

UNWISE LEGISLATION.

THE SAINT JOHN RAILWAY COMPANY.

The enforcement of laws passed to render contracts sacred which relate to business engagements between public authorities and private persons, or corporations, is one of the chief duties of a Government. Where such laws do not exist, or wherever they are not enforced there is no security for property and the material progress of the people is heavily handicapped. Now, a Government, whether Municipal, Provincial, or Federal, which grants a franchise to a commercial corporation, or establishes it by incorporation, thereby creates a property which it cannot subsequently depreciate or attack without a dishonorable, a despotic, a dangerous breach of faith, such as disturbs confidence and tends to prevent capital from being invested wherever this disregard of the rights of property has occurred or been sanctioned.

It is very painful to have had these reflections inspired by the action of a Canadian Legislature, for it has been one of our proudest boasts, as it has been one main cause of the splendid advancement of this Dominion, that the rights of property in this country are especially held safe and sacred.

That a breach has been made in our record in this respect is, however, evident from the following statement.

The St. John Railway Company in 1894 acquired the property, franchises and immunities of the then Street Railway Company, which had become insolvent. By its Act 50th Victoria, Chapter 33, the Legislature of New Brunswick, with the consent of the City authorities of St. John, N.B., defined exactly what repairs the company which had acquired the street railway should make to the streets on which its cars were operated and an exclusive franchise was given to the company for 40 years, with exemption from taxation on the property owned by the company which was used exclusively for railway purposes. As regards the repairs of streets the Act (Clause 10), reads:

"Whenever a *double* track may be laid in any street, or highway that does not exceed 60 feet in width, the said company shall maintain and keep in good order and complete repair at all times, all such portions of said streets and highways between the outer edge of the gutters at the sidewalk of such streets and highways, and wherever a *single* track only may be laid in any such streets, or highways, shall be more than 60 feet in width, then the said company shall maintain and keep in good order and complete repair at all times all that portion of such streets on highways on the track between the rails and to a distance of 18 inches outside of said rails." It is hardly credible, but it is a fact, that the City of St. John induced the Legislature of New Brunswick to pass an Act imposing on the

Railway Company the obligation of keeping in repair and maintaining the streets from curb to curb. This Act, therefore, places the company under a liability that is at variance with the previous Act of the Legislature, which Act of the Legislature contained the contract with the City of St. John and defined in specific terms what repairs must be made to the streets by the Railway Company.

This Act cancels a bargain and contract which was embodied in the Act 50th Victoria, Chapter 33, on the strength of and by virtue of which the present street railway was built, and on which its securities are based. By changing the conditions under which the railway was incorporated so as to impose fresh expenditures upon it the property of the Company was attacked, as its value was depreciated by its earnings being made liable for these new charges. Capitalists and investors generally will naturally regard this action of the New Brunswick Legislature, as a distinct breach of faith which cannot fail to damage the credit of the city and the province, the effect of which will be injurious to future enterprises that have to be financed and organized under Provincial Legislation. If investors cannot implicitly rely upon the plain terms of an Act of the Legislature, they will shrink from propositions to establish business enterprises in New Brunswick.

By the same Act the arrangements under which the company's bonds were issued were so changed as to take away from the bond-holders and stock-holders some part of their security. This is a distinct violation of the principle that no Legislative Act shall take away, or diminish the value of any right or interest in property without adequate compensation being given to the owner. No Act was ever passed in Great Britain, or in Canada, taking away an exemption, or cancelling a contract, or reducing the value of an Act of incorporation, without providing an indemnity. By a special contract with the railway company, which is still in force, with two years to run, the Corporation of St. John ratified and approved of the legislation referred to, so it is indisputable that, practically, the city was a party thereto.

The above is an illustration of the remark once made by the late Sir John A. Macdonald, "The Vagaries of Provincial Legislatures are likely to be a source of trouble and of discredit to Canada." The people of New Brunswick, more especially the citizens of St. John, out of regard for their own interests should take steps to have this Act cancelled which is certain to disturb confidence in the integrity of property in that province.

If additional obligations can be imposed in connection with a franchise under which stocks and bonds have been issued, what security is there against the whole profits of the undertaking not