUNDAY MORNING, JAN. 1, 1881.

Attention is called to the explanation of the Secretary of the Treasury in regard to the desirability of confining the refunding operations of maturing bonds to the issue of 4 per cent., instead of attempting the 8½ per cent., as proposed by Mr. Fernando Wood's bill.

While we, and some of the southern Democrats, are denouncing Gov. Garcelon and Council for cheating the majority of the voters of Maine out of the result of their expressed will at the polls, we might find a similar thing to denounce nearer home. We may say right at home, in the city of Wilmington. While this city had nearly 2,000 Republican majority, a squad of Democrats went to Raleigh and procured the passage, through an infamous legislature, of a bill which so divided the city into wards that the Democrats have six Aldermen and the Republicans four. This was done by creating three wards with about 1,000 voters, and two wards with about 3,000, and also so that the taxable value of property was less in the three wards than the other two. We are living under the bare-faced fraud now in this city, in the charter of which the principle that all political power by right exists by the consent of the governed, is denied. People are living here and paying taxes under a city government which is as much a fraud as Garcelon proposes in Maine, But we can't help it yet.

It is admirable, the manner in which that excellent statesman, Lot M. Morrill emerges from the quiet of the Portland Custom House, and stills the angry waters, even as Neptune rose to the surface and quieted the stormy Aegean by a nod. His first letter to Garcelon was a model of the most approved style of epistolary writing of that kind, and put the distorted wits of Garcelon to the test. His second letter was still more smoothly diplomatic, and the interlocutions of the "memorandum" appended to it, were in themselves a complete refutation of the shallow subterfuge on which Garcelon had based his actions. Everybody turned an ear towards the tones of the sage, excitement cooled, all parties gave attention, and the conspirators were non-plussed. The false posse culminated in the insinuating interrogatives proof that instead of having obeyed the law, as he had claimed, he had been violating it. It was a triumph of epistolary dialectics which confounded opponents and soothed the raging tempest of the popular "uprising."

Mr. Park Benjamin in his official report of the Tay disaster considers certain hypotheses. This bridge, it appears, was built on the assumption that it would withstand six times the weight and twice the wind pressure likely to be encountered. How then did it occur that 11 spans should suddenly fall when the pressure of the train was only on two? He speculates how iron changes from a fibrous to a crystalline state in consequence of steady and repeated vibration, and cites instances how iron has been thus weakened. And he raises the question whether this Firth of Tay bridge, eleven spans of which fell at once, when nine of them had no extra pressure, is not to be explained on this theory of the iron being weakened by the isochronous vibrations caused by the wind, so that when the extra weight of the train came on the vibration was increased so far laterally by the extra pressure that the strength, or rather weakness, of the iron did not permit the span to recover and swing back. If iron, that old, honest and reliable metal which has served the world so long, has now become demoralized by wind and gets weak and frivolous, and performs such antics as it did at the Tay, it is well if we are careful how we ride on giddy Fink trusses, a hundred feet in the air over chasms, cataracts and wild waters.

The emigrants to Indiana do not seem to agree with the florid representations of Senators Ransom and Hill about the heavenly condition in which they are situated in the south. Somebody up in Indiana has interviewed the North Carolina emigrants. One of them says, "I have a plastered house to live in with five rooms. Me and my family have plenty to eat, and we never had such good times in our lives. I get 60 cents a cord for cutting wood. My wife worked for one of the neighbors yesterday and got 75 cents for it. I never met such good white friends in my life." The correspondent observes that they all talked in the same way.

The small islands of the West Indies, known as the Leeward Islands, are becoming a source of sugar supply to this country. Five years ago none was received from them. Last year three hundred thousand dollars worth was shipped.

The old Astor House is yet owned by the Astors.

## THE THIRD TERM.

Those persons among the Republicans who are forgetting the example and inculcations of Washington, Jefferson, Madison, Monroe and Andrew Jackson, and the inherent prejudices of nine-tenths of the American people of all parties, against any departure from the Republic and any advance towards a monarchy, will do well to pause in their present infatuation. It is not safe for a man to put one foot into quick-sands, nor is it safe for the Republican party to commit an act contrary to all our experience, repugnant to the public judgment, and an infraction upon the principles of our institutions. If this blunder is committed, it will have to be apologized for forever after. If the Republican party were weak and in distress, and in peril, there might be some shadow of excuse for this trifling with vital principles. But it is not. It is strong in the hearts of the people, and the way to keep that strength is not to take the most direct way to lose it.

## A CHAPTER OF JUDICIAL HISTORY.

A memoir of the late Benj. Robbins Curtis, who occupied a place upon the bench of the Supreme Court for several years, and who resigned on Sept. 1st, 1857, to take effect on the first day of the following October, has recently been published by Little, Brown & Company, Boston. The work is edited by his son, B. R. Curtis, and among the matter is a detailed statement of the reasons which induced Mr. Curtis to resign. The reason in a nut shell was contained in a letter addressed to Mr. George Ticknor, in which Judge Curtis says, "Then as regards the court and the public, I say to you in confidence, that I cannot again feel that confidence in the court, and that willingness to co-operate with them, which are essential to the satisfactory discharge of my duties as a member of that body; and I do not expect its condition to be improved." The statement which we are about to make is drawn from sources contained in the book, and will be especially interesting to lawyers. We publish the details as we find them, and have no doubt of their accuracy.

In the Deed Scott case, the opinion of the Chief Justice which was accepted and treated officially as the opinion of the court, was delivered in a conference of the court on Friday, the 6th day of March 1857. It was also read in court on the next day, Saturday, March 7th. The facts in the case were that Scott, a slave, was taken by his owner from the slave state of Missouri to the free state of Illinois, and thence to Fort Snelling in that part of the Louisiana purchase which was above 36° 30' N., kept there from 1832 to 1833, and then taken back to Missouri with his wife and four children. Scott brought suit for his freedom in the Circuit Court of Missouri, and got a decision in his favor; but it was taken to the Supreme Court of Missouri on a writ of error, where the decision of the Court below was reversed. On this decision the case was taken to the Supreme Court of the United States, on a writ of error. Judge Nelson, to whom was assigned the decision of the Court, avoided the question whether Scott had become a citizen of Illinois in consequence of his stay there, and confined himself to a discussion on the merits of the case.

Judge Nelson's opinion decided that Scott became a slave again by returning to Missouri, and that the judgment of the Circuit Court of Missouri should be affirmed. This opinion of Judge Nelson was afterwards, at the next term set aside, and two questions framed by Chief Justice Taney, to be argued *de novo*—first, as to the powers of the Appellate Court on certain conditions, and, second, whether the Appellate Court is bound to take notice of the whole record, and whether the plaintiff is a citizen of the state of Missouri, within the meaning of the eleventh section of the Judiciary Act of 1789. So the second argument was made.

In the meantime Judge Curtis had made a dissenting opinion to the decision of the Court made on the 7th of March, and it had gone on record, as he supposed, and soon appeared in a Boston paper, creating great excitement. After this had occurred, he learned that the decision of the Court delivered on the 7th of March had "been materially altered." Whereupon he requested of Mr. Carroll, the Clerk of the Court a copy of it, and it was refused him. Whereupon he wrote to Chief Justice Taney asking for a copy of the decision. To this the Chief Justice replied in a letter sending him, not the decision read to the Court on the 7th of March, but a copy of his order to Mr. Carroll, the Clerk, directing him not to give the opinion to anybody. Upon this Judge Curtis wrote to the Chief Justice sharply, replying to his criticism, to which Judge Taney replied with a good deal of perturbation and insinuation. Judge Curtis then replied again at length, and with stiff dignity, and Taney replied again very briefly, and the correspondence ceased.

In the notes which Judge Curtis made at the time on these letters, he said, "these additions [to the original opinion read twice in Court and agreed to by a majority of the Court] amount to upwards of eighteen pages. No one can read them without perceiving that they are in reply to my opinion." The

fact turned out to be that instead of printing the real decision agreed on the 7th of March, more than eighteen pages were added, only three Judges assenting! It was well that Mr. Curtis withdrew from among men who were by their conduct debasing the highest Court to the purposes of demagogues. The old Chief Justice never explained by what process he amended and altered an opinion which had once been agreed upon in open Court.

## REFUNDING SCHEMES.

AN IMPORTANT LETTER FROM SECRETARY SHERMAN.

Senator Morrill makes public the following letter from the Secretary of the Treasury concerning refunding:

TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
WASHINGTON, D. C., Dec. 27, 1879.

Hon. Justin S. Morrill, Committee on Finance, United States Senate:

Sir:—In response to your verbal inquiries I have the honor to submit the following observations respecting the refunding of the National debt:

In addition to the \$18,415,000 six per cent. bonds absolutely payable December 31, 1880, and \$945,000 payable July 1, 1881, the following bonds of the United States will become redeemable within the next year and a-half, viz:

May 1, 1881, five per cent. \$508,440,350 June 30, 1881, six per cent. 264,321,350

Making a total of \$72,761,700 The annual interest on which is \$41,700. The above articles will be sent to you by mail, postage paid, on receipt of 50cts.

About one half of these are coupon bonds having coupons running only to the dates of redemptiveness, and, if they are not refunded or paid off, the holders will be supplied with additional coupon-sheets at the expense of the Government, and at a cost probably nearly as great as would pay for an original issue of a loan.

It is manifest that these bonds cannot be paid off in 1881, and I therefore feel it to be my duty to recommend in my annual report that authority be granted to refund them into four per cent. bonds, thus effecting a saving in the annual interest charge of about ten and one-half millions.

The present time I believe to be most advantageous for such refunding, probably much more favorable for the operation than any future time, and we have at hand, in the four per cent., considerably well known and extremely popular.

The successful funding of so large a portion of the public debt and the bonds during the past year was mainly due to the exceptionally favorable state of our foreign and home trade and the remittance of specie payments, and it is my firm belief that our wisest course is to fund the remainder of the bonds bearing a high rate of interest while this state of affairs continues.

The bill introduced in the House of Representatives on the 31 instant by Hon. Fernando Wood, chairman of the Committee of Ways and Means, and which has been sent to me, provides as follows:

"That so much of the authority conferred upon the Secretary of the Treasury by the acts of July 14, 1870, and January 23, 1871, to refund the public debt to the extent of \$1,500,000,000, as has now been exhausted and executed, so, and the same is hereby, modified so as to limit the rate of interest upon the bonds to be issued, as authorized by these acts, to a rate of interest not to exceed 3½ per centum per annum."

This bill, if enacted into a law, would perhaps be construed as prohibiting the sale of bonds for resumption purposes at a greater rate of interest than 3½ per cent., although such is not prolix in the intent of the bill.

Aside, however, from its possible bearing upon the ability of the Department to maintain resumption, I believe that its passage would be fatal to refunding, although I should, of course, be happy to refund the debt into three and a-half per cent. if it were practicable to do so.

That a three-and-a-half per cent. bond would not now sell for par I am fully satisfied, and I see no reason to expect that such a bond will be more favorably looked upon as an investment in 1881 than it would be now.

On the contrary, with the revival of industry and the great activity in manufacturing, signs of which are already to be seen in all parts of the country, and the constant and increasing demand for money arising therefrom, it seems to me to be not at all certain that we shall then be able to borrow freely at even four per cent. per annum, and of the correctness of these views I received the most positive assurances during my recent visit to New York.

Our forty per cent. consols now having twenty-eight years to run, were worth during the first half of this month \$102 net, at which price they yield to the investor (to carry to maturity) 3.855 per cent. per annum.

A thirty years' three and one-half per cent. bond to yield the same income would have to be purchased at \$37.90. Again, a four per cent. bond to yield but three and one-half per cent. per annum would have to be purchased at \$18.88, and, therefore a three per cent. bond cannot sell for par until the four per cent. bonds are worth \$18.88.

With a small surplus in the market the great bulk of the money having been absorbed in permanent investments, the four per cent. bonds are now selling for nearly the best price ever obtained for them, but it is not probable that this price can be fully maintained against an additional issue of any large amount, and I would remind you that during the late refunding operations, sales of these bonds had to be suspended more than once owing to arrangements in the money market and the unfavorable state of the exchanges, these causing the bonds to fall below par, at one time to ninety-eight per cent. Fortunately, these arrangements were but temporary, and after *one-half* or less delay, the Department was able to resume sales.

As before stated, I think the present an exceptionally favorable time for the refunding and I am satisfied that the five and six per cent. bonds, so soon to be made redeemable, cannot be so safely held as hell is of lofy Beelzebubs.

In the notes which Judge Curtis made at the time on these letters, he said, "these additions [to the original opinion read twice in Court and agreed to by a majority of the Court] amount to upwards of eighteen pages. No one can read them without perceiving that they are in reply to my opinion."

The and so profitably provided for in any

other manner.

The very large amount to be refunded prior to July 2, 1881, nearly \$800,000, is considerably in excess of the amount refunded in any one year since the act was passed, and I respectfully submit that the time now available is none too great for the purpose.

The passage of the bill introduced by yourself in the Senate and by General Garfield in the House of Representatives will, I believe, enable the Department to refund the entire amount prior to the maturity of the bonds, but if it should not result in speedily refunding the whole of them, that clause of the bill which renders applicable the provisions of the act of July 14, 1870, &c., will enable the Department to "call" such five per cent. bonds after they shall have matured, and to redeem them with the proceeds of the sale of the four per cent. bonds so authorized, and such proceeds should include, of course, whatever premium the bonds may then sell for.

While it is not thought safe to assume that, upon resuming funding operations (with the prospect of an emission of four per cent. about equal in amount to the present issue), the bonds will remain at a price much if any above par, it is thought that under the operation of the proposed bill parties may be induced to surrender the bonds now held by them upon the payment, not to exceed the difference in interest between the bonds received and those issued.

Very truly yours,

JOHN SHERMAN, Secretary.

## MAINE.

As we write on Wednesday the situation in Maine is as follows:

First. Is it the duty of the Governor and Council, or have they the right, to effect a return because the whole number of ballots is not stated therein, as in Ossipee and other towns; or because the whole number of ballots is not available for the several candidates, as in Farmington and other towns?

Second. The arms and ammunition have been quickly removed from the arsenal at Bangor to Augusta.

Third. The troops of the state are to move at a moment's notice.

Fourth. The Mayor of Augusta informs the Governor that he can preserve the peace in that city, and requests him not to order troops to the city. On this subject Garcelon is non-committal.

Some Republicans are proposing to refer the returns to the last Senate, which they assert is justified by law.

And they determine to exhaust all legal means. The Garcelon gang are trying to get up counter meetings.

The aspect of things may be changed before the end of the week. It is now well settled in the public mind that it was in the discretion of the Governor and Council to allow the returns to be corrected or amended, and that they made indecent haste in doing what they were not obliged to do, by rejecting returns on account of irregularities, when the spirit of the law was that opportunity should have been given to correct the return. This adds to the damning villainy of the Garcelon gang. The N. Y. Herald says sensibly:

No sane human being can doubt that if the votes legally deposited in the ballot boxes could be legally counted the Republicans would have a majority of the legislature. The citizens did their part in depositing their legal votes in a strictly legal manner. They ought not to be defrauded of their choice by the negligence of the returning officers, unless the law is so explicit and absolute that no way can be found for making the popular will effective. When technicalities are made to obstruct right and justice Governor Garcelon himself should rejoice to have a way pointed out to him by which the intentions of the voter could be respected without any violation of law. There is nothing which he should do so much desire as to be relieved from the odious responsibility of nullifying the votes which were legal and honestly put into the ballot boxes. He will make a greater blunder if he refuses to submit the points of the Court.

Third. Gov. Garcelon at Bay—The Legal Aspects of the Case—Mr. Lot M.

Morrill Submits the Legal Points for the Supreme Court to Consider—The Fallacy of the Fusionist Exposed.

We submit a good deal of space to the memorandum of ex-Gov. Lot M. Morrill, of Maine, furnished in reply to the request of Gov. Garcelon that he would furnish the legal points which he desired the Supreme Court to consider. He writes a letter to Garcelon which is a model of quiet sarcasm.

What we publish below is termed a "memorandum." The points specified open the way to the bottom of the whole of the infamous fraud, by showing that it was the duty of the Governor and Council, if they found the returns from any place technically defective, to allow an opportunity to amend or correct them.

The following are the questions to be submitted to the Court:—

MEMORANDUM.

1. It is the duty of the Governor and Council, in canvassing the returns for Senators and Representatives to the Legislature, to allow corrections therein by the record under the Constitution and laws of the state, and to what cases can such corrections extend? If not for their duty, have they then the right or power to allow such corrections at their option?

II. Is it a return signed by less than a majority of the Alderman of a city so defective that it cannot be counted as it stands? If so defective, can a duly attested copy of the record be substituted for it and be legally counted? The cases of Lewiston, Bath, Rockland, and Saco are referred to.

III. Is it a return which places a number of voters opposite the word "scattering" so defective that it cannot be counted when the whole number of votes so placed, added to any minority candidate, would still leave a clear plurality to another candidate? And if so defective in its face can it be corrected by the record?

The case referred to is that of the City of Portland.

IV. If a return has not the signature of the Town Clerk, as in the case of Lebanon and Albion, can a duly attested copy of the record be substituted therefor and the vote legally counted?

V. Have the Governor and Council the right to reject a return bearing the personal signatures of the Clerk and a majority of the municipal officers, because from evidence aliunde they are satisfied that it was not signed or sealed in open town meeting, or was signed by the Selectmen in blank at the meeting, and after the adjournment of the meeting filled in by the Clerk; or because one of the selectmen signed the return in blank, filling in the name of the town and county before the town meeting, the other two signing and sealing in open town meeting—the alleged case of Jay, Stoneham, Lisbon, and other towns referred to; or because the return was sent to the Secretary of State's office unsealed, as is alleged in the case of Searsport; or because the record specified in the Constitution—Article IV., part first, fifth section—was not made up in the presence of the selectmen and in open town meeting, as is alleged in the cases of Webster, Lisbon, and other towns, especially if the record was sent to the Secretary of State unsealed, as is alleged in the case of Searsport; or because a second return was sent to the Secretary of State different from the first in the numbers of votes returned for the various candidates under the facts of the Greenfield case, have the Governor and Council any right to receive evidence on either of the above points, and if so

what is the limit of the power of the selectmen to make such a return?

VI. Is it competent for the Governor and Council, when a return states the names of the persons voted for and the number of votes for each, and such signature is genuine, to admit evidence on either of the above points, and if so

what is the limit of the power of the selectmen to make such a return?