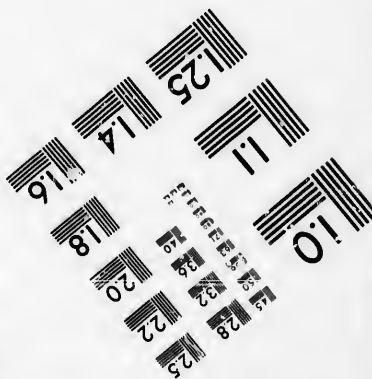
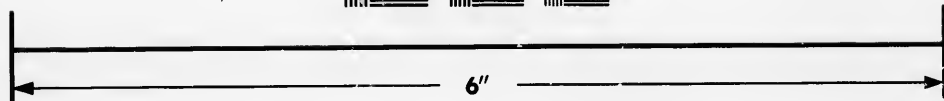
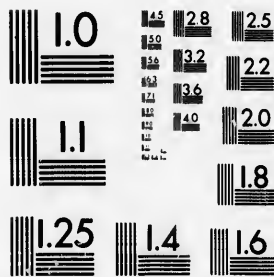
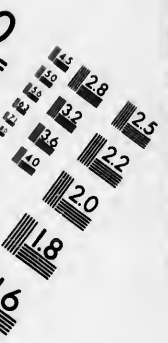


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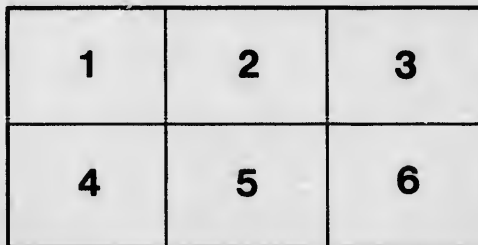
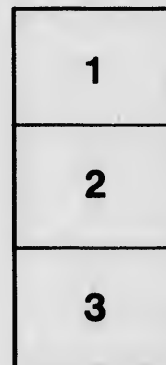
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Anna Rebecca Gale.
1861

RAILWAYS

AND

REPUDIATION,

BY

N E R V A .

[*Samuel Gale*]

Annuntiate in gentibus et auditum facite: levate signum: predicate, et nolite celare. Jer. 50, v. 2.
Declare ye among the people, and publish; and set up a standard; publish and conceal not.

MONTREAL:

PRINTED BY JAMES POTTS, HERALD OFFICE.

1855.

P385.71

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BY

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RAILWAYS AND REPUDIATION.

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No. 1.
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Published in the Montreal Herald, December 1, 1854.

THE famous South Sea bubble, Law's Mississippi scheme, and all the insane and visionary plans which have since been devised, bid fair to be surpassed in the wide spread extravagance and ruin of our railway schemes, of the real nature of which, people seem yet, in spite of the experience they have had, to remain in ignorance.— For we should be doing injustice to the acuteness and intelligence of many, if we supposed that they were deceived themselves by the speculations which have sufficed to delude others. The distiller is not ignorant that his business sends thousands to perdition who would have otherwise done well, yet his anticipated gains induce him to persevere. The slave-holder is not insensible to the infamy of holding a fellow-creature in bondage, but the advantage he expects renders him callous to its criminality. The owner of a privateer, with letters of marque, despatches his men to murder and plunder on the high seas, those who have done him no injury, if he believes his pecuniary interests will be advanced by such measures. A portion of mankind are deterred from no crime, not even the commission of robbery, rape, or murder, if the law has inadvertently permitted it, as in the case of slave-holding, privateering, and some others which might be mentioned. Hence it becomes indispensable for men to rejudge the justice of the legislators, and to see whether they have departed from those sacred, primal, and fundamental rules of right, that all legislators are bound to preserve inviolate. Policy, timidity, or interest, a dislike to oppose the popular current while in its strength, or a desire to derive advantage from the errors of others, may keep many silent who could foresee the inevitable consequences of the railway mania.

The proper protectors and guardians of the public against the visions and delusions which sometimes, like epidemics, spread through the population of a country, ought to be found in its legislature; but, it will sometimes happen that this mental malady, in a greater or less degree, extends to this body itself. The excitement of new discoveries, or novel applications of industry, produce unfounded anticipations of gain upon the majority of the people; their representatives in the legislature are but their fellow-men, of whom, numbers, without bad faith, may temporarily participate in the delusions and errors of their constituents. But if the exaggerated expectations of the people are encouraged and fostered instead of being repressed by the action of the legislature, we need hardly expect them to escape a state of demoralization, similar to that of the worst times in the most depraved countries.

Already, it is estimated according to some, that five hundred millions of dollars have been irretrievably sunk upon the English railways. In the United States the estimate of loss is not less than two hundred millions of dollars, and if no check be interposed by the Legislature, the absorption of half the capital in America would follow. Disinjury and a feeling like the precursors of bankruptcy and repudiation exist among us, and in this country the action of the legislature has tended unguardedly to the augmentation of the evil. It is time that they retrace their steps, and avert the disasters that threaten us, by abandoning the visionary and delusive anticipations they have cherished, and by returning to those primal and fundamental rules which all legislatures are bound to observe, and upon which the whole social edifice is founded.

There is still opportunity if the Legislature be active and alive to their danger, to escape it. It is above all things requisite that they take a sober and just view of their

powers and functions, and do not exceed them. It is not in the 19th century, nor on this continent that it can be safe for our temporary legislators to set aside rights which existed anterior to their own, and from which their own are but emanations; nor to suppose that all things are lawful because done by them, and that their constituents have no rights or freedom of agency that they may not suspend or control; for the rights of the Legislature exist only in subordination to the superior rights of the people.

And, now, let us first advert to the rights of the people in this connexion. We hold that no lover of freedom or of justice can refuse his assent to the following propositions:—

“That the right of property in individuals is a sacred right, the foundation of all security, civilization, and improvement in society.

“That no Legislature has the right to take away the property of any individual, except when the public good imperatively requires it, and then only on condition of giving in compensation a full equivalent.

“That the power of imposing taxes upon this property among British subjects is a trust, inherent only in the majority of the entire body of the people, for the establishment, defence and maintenance of order and good government. That this power is delegated by them to their representatives in parliament, and is of too sacred character to admit of sub-delegation, except in the case of cities, towns, or other corporate localities, and then only for the purpose of raising funds requisite for the support of the order and good government of such separate localities.

“That the raising of funds by taxation for speculative and commercial purposes and forcing the unwilling to embark in such partnership, is not amongst the rights of the majority of the entire body of the people over the minority: far less is it a right which the people's representatives are entitled to sub-delegate to the less informed and more reckless inhabitants of particular sections of the country, whom commercial and private or personal interests might lead into anticipations of profit never to be realized, or into measures of which the gain to themselves would bear no comparison with the loss to others.

“That every joint, speculative and commercial partnership is, and ought to be, in its own nature voluntary, at least at its commencement: and that every railway company is a joint partnership speculative and commercial, undertaken for the purpose of conveying freight and passengers over land and bridges by steam, as steamships convey freight and passengers over sea, and is subject to great casualties and risks from fire, flood and accident, where loss of life as well as property may occur, and is to be compensated for; and into which partnership, no law, human or divine, can justly force or constrain any individual to enter against his will, at the risk of his fortune and means, any more than to enter into and support other commercial undertakings.”

Nevertheless, as is well known, the Provincial Legislature has passed in the year 1853, Cap. 138 and 213, statutes to authorize the Municipal Council of all Counties in Lower Canada, by a by-law, to take and subscribe for shares in the capital stock of any railroad company, to an indefinite amount, after the by-law shall have been approved by the majority of the qualified electors, and to issue bonds to raise funds for the payment of the same. Thus sub-delegating to the majority in counties, not the right of taxation for the maintenance of order and good government (which might not exceed their legitimate functions,) but the right to raise funds by taxation, on a credit, for speculative and commercial purposes! of making the minority, against their will, members of a commercial partnership concern, and of binding their lands to the payment of their proportionate shares of stock and interest, in case the amount should become a loss!! A degree of power which, amongst freemen, it could never be contemplated that even a representative legislature should possess, and far less that they should delegate to others. The same statutes authorize, also, upon the consent of the *Councillors of the townships or parishes* which form part of the county (if the inhabitants of such townships shall be more especially interested in

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such railway,) that additional shares, to an indefinite amount, be taken and subscribed for, on behalf of such township, in the capital stock of such railway, and bonds issued to raise funds in payment of the stock, without even submitting the matter to the approval of the majority of the qualified electors of such townships or parishes. Thus subdelegating in favor of two or three individuals, who chance to be township or parish Councillors, whom private considerations of many descriptions might influence—who are not even required to allege in what manner the township or parish is especially interested—the right of raising funds on a credit, on the property of all the inhabitants, for speculative and commercial concern without their consent; and of binding their lands, so as to render them unsaleable and insecure, if not a total loss.

The power of binding the unwilling minority, by the taking of shares of capital stock in any railroad company, in payment of which, bonds bearing interest are to be issued by county municipalities, payable in the course of a few years by the inhabitants, is a power which is believed to be without example in other countries, and is portentous of utter ruin in this; for these bonds have been offered, even in the outset, for sale to us, at first hand from the issuers, at a great discount, and have been sold, it is probable, at a yet greater discount; while, nevertheless, supposing the bonds to be valid, the inhabitants will be bound to pay the interest on the entire sum for which the bonds have been given, and the capital itself, at the end generally of about twenty years—although, perhaps, scarcely seventy per cent. of that capital may have been paid, and that seventy per cent. may have been unprofitably expended.

The whole proceeding is of the nature of a forced conscription, without being for the defence of the country. "It lends corruption lighter wings to fly," being a substitution of paper credit for money; and those whom the paternal care of the legislature, very properly, would not intrust with the management of a bank with a capital of £20,000 paid in, are intrusted with the issuing, management, and sale of bonds to the amount of hundreds of thousands without any security. It is an enormous tax, yet wants the character of legitimate taxation, which is a sum certain, while the stock taken is of an uncertain value, and depends upon casualties, and renders every proprietor of a farm liable without his consent, supposing the railway speculation to be unsuccessful, to the extent of his proportionate share of the stock, which may greatly exceed his means, and even reduce him to ruin; and it is an invasion, not only of the right of property, but of the liberty of action, which belongs to all freemen. Would it be right, even were it lawful, to entrust such power to petty officials in municipalities or to individuals?

In our following numbers we shall endeavour to show the practical use which has been made of this power in the case of one of our Canadian railways; and we also shall endeavour to show that railways, like canals, are undertakings of too great a magnitude and importance to be left in a country so destitute of capital as Canada, to the construction and management of associated individuals. The cost of each is excessive, but with this difference, that the cost of canals is chiefly the outlay for the construction; but with railways the outlay is enormous and perpetual, and the profits, if there be any, go not to the stockholders, with whose money they have been built, but to the hosts of Directors, Secretaries, Clerks, and Employés of all kinds, of which it is necessary to maintain a full complement for each. They form, indeed, gigantic systems of ruinous competition and reckless and appalling homicide, to the disgrace of every civilized community. If the Government here possesses due regard to the lives and property of the people, it will, like the Governments on the continent of Europe, take the management of railways into its own hands.

NERVA.

No. 2.

Published in the Montreal Herald, December 21, 1854.

WE proceed now, according to the promise given in our first number, to show by way of example, the practical use which has been made of the power of indefinite taxation conferred upon Municipal Councils, in the case of one of our Lower Canada Railways, in passing by-laws for taking shares in the capital stock of a railway company, and for issuing bonds in payment of the same.

The company referred to, in which the shares were taken, is the Stanstead, Shefford and Chambly Railroad Company; the county is that of Shefford, the township that of Farnham. The municipality of the county, on the 12th September, 1853, passed a by-law, after its approval by the majority of the qualified electors of the county, for taking shares in the capital stock of that company, and for the issuing of bonds, bearing interest at six per cent., for raising funds to pay for the same, to the amount of twenty-five thousand pounds currency. And on the ninth day of January, 1854, the two Municipal Councillors of the township of Farnham, without waiting for it to be ascertained in what precise locality the railroad was to pass a (matter unnecessary for them to know before they could legally act,) and without any sanction but their own, gave their approval and authority, which is all that the law requires, to the municipality of the said county of Shefford to pass another by-law for the taking of additional stock, and the issuing of bonds for the raising of funds, on behalf of the township of Farnham, in case the railroad should pass in one direction, to the amount of £15,000 and in case it should pass in another direction, to the amount of an additional sum of £10,000, making together another sum of £25,000, in addition to the £25,000 taken on behalf of the county, of which, also, Farnham would bear its proportion: so that the lands of the township of Farnham would be held for upwards of £30,000—an amount which all the lands in Farnham would hardly bring at a Sheriff's sale; thus making a single township bear a burthen equal to an entire county in the expense of a railroad; an expense sufficient, if the railroad should not be more successful than ordinary, to expropriate every land holder in the township; and there is no reason to suppose that the railroad will be more successful than ordinary—there is, on the contrary, every reason to suppose that it will be less so. The charters for railways already obtained, some of which are completed and in operation, suffice abundantly to establish that the Stanstead, Shefford and Chambly Railroad must always, even were it made, be carried on at a loss, and in consequence must be ultimately abandoned. The Atlantic and St. Lawrence Railroad, belonging to the Grand Trunk Company, from Portland to Montreal, is already completed and in operation; but not having taken the shortest route, owing to influences, whether beneficial or sinister it is not our mission to enquire, that Company has found that another railroad, diverging from the present one at Island Pond, and passing through St. Armand, or Dunham, and Stanbridge, in the county of Missisquoi, would shorten the distance from Portland about fifty miles. The charter is obtained, and surveys have been made, and there is no doubt, from the great interests at stake with regard to Portland, the nearest port to Canada on the Atlantic seaboard, that this road, to shorten the distance between Portland and Montreal, ought to be and will be completed by the Grand Trunk Company. The Stanstead, Shefford, and Chambly Railroad must pass in Canada wholly between the present Portland railway, which comes to Montreal from Island Pond, and the new and shorter railway which will come also from Island Pond to Montreal. At no place in Canada will the Stanstead, Shefford, and Chambly Railroad, probably, be more than a little over 20 miles distant from one or the other of the roads, and it will generally be from 15 to 20; and for the last forty miles of its course, it will not be more than from 10 to 12 miles from one or other line of the Grand Trunk Company's roads. It will be, consequently, a competing railroad, not with one merely, but between two other railroads of the Grand Trunk

Company; all three converging together, and terminating at the same point on the south side of the river St. Lawrence, opposite Montreal. The two lines of the Grand Trunk road (between which the Stanstead, Shefford and Chambly Railroad will pass,) are themselves so near together, that they might suffer from the evils of competition, except for the circumstance of their belonging to the same company, which would enable it in some measure to lessen the disadvantage. But there are no rational grounds, even of hope, that if all the three railroads are constructed the central one, that of Stanstead, Shefford, and Chambly could ever pay, even its working expenses, far less yield any return to the municipalities which subscribed for shares—or to the farmers and to landholders who will have to pay for them, if the bonds be valid. There seems, therefore, not the remotest chance of this partnership concern, namely, the Stanstead, Shefford, and Chambly Railroad, being a successful one. Not even if the municipal majorities should sacrifice the value of all the lands of the majority and minority together in subscribing and giving bonds for stock, would it succeed or produce any other effect than that of depriving every landholder of his property, if payment of the bonds should ever be exacted. Then, indeed, when the bonds should be called for, we might see majorities and minorities unite in one common object—repudiation. The minorities, indeed, could not be blamed for refusing to pay the debts they had refused to contract; but the majorities, who had been the only active ones in contracting the debts, would probably be the most active also in repudiating them, if they found it necessary to choose between adherence to the engagements of the municipality and the loss of their lands. They might allege that they were duped only by the wild aspirations and delusive visions which had deceived their superiors, whose business it therefore must be, since they wantonly encouraged the delusion, to see them harmless out of the snare they had been led into in consequence. The municipalities could plead in their own justification that they had been deluded by the encouragement of the legislature, and the undue favor with which railway schemes and visions had always been received by the Provincial Parliament. Still the calamitous repudiation would take place, and as our banks, although sufficiently astute, also deluded by parliamentary encouragement and railway visions, may have injudiciously advanced large sums for the construction of railways, (we hope not competing ones,) it will be well if the difficulties extend no further than to municipal bonds. In the meantime the legislature, not having yet taken the alarm, is going on with its charters, adding railroad bill to railroad bill, as if all were prospering and to prosper. No doubt can be entertained that the legislature has had no other end in view in passing these laws, as well as in all its other acts, than to benefit the people. This is apparent from the circumstance of the legislature having made provision for the disposal of the surplus profits and dividends to arise from railways, while no measures are devised to meet or parry the deficiencies or losses which might arise from insufficient employment, from casualties, or misfortunes. From all which, it plainly appears that the legislature looked upon railways as a safe investment, unchangeable in value, and that it entered not into its contemplation that any railroad would be liable to the casualties of commerce, or prove an unsuccessful undertaking. Yet railroads are emphatically the creatures of commerce, and subject to all the vicissitudes and even more than the ordinary risks of trade, for the loss of life is an extra casualty for which railroads are justly bound to make compensation. Five hundred millions of dollars have been sunk in unprofitable enterprises of this nature in England, and most of the railroad undertakings in the United States have become bankrupt. On one occasion only, including compensation for the loss of between fifty and a hundred lives by running from a bridge into a river, (to say nothing of perpetually recurring casualties of a minor nature) a railroad company in the United States lost more than one hundred thousand pounds. Of the few railways in Lower Canada, all have been unsuccessful, except the Grand Trunk. In Upper Canada the Great Western has recently sacrificed many lives and much property for which it is liable to make compensation. If, therefore, the bonds given by the municipalities be valid, and unwilling parties are constrained to enter into railway partnerships where they are liable to ruin, for in reality

they form partnerships "*en commandite*," on credit, by stock being taken on their account for which their property is responsible, such unwilling parties have a just and sacred claim that the legislature should compensate and indemnify them against the losses which they may sustain in consequence. But from the velocity of the railway movement, from the great number of municipalities, purporting to be vested with authority to issue bonds in payment of shares of capital stock payable with interest in twenty to twenty-five years, the legislature might find the resources of the Province, if the law continues to be acted upon, insufficient to pay the losses of those who will be constrained by the municipalities to enter into the railway partnerships and who will be driven from their farms if obliged to pay their proportionate share of the loss; for the municipalities would be encouraged in their recklessness of expense, if they imagined that the legislature would indemnify those whom they injured. *Principis obsta*, resist the beginnings, is the only safe rule to adhere to, when the matter concerns the violation of *rights* more sacred than the *authority* of the violators. Are the rights of municipalities to take shares in railway stocks, given in a statute of last year, more sacred than the rights of property? than the rights of a son to the farm inherited from his father under laws which have existed in every civilized country for thousands of years? Yet the municipalities have risked this violation of the right of property if their bonds be valid by taking shares in railway partnerships without sufficiently calculating the probable cost or the chance of profit. The general legislature ought to be too chary of its powers, if it possesses such powers, to part with them easily: they are trusts to be exercised by themselves, not sub-delegated to municipalities; they are trusts, if the rights exist at all, for which the legislature will be held responsible, whatever may be the agency.

There is no course which the legislature can adopt to escape the obligation of indemnifying those forced into such partnerships,—an obligation due alike to justice and morality,—except only to restore their former freedom of agency to individuals, and to allow the taking of shares in railway partnerships to be as it ought always to have remained,—a voluntary act on the part of him whose property is liable for it, and not the act of majorities in counties: or of two or three Councillors in townships or parishes

Reason requires, public justice prescribes, and public safety commands that this provincial law authorising county municipalities to take shares in the capital stock of railway companies, and to give for them bonds bearing interest, payable by the inhabitants, should be forthwith repealed. Large cities and great marts of trade may possibly be permitted to do so, with less danger, because in these places will be more likely to be found the close calculations, the legal intelligence, the comprehensive views, the funds to defray expenses, and every requisite for proceeding safely in such matters, than could be expected to be found in the county Municipalities. Yet we have not far to go to see how little even all these serve to prevent the most grievous errors.

NERVA.

No. 8.

Published in the Montreal Herald, January 12, 1855.

We have treated this subject hitherto, and shall continue to treat it, with all due observance of respectful usages, and all possible indulgence for the violation of rights which do not strike at the very foundations of society. To carry respect beyond this would be to become a partaker in the commission of all the crimes which may be the consequence of measures against the inviolable rules of social safety and morality, whether proceeding from the Municipalities, the Legislature, or any other corporate body.

We have hitherto spoken as if it might be supposed possible that the Legislature could have the power of authorising Municipalities to take shares in the capital stock of railway companies, and to issue therefor bonds bearing interest, which the inhabitants of those Municipalities would have to pay.

We have now to show that this supposed power of the Legislature is unfounded in right, is incompatible with the normal and primal rules on which every civilized state is founded, is at war with every principle of liberty in governments that have any pretensions to freedom, and is, besides, opposed to that higher law of Providence, which limits and restrains the aberrations of every Legislature on points where there is no previously written constitution to restrict them.

The subject is a new and extensive one. It has not been treated with all the care which its weight in our social relations deserves. It has not yet been treated at all, in the most important character which it derives from an unexampled law existing in Canada, fatal alike to our morals and our liberties. It involves many and complicated interests, and it is only by frequently calling first principles to our aid that we can hope to disentangle its complications, or determine which, among conflicting interests, is entitled to preference. The subject, to be fully understood, may require to be viewed under different aspects, and may necessitate some repetitions, for which we apologize in advance. We will begin our strictures with the provincial law of 1853. We have before spoken of this law as portentous of utter ruin in Canada if persisted in, and necessitating new laws to repeal its noxious operation upon the right of landed proprietors, and to compensate the innocent bondholders for the losses they might sustain upon the repudiation of the bonds they had purchased.

This law may be viewed under two aspects; first, as a law authorizing Municipalities to enter into engagements on behalf of all owners of property or lands, of all sexes, ages, and conditions, (as well as those who are capable of acting for themselves as those who are not, clergymen, men of professions, tradesmen, mechanics, *femmes covert*, minors,) and to bind in a common partnership-risk, all who own property or lands in such Municipalities, for the payment of the bonds which the Municipalities have issued;—Secondly, it may be viewed as a law authorizing Municipalities indirectly to tax property to an indefinite amount; and we trust we shall show that, under each aspect of the law, the Legislature has contemned and transgressed the just limits of its power and violated the primal and sacred rights of its constituents; among the most sacred of which are the right of property, freedom of judgment, and freedom of agency.

In viewing this law under the first aspect above mentioned, we are called upon to refer to one of the propositions contained in the first number of our series, to which we ventured to presume that no lover of freedom or of justice could refuse his assent, namely: "that every railway company was a joint partnership, speculative and commercial, undertaken for the purposes of conveying freight and passengers over land and bridges by steam, as steamships convey freight and passengers over sea." It was with the intention of considering the right of the Legislature to authorize Municipalities to take shares in railroads on behalf of their constituents, that this comparison

between railroads and steamships, natural, obvious and intelligible to every person, was made. The same lethal and annihilating agent, steam, is the power or motor used in the two cases; the object for which this dangerous power is used, the conveyance of freight and passengers, is the same in each case; the concern in whose favor, or for whose benefit it is employed, a commercial partnership, is the same in both; the ultimate ends and aims of each are the profits derivable from trade; the agents, scope, character, ends and aims of each are, therefore *identical*, and equally appalling and heart-rending disasters have occurred from each. If, therefore, the Legislature has a right to authorize Municipalities to take shares in the capital stock of railroad companies, and to bind their constituents to the payment of the bonds issued for the same, (which they must do or the bonds are worth nothing) the Legislature must have an equal right to authorize Municipalities to take shares in the capital stock of steamship companies, and *a fortiori*, to take shares in the capital stock of other partnerships of a less lethal and dangerous nature, and to issue bonds binding the inhabitants to pay!! This conclusion, a strictly just and logical one, is a *reductio ad absurdum* as to the right of Municipalities to take shares in the capital stock of railway companies. Such power is manifestly beyond the functions and attributions of even a representative legislature; it could never be acted on unless it were intended or attempted to re-organize society altogether, on the plan of those who would establish a universal community of goods, wives and children, or a community on Owen's or some other equally luminous and practical plan.

The supposed power of the Legislature to vest Municipalities with the authority to take shares in the capital stock of trading companies, not for themselves, but on behalf of the inhabitants of those Municipalities, and the still more obnoxious and dangerous power of binding the unwilling by the issue of bonds affecting their lands and property for the payment, is a power which cannot exist. It comes not within the express or implied authority bestowed by the people, the source of all power, upon their mandataries or representatives in Parliament. It is a power which has never been assumed in the most despotic countries: it is against all primal and normal rules; it destroys the rights to all property and with it all safety. As well might our Legislature declare that there should be but one creed in religion, as but one creed in railways, and then endeavour to force its own faith upon the people, and this, too, by compelling them, after the most approved mode of state religions, to come forward with their contributions in its support. But there would still be this difference in favor of state religions, that the people might every one have sufficient for his own subsistence, after paying his religious contributions, which might by no means be the case, after paying his share of the municipal bonds.

Let us now proceed to consider this law under the second aspect of which we have spoken, namely: as a law authorizing Municipalities indirectly to tax lands and property to an indefinite amount.

It will be observed that the authority to tax, which extends virtually even to the power of depriving the farmers in the country of their lands without compensation, (which extends to confiscation in short,) in favor of railroads, is conveyed to the county and township Municipalities in Lower Canada. It is a power not conveyed in fair and direct terms, to impose a tax equal to or exceeding the whole value of their lands, or in other words to deprive the owners of the soil of their holdings, without giving any thing in compensation; not so indeed—the Legislature would have been the first to feel hurt and shocked at the iniquity and atrocity of such a measure; but the power of taxation is conveyed as a kind of favor in the mild and soothing terms of “an authority in virtue of a By-law to take and subscribe for shares in the capital stock of any railroad company, and to issue bonds for the payment of the same,” the use of the alarming and unpopular terms “tax and taxation” is carefully avoided here, but in the *import* of this dulcet phraseology, the meaning of those terms is fully contained: It is in its effects a snare to encourage the Municipalities generally to rush into ruinous railroad schemes without reflection. In its operation this law gives, if it be a valid law, to the majority in counties, the enor-

to every person, power or motor is used, the concern in whose hands, is the same in all cases; the same from trade; the same in all respects, and equally so, therefore, the same. The capital stock of the bonds issued by the Legislature is in the hands of the capitalists in the capital stock of the bonds binding the one, is a *reduction* of the capital stock of the bonds and attributions unless it were in the hands of those who are for a community

power even of sacrificing, without the smallest compensation, the whole property of the land-holders if the railroad company should be unsuccessful; it recalls to our remembrance a similar delicacy of delusive phraseology observable in the United States, in their federal constitutions, and in certain acts of the federal legislature, (Congress) where the use of the term "slavery" is solicitously avoided as being inconsistent with the declaration "that all men are created equal" and "endowed by their Creator with certain inalienable rights;" among which "are life, liberty, and the pursuit of happiness," their legislation therefore is sedulously confined *not to slavery* but to matters of *involuntary servitude!!* Yet even in the United States, no law exists enabling majorities in county Municipalities (although it may in some cities, towns and places of trade,) to bind minorities by the taking of stock in railroad companies. The free agency and the free will of those, at least, who do not bear an African complexion, are there respected. Railroad shares are not taken for those white men who do not choose it, nor do railroad bonds bind their lands, and if they do not bind the lands, they are worthless, unless it be to deceive and delude the bondholders. Is it in Canada that a former parliament has passed such an act? It is unworthy of the honor and majesty of the law to attempt to do that indirectly and under the cover of honied phrases, which it would be debasing or iniquitous to do in direct and positive terms.

But the Municipalities themselves, of course, it will be said, will know what they are about; they, of course, would not take stock in a disadvantageous railroad company; they are governed by the majority; the majority must have the same interest as the minority; it is absurd to suppose that they would sacrifice their own.

Plausible, but unsound conclusion: were even all this true, it would be no justification of the Legislature for confiding to their inferiors the right entrusted to themselves alone, the sacred right of taxation, the chief and almost the only source of all their power, for the exercise of justice or the prevention of wrong. But the conclusion is absolutely false; the majority may have different interests, the expectation of different advantages, the prospect of incidental profits; the majority may also be wrought upon by delusive representations of railway schemers and agents, and their own bright and visionary anticipations; the majority of electors in county Municipalities, who are generally of the working class, and who with their friends look for beneficial employment in the contracts for making railways, would readily be induced to approve of bye-laws for the taking and subscribing for enormous amounts of railway stock, particularly as they are to be paid for by the issue of bonds a long credit of twenty-one or twenty-five years, the immediate proceeds of which bonds, they would expect, would be chiefly expended in the payment of the labors of cattle, horses, and men to be performed by themselves: to be performed at double or more than double the price of ordinary labor, for in new and sparsely settled countries where the population is far too scanty for the ordinary and necessary demands upon its hands, the extra call for labor arising from the construction of railways, raises its price immediately and largely. The bonds would be sold probably like others at a discount, as some Canadian municipal bonds, (we shudder at the mention of it,) have lately been offered to us at fifty per cent discount. Of the sum obtained, but a portion would be employed on the railways, but the majority who did not expect to pay them, although all powerful as a majority to authorize the Municipalities to subscribe for stock, being of the class that every few years sell their farms and emigrate to the West, would not be much affected by that consideration.

In the meantime they would produce a charge for interest upon the possessions of the county, which in the beginning might be paid out of the proceeds of the bonds to avoid alarming the inhabitants, and not till the second or third year would the inhabitants begin to feel the iron pressure of this taxation: by this time the railroad would, probably, be in operation, or all the contracts for its completion would be given out. If the bonds were payable in twenty-five years, the interest added to the principal would amount to nearly three-times the sum for which the bonds were issued; and if the bonds, as usual, were parted with at a discount, to four or five times the

sum laid out beneficially on the railway; which in the interval, would probably be wanting extensive repairs, besides the continual outlay for the running expenses, to say nothing of the casualties and accidents.

Suppose—a very fair supposition—that the railroad was as profitable as the majority of others in America. On some of these the mortgage creditors have gone without payment, and the whole amount subscribed for taking shares in the capital stock, and for which bonds have been given, has been a dead loss.

It is a hard case for the bondholders to lose what they gave for the bonds, although they did obtain them at a discount, but it would be a still harder case for the landholders, who formed the minority, and voted against the subscription for railroad shares and the issue of those bonds from the beginning, that they should have to pay them; and they would have to pay them if they were valid, and their farms and lands would be sold for the debt on the bonds, and would be taken from them without compensation! But this is against the primal, fundamental and *theoretically inviolable principles* of all governments, whether despotic or representative, and therefore the bonds cannot be valid. Frederick the Great, of Prussia, gave up a building which he had planned, because an obstinate miller refused to part with a piece of ground for which treble the value had been offered. Napoleon in the zenith of his power, suspended the erection of a palace he had commenced, because a shoemaker refused to sell him a lot necessary to complete his plan, although an enormous price was tendered. But with the Municipalities the difficulty appears to be, how to prevent their absorbing the principal part of the lands without any price. The Legislature was itself without right to pass such a law, and it could not transfer to municipalities the right which it possessed not itself: there are many rights too which it does possess, which are too sacred to be sub-delegated. Amongst others, the general right of taxation, directly or indirectly, is an untransferable right. But in conferring powers on Municipalities the Legislature has gone far beyond the transfer of even any general right of taxation. It is true the statutes seem studiously, as already observed, to avoid the common mention of the term taxation in the powers they bestow on Municipalities in relation to railways, while they indirectly—perhaps inadvertently—confer upon them far higher authority in purporting to authorize them to subscribe for shares of stock, and to issue bonds which the inhabitants are bound to pay.

We have thus, we believe, superabundantly established what we undertook to show, namely: that, under whatever aspect the law is viewed, the Legislature in passing it has contemned and transcended the just limits of its powers, and violated the sacred rights of its constituents. There never was an Act of Parliament passed fraught with more danger to the public peace and security, in times coming, than the railway statutes referred to, of a part of whose provisions it may with truth be said, that they have had no previous example, and that they will find no future imitators. The duty on tea, the stamp act, and other acts which precipitated the American revolution, were trivial and contemptible encroachments on men's property and freedom of agency, compared to this right of subscribing for shares in a mercantile concern, and giving bonds for which others are to pay. There is no estimating the confusion, bankruptcy and disasters which, in the course of a very few years, may be the consequence, unless the legislation returns to a more normal course. Every Municipality will become a petty tyranny filled with injuries and feuds. As the railroads multiply, the wrongs, jealousies and enmities will increase, until repudiation, rebellion and anarchy ensue.

Our representatives must not imagine that they can escape the obloquy and disgrace of these measures by interposing between themselves and the people another body (the county Municipalities) to become the immediate and direct instrument of injury to the sufferers.

The Municipalities are bodies with delegated powers from the representatives, and if the representatives have attempted to confer upon them not only authorities, which are unexampled in other governments, but inconsistent with justice and the freedom of agency which belong to the meanest of individuals, equally with the

highest, the blame and the wrong will rest where it ought, namely, on the representatives.

Truth and candor are as necessary to a Legislature in its enactments, as to an individual in his dealings; and the suspicion of its taking unfair advantage of the confiding trust reposed in it, if once excited, will be fatal to its reputation.

If the authority of county Corporations or Municipalities be reduced, as they must ultimately be, to normal bounds, with no right to speculate in railway stocks nor to levy taxes, except only for the support of the order and good government of their subordinate localities; if the Legislature be not too indifferent, too much above their business, or too much engaged in party contests, to neglect their chief and primary duty, which they now too readily, without any right, delegate to others—namely, the right of taxation; if they will in this particular act with honor and candor, giving to things their right names, without seeking to delude, calling a tax a tax, and not an “authority to subscribe for capital stock, &c.,” and impose taxes undisguisedly and boldly, because rightfully; each tax, also, being an amount certain and ascertainable by him who has to pay it, as all taxes ought to be, and not liable to indefinite augmentation from misfortunes or bad management in a trading concern, the people might then know how to shape their course, and might possibly avoid the disgrace of either repudiation or rebellion, or the yet greater humiliation of humbly soliciting the legislature, who are their mandataries and servants, to save them from want and crime, the natural consequences of depriving them of their property, their freedom of judgment and of action.

NERVA.

Published in the Montreal Herald, February 26, 1855.

The condition of Canada is well known to be far different in point of ability and prosperity from that of the mother country, or even from that of the older portions of the United States; but still, perhaps even in Canada, wherever no gigantic systems of ruin, popularly known as competing lines, can be brought to work their destruction, judicious railways may have enough of real utility to find support and encouragement between great marts of trade, through a populous country, without violating in their favor the sacred and primal rules of individual right of property, freedom of judgment, and liberty of action. To give encouragement to a greater extent than this would lead to destruction. To violate these sacred rules, would be to uproot the foundations of social safety, and to make repudiation inevitable, by rendering the discharge of the debts contracted for railways impossible; it would be to inflict atrocious and universal injury, which no idolatry or faith in politics or railways could render endurable. Reaction would follow in a short time, as it has done in England, a highly wealthy, populous, manufacturing and commercial country; a country, therefore, better adapted for the support of railways than perhaps any other in the world. The profits from railways in England, were for a time, more than double the market rate of interest, and were on the increase; but other lines in connection with these were afterwards made, and some competing ones, and the profits fell to one half their original amount. The mania still continued—new railroads were built, and new expenses were incurred on the old; some damages had also to be compensated, and the profits have now sunk to a third of their original value, and are still depreciating. It is evident that in England they have not counted the morning and the evening to the day, as regards their railway system. Perhaps it would have been better for England if one third of their present railways had never been made. In England, according to Greeley, who visited that country in 1851, there are some agricultural counties in which the land is worth from four to five hundred dollars an acre. Whereas (to show the difference of value) choice lots of land in the township of Farnham were sold at a voluntary sale at Montreal, on a day fixed, by public advertisement, published for some months in the newspapers in the year 1853, at the rate of less than two dollars an acre. But in England, the principle is only voluntary subscription; there is no example there of agricultural counties being authorized to take shares of capital stock in railways for the unwilling, and to issue bonds bearing interest to raise funds for their payment in five-and-twenty or any number of years, from the estates of the land owners, although the lands there are worth more than two hundred times as much as in Lower Canada: the insane idea of subjecting the unwilling minority who would not take shares, to the will of the majority who desired them to be taken, has not possessed the Legislature of England. Twenty-five years have hardly elapsed since the completion of the first railways in England, and, already the depreciation in the value of that species of property there has become extreme; twenty-five years is the precise limit to which railway bonds given for the counties and townships that we have seen in Lower Canada, extends. All progress is much more rapid in America than in England, even to the progress—if that can be called progress—of decay and corruption. Five years from this time may suffice to accomplish here the work of five-and-twenty in England, as we have commenced on a far more ruinous and more reckless railway plan, and our zeal has been superior and our faith greater: although, unhappily—perhaps happily—our means are by no means commensurate; for if, in twenty-five years, without any similar stimulants from the action of the Legislature, the cautious and phlegmatic English, notwithstanding their superiority of means and appliances have brought such immense losses upon themselves, what chances have we, with all the stimulants and excitements that have been employed, of escaping from irretrievable ruin? The *Times* remarks "that recent experience has proved

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"how easy it is in the profoundest peace to bring upon ourselves a greater amount of commercial ruin and private disaster, than even the most murderous and the most costly war."

The older portions of the United States followed the example of England and began to construct railroads. But the notion that artificial incentives and impulses were necessary in the United States to push on railway enterprise with proper activity, took possession of the public mind; railways became the "politics" of every man and the theme of every tongue; at public meetings, at private assemblies, at the church doors, at the halls of courts, whithersoever a man could go, in whatever company he moved, the thrilling topics were the same, viz.: railways, cars, locomotives and steam; we, ourselves, remember having been questioned about a railroad to the north pole. The poorest man in America was to be enabled to travel wherever he pleased, and his journeys were to cost him next to nothing: the ladies were to make the tour to the great Lakes, the Falls, Canada, Nova Scotia, and return to Boston in a week: while collisions, explosions, the breaking down of bridges, the overturning of locomotives and cars and other stupid realities, which have since cost so many lives were not worth a thought, and could only occupy the thoughts of those who belonged to the former age, who were deficient in enterprise and had no public spirit. The Legislators being of and from the people, it would have been strange if many of them had not been wrought upon, in good faith, by the influences in operation. A cautious few stood ready to take such advantage of the delusions of the others, as the occasion might offer, while none ventured to disapprove. It is a remarkable peculiarity in the United States, that few who differ from the general sentiment, while any popular illusion is in the ascendant, venture to make that difference known. But the majority of the Legislators, although stung almost to madness with the railway mania, although idolators of the new Juggernaut, felt that there were rights more sacred than those of their new god, namely, the rights which they themselves had been elected to preserve—the rights of property and freedom—and they sought not and dared not transfer to counties the power of depriving the people of their lands or rendering them insecure; if they had, the indignant people of the delinquent state, would have given their Legislators a new constitution, which would have deprived them of the power of delegating their own duties to subordinates. They needed not to have petitioned the legislature, although they would probably have done so at first, in order to have offered them a fair opportunity of correcting themselves where they had erred, as all legislators are liable to do without meriting blame—for they are not chosen as infallibles—and the error would probably have been repaired. But with us in Canada, we have as yet no constitution, which soars above the Legislature, and reduces its powers when exceeded. The only course that can at present be adopted, is to petition as often as experience, or greater reflection than there is opportunity for exercising during the haste of a session, has shown that the Legislature has passed an act injudicious in its operation, or incompatible with the principles of right, or which confides more than is safe to the intelligence and virtue of country municipalities. And before the people adopt other measures to reassume the freedom of which they ought never to have been deprived in this country, they will of course petition.

But to return from this digression to the railroads of the United States. The mania there, we will not say has run its course, for many more railways, (if undertaken by the Government, alone will become useful in that vast region,) and many more, it is probable, will yet be attempted in those states where their number is already too great, and bring ruin in their train to many more victims than the thousands who have already been sacrificed; for "the experience which teaches the lesson of truth and the dangers of illusion, comes not to the people in the shape of warning nor of wisdom from these they turn aside defying or disbelieving: it is in the bitterness of personal proof alone that experience comes home with conviction, or impresses to any use."

But at least a rude check has been given for the time to the mania, and its progress has been at least temporarily arrested by the exhaustion arising from the efforts and paroxysms of the malady itself, and from the judicious exposure, by high official

characters,—counting from the Governors of the Union down to the State Engineers, of the abuses, illusions and frauds exercised by Presidents and Directors of railways upon the unwary stockholders, and pointing out new legislative measures, by which these abuses may be more speedily known, if not prevented. In all of the States they have laws against fraud; in many they have laws against gambling, and even Lynch law has been called into operation in some places against gamblers with deadly effect. We do not advocate the Lynch code, but we think that when railroad charters, granted by the Legislature, open the way to every description of fraud, dishonesty and gambling, some law more stringent than already exists ought to be passed against railroad officials, from the President downwards, for those misrepresentations, concealments and acts of fraud by which so many thousands are misled to their ruin. Instances are known where railroad Directors have carried about subscription lists for shareholders, where their own name figured, for the sake of encouragement, for a very large number of shares, to the habitations of old and infirm persons, and after making highly coloured representations of there being no risk in the matter, and pointing out by way of proof the number of shares taken by themselves, have induced these unfortunate persons to subscribe for such amounts as to reduce them to distress in their old age, and probably shorten their days. What was the surprise of those persons to find shortly afterwards, that those Directors were only the holders of fewer shares than they had induced them to purchase: in fact, being in the direction, where they could see more than others, they had kept the knowledge for a time concealed, and had probably sold out, or adopted other methods to reduce the subscriptions on which their victims had relied as a proof that the undertaking was a safe investment. All the money received as deposits for shares, for bonds sold, and from every other source, comes into the hands of the Directors. The Directors, besides being shareholders in common with their victims, are often themselves traders, proprietors of founderies, dealers in timber and iron, and concerned in other callings from which profits are derived in railroad making; they have, therefore, the opportunity of making indirect profits in various modes that may more than compensate for all their losses upon the stock. To say that the Directors have the same or a common interest with the shareholders, as if they had no other or higher interest, is therefore a delusion: they may have a common interest to a small extent, but their separate and totally adverse interests may be often ten times greater: the Directors, therefore, ought always to be viewed with a certain degree of watchful inquietude.

The Directors are the agents, managers and procurators of the stockholders, and during the period of their official management they should not be considered as acting for themselves, but for the corporation whose officers they are. If they have bought the debts, bonds or stock owing by the corporation at a discount, during their term of office, when they possess so easily the power to raise or depress the prices of each, they are bound in equity to place the discount to the credit of those for whom they act, as was held lately by judgment at Toronto in the case of Mr. Bowes. There should be no difference between the managing officers of one corporation and those of another as regards common honesty; and if, as Directors, they are the agents, managers, mandataries, and attorneys, through whom alone the corporation can act, it follows that they cannot, while in office, speculate or make profit upon the bonds or debts of the corporation for themselves, the profit must accrue to the corporation or body for whom they act. The attorney would be stripped of his gown who, while acting in the case, should purchase his client's bond from the adversary at a discount, and then charge his client for its value at par. If a contrary doctrine could be sustained, there would be no end to the frauds which might be practised. But the whole system is one of misrepresentation and fraud: everything is sought to be enveloped in concealment and mystery, until an indignant call for investigation takes place, and then it is found that unexpected liabilities exist where all was supposed to have been discharged, and the unfortunate shareholders who had honorably satisfied every legitimate claim, are told very coolly, that if they intend to save anything it is necessary to come forward with new subscriptions or advances of money, to come into the same

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unworthy hands as have already dissipated or speculated with all their preceding ad-
 vances. What prospect of benefit is there in doing this? Several times already
 have Directors, after having got into difficulties, come again on behalf of the stock-
 holders by public or private loans, into the possession of enormous sums, sufficient to
 have discharged their debts, and paid for such improvements as were really necessary,
 but every fresh loan seems to have only added to their cupidity, for it has left them
 with an additional load of debt at the end of every second or third year.

From all this systematic concealment and mystery, from these unmanly arts and
 representations, from this spirit of gambling and imposition which has got abroad,
 enormous sums have been lost. The first vice, according to Franklin, is getting into
 debt, the second is lying, of whose train concealment, misrepresentation and fraud al-
 ways make a part. What right have the Directors, who are the agents, managers and
 mandataries) in these senses, the servants of a corporation, to exercise concealment in
 a report which they make to the stockholders for whom they act? What prospect
 of benefit is there in putting more money into the hands of those who have already
 trebly deceived the shareholders, it may again be asked? It seems only by adopt-
 ing a vote of want of confidence, by taking the management of the roads out of the
 hands of those who have so long mismanaged them, and by putting affairs into the
 hands of assignees, or by invoking the assistance of the Legislature to aid, by the ap-
 pointment of commissioners, that there can be hope of escaping from the ruin that is
 impending, and of saving a part from the wreck which menaces all. Such appears to
 have been the reasoning of shareholders in various railroads in the United States, and
 they have acted in consequence. The results of this new action, whether beneficial
 or injurious, remain to be seen. An editorial article in a New York newspaper
 commenting upon a report of the State Engineer upon the subject of railroads (of
 which we shall give an extract in our next number) observes:—"Legislation is greatly
 needed to prevent frauds constantly recurring in our railroad companies, very many
 of them never coming to the knowledge of the stockholders until it be too late.
 Had there been, as is now in contemplation by the authority of the legislature,
 monthly reports, those frauds could not have been committed. Directors of all
 railroad companies never impart any information of their affairs and business to their
 stockholders, or to any body else, unless compelled, and it is now time that our Le-
 gislature passed measures of the important character now contemplated by them,
 to prevent these evils."

NERVA.

No. 5.

Published in the *Montreal Herald*, March 3, 1855.

THE State Engineer for New York, in a report, alike creditable to his abilities, his patriotism and his integrity, which was presented to the Legislature of that State on the subject of railroads at the end of the month of January last, has the following observations:—

“The railroad corporations, in which there is a larger investment than in the banks over which the law exercises supervision, are permitted to control an immense amount of capital and interests of the greatest magnitude, with no other check than is afforded by an annual statement of their affairs, notoriously incorrect, and in many cases made so systematically, for the purpose of concealing from the stockholders and the public, violations of law and want of fidelity to their trusts.

“The present appears to be the most fitting time to investigate the errors of the past, and to suggest remedies against recurrences, for in the general depreciation of this interest and in the doubt which now exists in many minds in regard to their success, admonition and suggestions will be considered which would have been wholly disregarded in more prosperous times.

“One of the best guarantees for the faithful performance of duty that can be given to the public and the stockholders by railroad managers, is to render at frequent intervals, accurate statements of the result of the operations of the work, and of the manner in which the officers have discharged their trusts. It is not difficult to demonstrate that the publication of such ample statements, in the long run, does not injure the interests of *any corporation*, and that it is the most certain security against any malversation in the administration of its affairs.

“Under the general railroad act of 1850, each of these corporations is required to make an annual report to the State Engineer and Surveyor in the form prescribed, showing its financial condition and cost, its length and other characteristics, the business done during the year, and the expense thereof; a statement also of the receipts and payments, and a list of the accidents which have occurred involving injury to life and limb, and the officer is desired to arrange the information thus furnished and submit it together with his report to the Legislature.

“It was evidently the intention of the Legislature in requiring these reports to be submitted to the State Engineer, that he should give them such examination as would enable him not only to determine whether they had been made in conformity with law, but also to furnish the Legislature with such deductions therefrom as he was enabled to make from his more intimate and professional acquaintance with the subject.

“My predecessors have all complained of the evident and well known inaccuracies which these reports from the railroad corporations contain, and in submitting the present reports, I take this opportunity to express my conviction, derived from an examination of them, of those which have been heretofore submitted, of the reports of railroads in other states, and from my own experience, that no reliance whatever can be placed upon any general conclusions as to the cost or profit of railroad transportation or travel, as exhibited by these reports, while many of them contain errors which cannot be attributed *even to carelessness*.

“While the state has thus left this class of corporations free from the supervisions and restraints which she has imposed upon other great interests, and has only required for them annual statements of certain portions of their affairs, prepared by their own officers, it will be seen that this simple duty has been frequently omitted, or reluctantly and imperfectly performed, and has often been used by those officers to conceal, instead of exhibiting, the true state of affairs.”

The Governor of the State of New York, in his message to the Legislature, gives additional reasons to account for the present indebtedness of the State for railways:—
“Impatient for railroads, our citizens mistaking confidence for capital, have involved

themselves and the country in a fearful aggregate of indebtedness. In their zeal to hasten the construction of railroads, time, circumstances, cost, and even their value when completed have been disregarded. The question in too many instances seems to have been, not whether the roads were needed or would pay when constructed, but whether bonds could be negotiated, at no matter what rate of discount. This policy has thrown millions of depreciated railway securities upon the market, *at home and abroad*, and now the reaction leaves us with thousands of miles of unfinished roads and a stringent money pressure, operating injuriously upon all the business interests of the State. The expediency, therefore, of repealing the law is respectfully suggested.

Connected with our railway system is another feature of great but delicate interest. In their laudable desire to avail themselves of the advantages of such improvements, cities, villages and towns have loaned their credit to railroad companies. This is a power which should be sparingly granted by the Legislature, and cautiously exercised by the people."

How much of what is contained in the above extracts have become, and are daily becoming applicable to Canada, we need not undertake to show. It is highly alarming, and too obvious. Those who have followed up our railroad proceedings with the slightest attention, will be able to make the application themselves. These quotations are also given with a view to establish, among other things, that the legislature and the highest officials in the United States, if they discover, or if they are shown that they are pursuing a wrong or dangerous course, are not deterred by any false pride or pretended principle from retracing their steps and repealing those enactments which are becoming dangerous to the public weal—" *ne quid detrimenti respublica capiat.*" We have been told however, decidedly, and with some temper, that the law authorising the majorities in municipalities to subscribe for shares of capital stock in railways on behalf of unwilling minorities, will not be repealed: that the Legislature had not gone so far for the purpose of retracing its steps, and that it would persevere. If so, we can only lament it, for its perseverance will show that all we have said, and still are happy to believe, respecting the good intentions of the Legislature, and their being inadvertently drawn into a wrong course from a desire to favor the too extensive desires and delusions of the masses, not of Lower but of Upper Canada, were only fond imaginings. It will show that they have acted with their eyes open; and rather than acknowledge themselves not infallible, in which there would be no dishonor nor turpitude, they would prefer to see in a few years the country involved in bankruptcy, rebellion and anarchy.

It would have been well if the change in New York had come sooner, but perhaps the system of concealment to maintain the delusion, which had closed the avenues to information, left them without the knowledge that the change was needed. In Canada similar laws for the prevention of concealments on the part railway directors or officials, to those recommended by the State Engineer are necessary; reports weekly or monthly would be requisite, exhibiting the true state of affairs.

In the American Railway Journal we find it stated that "directors cannot safely be entrusted with the full authority in the management of our roads, the misfortunes which have overtaken them, and for which we may say, in all instances, they are directly responsible, are full proof. This is no random charge. Show us an unlucky railroad, and we will put our finger upon the very plague spot and not go out of the direction." The separate and often hostile interests between directors and shareholders which are involved, when directors (the agents and mandataries of the shareholders,) while in office, presume to speculate in the shares or bonds of the company are often sufficient to produce serious injury to the corporation. The directors are like gamblers, to whom every card in the pack with which they play is known to themselves, but concealed from the public and shareholders. So, if the directors of a bank have been playing false, and buying at a discount while in office, the stock, bonds, or other debts of the corporation for which they act—they are, or ought to be made, responsible, personally, to the corporation, whose gerents they are—and their

profits thus made should be brought into the common stock, for it would be sinning too flagrantly against those for whom they act, it would be abusing, too glaringly, their fiduciary trusts, to assume that such malversation on the part of directors who possess with such facility the power of raising or depressing the nominal value of the stocks over which they preside could pass unscathed. If they were obliged to refund, while in office. Corporations are sometimes snceringly said to possess neither conscience nor heart; we certainly do not expect from them any unnecessary sentimentality, but we should at least always expect to find in them honor, that sacred tie "which aids and strengthens virtue where she is, and imitates her actions where she is not."

We are told that several banks in the United States have assisted competing lines of railway, and to this cause may, perhaps, in part, be ascribed the failure of the many banks, of which, eighty are now said to have completely failed in the western states, and their assests to be in the hands of the proper government officers; and about eighty others to have practically failed to fulfil their engagements. But if a bank which is in no danger of failing, has assisted two competing railroads which cannot both be kept in operation, and the majority of the stockholders of both are about effecting an arrangement as to which of them shall be discontinued, to conclude which agreement a little delay only is requisite as to terms or sanction, the bank is standing grievously in the way of its own reputation and of the public interest, which refuses to prolong its former indulgence until the necessary time to effect the arrangement has been accorded, however injudicious it might have been to grant the credit in the first instance. In competing railroads in the United States, in several instances, one has been closed so as to render the other profitable, while if both were running even at the highest rates which railroads are allowed to charge, the result would have been an unmitigated loss, for the expenses of running as ordinarily estimated two years ago, were one-half the gross receipts, and the current charges have, since that time, increased by ten or twenty per cent. To have two railroads, therefore, from nearly the same place, to the same place at double expense, where one is more than sufficient to do all that is required, absorbing all the receipts from both, appears to be a species of suicide. It is what Young calls "guilt's blunder." The bank then, which, if not the cause has at least participated in this blunder, seems bound in equity and honor, since its credit has been the cause of the antagonism, to continue it until the projected reconciliation can take place and endeavor to assist the good understanding, instead of being ready by the stringency of its demands to increase the existing difficulties.

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No. 6.

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THE Legislature of Canada, it has been seen, has acted under the impression that every projected railroad was a safe and profitable investment; and for that reason, although an inadequate one, has assumed the unprecedented right of investing the county Municipal Councils with powers beyond their legitimate functions and attributes; powers importing that these Municipal Councils possessed all the legal intelligence, discretion and judgment, necessary to enable them correctly to enact the by-laws requisite for the purpose, and that their disinterestedness and integrity would be sufficient to administer righteously the millions of dollars which might, from the sale of bonds, come into the hands of men unaccustomed to such sums or such trusts, without exacting any security or imposing any check or supervision deserving the name.

The confidence of the Legislature in its own integrity, has led it to form too high an estimate of the honor and incorruptibility of Municipal Councils. Their confidence has led them astray from that humility in which alone can be found safety.— There are few of them who do not pray not to be led into temptation: was it right, then, that they should pass acts which purport to be laws, whose direct and inevitable operation and tendency was to expose the untried Municipal Councils, and with them a portion of their constituents, to the dangers of what to them might be resistless temptations? Could it be expected that the Municipal Councils should resist, when fate and fortune seemed to combine with the Legislature in offering them power and wealth, if only for a time? If an apple is represented as a temptation sufficient to lead our first parents astray when they were forbidden and cautioned against its use, and the All-seeing was on the watch to detect their disobedience, how could their descendants, the poor Municipal Councillors, be expected to withstand the temptation of those flying chariots, the railway cars, with Satan at hand to lure them, in the shape of imaginary power, wealth, stocks, bonds, speculation and gambling, and *no pervading eye* to mark their wanderings from the path prescribed? Will the people long consider it right to continue those so-called laws? In Lower Canada it may be surmised that these questions have been already answered by the facts which have occurred. Those facts are, that from every municipality in Lower Canada where by-laws have been passed for the taking of railway shares, the inhabitants have proceeded in the courts of law, in the name of the Attorney General, whose sanction has been laudably afforded them for the purpose, to obtain, on just grounds, that the by-laws be declared null, and the further issue of bonds be prohibited. A judgment has already been rendered in one of the cases in their favor. The others are not yet sufficiently advanced to admit of a decision. The people are becoming panic-stricken at the load of debt which is about to be imposed upon them, and from which they seem likely to be relieved only by measures at which all true and faithful hearts revolt—measures of repudiation or revolution. They have begun to count the morning and the evening to the days of the iron-horse. The fabled introduction of the wooden-horse into Troy was not so disastrous to that unfortunate city as would be the introduction of the iron-horse throughout our settlements, if it is to be accompanied with irreversibility to the freedom of our rights and property. We cannot know, if stock be taken, what our losses may amount to:—If it be said they can amount only to all the stock taken (this may be very far from true, but if it were true) how many municipalities would then be induced to subscribe, or how many municipalities could subscribe, as they have done without ruin? We know how it is, in those cases where the stock is taken by voluntary subscriptions; a representation is made on the part of the directors, stating that an addition to the road, a branch or other improvement, is necessary to make the road productive, the unfortunate shareholders subscribe anew, or authorise a loan, and (owing to some new line or to some other cause, perhaps foreseen by some of the directors who take care to sell out just before the denouement,) the result is, that the shareholders find they have lost all the new outlay, and all the

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old together. There are instances approximating to this in old England, and quite equal to this in the United States, and will the municipalities be more cautious than individuals would be in their own concerns? If they possess all the intelligence and virtue which the Legislature supposed when bestowing upon them powers beyond right; if they be honest as light, and faithful as truth, they will still be more or less under the influence of the agents, speculators, gamblers and jobbers of railroads who will make plausible representations and suggestions to improve or to render remunerative, what has hitherto proved a burthen, and induce the deluded municipalities and their constituents to further outlays, to be lost like their previous ones. But these suppositions of utopian honor and fidelity are quite idle in mercantile concerns, and still more so in railway matters,

"Where conscience, truth, and honesty are made,
To rise and fall like other wars of trade."

And where it appears from countless examples that the unfortunate shareholders and bondholders stand always exposed, like the inhabitants of a beleaguered city, to the double danger of internal treason and external hostility. 'T was an observation of an old and experienced political writer, that the Legislature makes villains as often as it confers upon municipalities or corporations the powers and privileges which should centre in itself alone. What then does it do when it indirectly confers even greater authorities than these upon County Municipalities? In Lower Canada there seems little difficulty in dealing with this subject now, far less than there will be at any future period, because the alarm has been taken early by the inhabitants of Lower Canada, and the municipalities stand as yet but little injured; for the by-laws, as far as decisions have been yet obtained, have been declared illegal. If the matter had been much longer delayed, the difficulties might have been much more serious, and the injury far greater; perhaps even greater than the resources of the province could remedy; resources which were bestowed by Providence for higher and better purposes than to spread among the people the spirit of reckless speculation, jobbing and gambling, careless of the ruin of others and intent only on gain for themselves.

To show still further the morals and policy of the spirit which this railway mania has generated and diffused over a neighboring land, we quote the following passage from the *Providence Journal*:—"A Railroad sold: The Rutland and Burlington Railroad was sold at auction by the Sheriff at Bellows Falls last week, for one mill a share. The capital was \$2,200,000 and its floating debt was \$2,000,000, besides the debt of \$3,000,000 secured by mortgage. This work so disastrous to the stockholders, and to the unsecure creditors has doubtless been of immense advantage to the people along the line." Not a word of sympathy is here spared to the feelings of those who lost so many millions, which might have been to a part of them their all; not a syllable of comment about the honesty or morality of those who could devise and carry out by concealment and misrepresentation a scheme of ruin so atrocious; but an ejaculation of satisfaction is elicited by its having been of service to others, as expressed in the vague, indefinite, and probably fallacious phrase that, "it has been doubtless of immense advantage to the people along the line." Now it may be doubtful whether "it has been of any advantage to the people along the line" for it may be a question whether the road will even pay its running expenses and maintenance as there are other railways leading to and from Rutland. But one thing is certain, that the County Municipalities did *not* take shares in the capital stock on behalf of the unwilling inhabitants of the county through which the railroad passed, (such agricultural county laws, being of Canadian growth); else there would have been in that case no congratulations to be made even "to the people along the line." It may perhaps seem better when a person has been pillaged, to be able to say that some third persons have reaped a trifling benefit, than that the whole spoliation has been lost. But can a Legislature justify itself for authorizing spoliation on such grounds? In the case before us it might be surmised that the losses were only from concealments, misrepresentations and frauds, such as not unfrequently take place in railroad matters, of course not from any authority derived from the Legislature as to municipalities.

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But in no mode can the continuance of all the powers included in our Municipal Acts be vindicated or palliated. They involve by constraint in a common venture and partnership, characters the most opposite and dissimilar, who are each entitled to the exercise of free will. The sober, the frugal, the industrious, who have lived and toiled, only to fulfil faithfully their engagements and to secure something to those dear to them; something for "the days of darkness which shall be many," and the idle, the unfortunate the extravagant, the dissipated, "who take no thought for the morrow," are put upon a common level: They are placed by municipal coercion at the same game of hazard: Their fortunes are launched on the ocean of steam together, and are dissipated together against the wills of their owners in smoke or explosion. Does the Legislature still hesitate to rescind these noxious corporate powers? For what reasons? We have too high a respect for the Legislature to believe that it is to allow free scope to the agency of speculators, gamblers and jobbers of railroads, but perhaps among other reasons it may be said that the Corporations or Municipalities will be injured if their powers be reduced. To this it may be answered, that the powers were improvidently bestowed; that the people will be injured if they retain them; that Corporations are always intended to be like every social or domestic institution, for the advantage and benefit of the people; this is the object of all law, Corporations are the mere creatures of the Law endowed with such vitality and powers as the law has been pleased to bestow upon them, in which they stand in a far lower position than the people, whose rights exist antecedently to all human laws and whose rights those laws, even by the creation of Corporations, were intended to augment and preserve. The same Legislature which has created, can put an end to the existence, or can abrogate the noxious powers of corporations, as often as it is found that they retard instead of advancing the public weal, that they violate instead of preserving the rights of the people. But although the law possesses this power, and must, when necessary, without scruple exercise it; yet as its exercise at times and in peculiar conditions might seem harsh, all corporations ought to be of limited duration, a circumstance which would always conduce to keep them within the line of duty. Corporations not unfrequently, also, have a tendency to establish castes or sects: castes check improvement, keep society stationary, or cause it to retrograde and oppose the law of progress, which in all things that do not violate primal and fundamental laws, appears to be the intention of Providence. The higher the object, the more dangerous the caste; hence religious castes and Corporations are more dangerous than all others: to bestow upon these last-mentioned Corporations a perpetual duration is what the laws of man commonly endeavor to effect and in so doing the laws of man are at war with the laws of nature, for they assume that we have reached that point of perfection at which we ought to stop; for every act of perpetual incorporation is an edict against future improvement. It is owing to the domination and sinister influence of caste that the fertile regions of India, the earliest abodes of man, have been subjected during countless ages to the tyranny of cruel and degrading superstitions, the burning of widows, the immolation of men under the wheels of Juggernaut, and all the forms of impiety which a governing and fanatic priesthood could devise to delude and brutify the sons and daughters of man. Against them the perpetual edict for the prevention of future improvement seems to have gone forth, and India has been subjected to a foreign yoke for countless ages, nor can she hope to recover herself and become independent until she throws off the load of superstitions under which she is chained.

Even where Corporations are established with an exclusive view to progress, they soon become attacked by the blight of self interest; the management or direction gets into the hands of a few designing persons who have, or create, a difference of interest from their associates, and gradually become more and more indifferent to the interests of the members, until at length those interests are entirely lost sight of in the superior attractions of the power and advantage of the directors, and they end in being managed or mis-managed solely with a view to the advantage of the officials or office-bearers. An unintermitting and jealous guard appears, therefore, to be called

for over all corporations, by existing governments, particularly by such governments as have elements of freedom in their composition ; and it seems the duty of the Legislature for the benefit of all, to be cautious in establishing Corporations, whether municipal or otherwise, and to preserve its control over them by requiring periodical statements of their condition, management and progress, and by limiting their duration. In short, the Legislature ought to bear in mind that, in establishing Corporations, it is in some degree founding petty rivals to itself which may work injury to the interests of the community in proportion to the powers bestowed, and become ruinous to the common weal, and therefore fatal to itself, if the power and privileges which should center in itself, alone be entrusted to others.

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No. 7.

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In America the levelling principle is the ruling one. No white man in the United States likes that another should have more advantages than himself, and his zeal to establish this equality in a country where all are born with equal rights to life, liberty and the pursuit of happiness, (the negroes always excepted,) prompts him to untiring industry and unceasing exertion. If his acquaintance fifteen or twenty miles off has a railway going past his house, he thinks he should have one also. This is one of the most distinguishing traits of every native American character. One person would call it emulation or competition, another might denominate it envy or jealousy; while a third—who considered emulation, competition, envy and jealousy, as kindred dispositions of the mind, or rather, as modifications of feeling derived from a common source, only varying in degree and intensity, according to circumstances, education and character—would say that both were right, but that each should add the momenclature of the other to his own.

Suppose that the whole sea-coast from Nova Scotia to Florida, included, was indented by a succession of harbors or sea-ports, each as good as that of Portland or New York, and each at the distance of only five or six leagues from the other. The American in his spirit of emulation or competition, envy or jealousy, would desire to see a railroad built from each port across the country into the interior. Suppose it done. Railroads are not wealth, nor are they the representatives of wealth—unhappily, they seem likely to become representatives of poverty in many places. Railroads do not change the soil nor render pine-barrens productive lands. The lands would continue to bear the same relative value to each other, with the railroads all built in the case supposed, that they now do. But the railroads, besides having cost in their construction ten times the value of all the lands intervening between them, would be encumbered with an annual charge equal to the amount of the interest of the cost of construction, and—if they were employed,—to another charge of equal or greater amount for the working expenses. It is obvious that if all these railways were kept up they would absorb, many times over, all the wealth and resources of the most populous and opulent countries. Nature, however, has fortunately bestowed with a sparing hand such sea-ports as New York and Portland, and the spirit of competition, emulation or envy, ought to be restricted within the limits prescribed by necessity or advantage. In many places, as often as it can be done, it is customary to defraud the subscribers to the capital stock, or shareholders, out of their entire outlay, and sometimes this extends to all the other creditors. Railroad Directors enjoy great facilities for effecting this, and thus, we hear of the immense utility of the railroad to those *who live along the line*. Now the advantage must be far more widely comprehensive than this, or the expressed praise is the strongest censure, and shows that the country, generally, and the masses pecuniarily interested have been the victims of fraud and delusion. There can be no description of a country more alarming to a judicious and prudent shareholder, than the common laudatory metaphor, that it is covered by a *net work* of railways. He may safely deduce from such a description that the prosperity of the country has received a severe check, if it be not blighted past recovery.

We are friends to the construction of railways, as often as they are kept within due bounds, that is, as often as they consist with the public utility. But the public is composed of all its parts and to effect this public utility it must yield something like an adequate return for the cost laid out upon it. If the labourer is worthy of his hire, he who hires labourers for the public service with money (the produce of his own former labour) is worthy of his interest. Endeavouring to obtain, as is done in the United States, railroads at the cost of one portion of the community for the benefit of another,—and then, if the experiment fail, turning into contemptuous pity or ridicule those at whose expense they were made, as has been done in the case of the

New York and Erie railway, where, it is said, that \$23,000,000 were sacrificed—is most immoral and disgraceful. Every railroad, answers some of the purposes of canals or navigable rivers, as all more or less serve for the conveyance of freight and passengers. But a railroad, although the charge to each individual passenger be but a comparatively trifling sum, is, as regards those who contribute to its construction (taking into consideration the enormous cost of making the road with the extensive means and appliances they have to maintain of cars, locomotives, station houses, machine shops, establishment of officers and men, and the dread responsibilities to which they are liable, by far the most expensive means of conveyance yet known. The current of a river costs, nothing to keep it in motion, but a railroad even after it is completed with all its means and appliances, requires an immense and perpetual outlay, which the country on its borders and the petty villages through which it passes cannot compensate, and which can only be remunerated by a great extent of country, or the intercourse of large cities, and hence the number of unsuccessful lines which, after gigantic expenses in the making, it is found requisite to close and abandon. It is a vulgar adage to say that competition is the life of trade, this is often unsound and erroneous as a public or government principle where the good of all is concerned. Competition in some things and circumstances would endanger life, destroy trade, or lastly introduce in its stead unendurable misery as is most feelingly and strikingly exemplified in so humble an instance as Hood's "Song of the Shirt." It is folly to encourage competition in small matters so as to occasion distress and wretchedness; it is madness to encourage competition in matters so costly as canals, or so expensive and dangerous to life as railroads. In a country of so little wealth, and frequently so sparsely settled, as Canada, where the railways often pass through long lines of unsettled forest, where, during five months of the year, owing to the inclemency of the season, the travelling ceases or is so greatly diminished as not to pay the daily expenses, it would be madness. Those who would encourage railway competition amongst us, in such a condition of things, are actuated not by feelings of philanthropy, but by those of reckless and intense selfishness. Competition in these matters would increase the recklessness with which life is already sacrificed to money in America, where traveling by land is nearly as dangerous as voyaging by sea.

The Government in this country, it would seem, can adopt two courses in relation to the construction of railroads consistently with what it owes to the rights and liberties of its subjects—one is to leave them to voluntary subscription as is done in England and the United States, where it has already proved so disastrous, not immediately to the government, but to the people and their morals, (but, it must always be recollected that what affects the people immediately affects the government ultimately, either in reputation or credit); and the other is to take them into its own hands as is done by nations on the continent of Europe. But, in no case can the Government have the right to bestow upon Municipalities a compulsory power over minorities in taking, or making them answerable for shares in the capital stock of railways, and in issuing bonds on behalf of the inhabitants for the payment of these shares.

They must be restored to that freedom of will, choice and agency in things lawful which is their birthright, which belongs to them in other free countries and which it was wrong, directly or indirectly, to take from them in this—namely, the right of determining for themselves whether they will or will not belong to, or be responsible in person or property for any partnership, or quasi partnership associations running partnership risks, of which the Roman, the French and the English law concur in saying that the essence, the one indispensable requisite, is mutual and personal consent. If it be held that "an act of Parliament can make murder proper, or give "rectitude to robbery," if it "can sanction evil deeds, or consecrate crimes," then it may be consistently held that it can sanctify a breach of contract, or construct a purely personal and aleatory contract against the consent of the person who is to be bound by it. The Legislature is desired only to withdraw a pretended right conferred on Municipal Corporations, a right specious in appearance, meant perhaps as a boon, yet in reality ultimately fatal to the liberties and morals of the people, and worse in its operation than Esau's pottage or Pandora's box.

As well might the Municipalities prescribe whom the minority should take as partners for life, or marry, as what other partnerships they should enter into against their own consent.

It is true the Municipalities might tell the minority that the partnership would be managed for them by others, but this would be but a shallow device to recommend it, as people like to have some little to do themselves in their partnership concerns, whether belonging to the home department, or otherwise; and if this partnership, contracted on their behalf by the Municipalities, to be managed by others, should only be as successful as the great majority of other railway partnerships, it would leave them to compensate the whole amount of the shares taken and possibly a great deal more.

Another effect of this legislation of Municipalities is, that it would tend to produce the greatest inequality in the assessments or contributions imposed upon each, to become speedily the cause of heart burnings and enmities. Very different burthens would be borne by different adjoining Municipalities through which railroads pass, according to the recklessness, the caprice, or the delusions which might predominate in each. If the laws aimed at justice they would place these Municipalities on a more equal footing; if one Municipality was not compelled to subscribe for shares of capital stock, so neither should the other be. The Legislature, perhaps, would be shocked at the idea of compelling all the Municipalities to take shares. But now, if one Municipality chooses to avoid all the burthens of a ruinous railroad by not taking shares, although it lies along the line, what iniquity, what flagitious injustice, there would be in obliging the minority of the adjoining Municipality, partaking of the same sentiments, to bear burthens that may crush them? If it be voluntary on the part of the Municipalities to subscribe for stock, let it be, also, voluntary on the part of the individuals composing those Municipalities. Without the law is rescinded, every individual on whose property the bonds could attach is already half enslaved. The borrower, says Franklin, is a slave to the lender, the debtor to the creditor. From the time of Homer it has been said,

"Jove fixed it certain that whatever day
Makes man a slave, takes half his worth away."

It is true that we can get rid of the debt and the slavery together—by repudiation and revolution. It would be well for our legislators to reflect that their present course in these matters is unjust; and where injustice, although not intended, results from measures adopted, we live in an age perhaps too ready to call for retribution.

NEEVA.

No. 8.

Published in the Montreal Herald, April 8, 1854.

It is said to have been the late Duke of Wellington's opinion that the construction and management of the railroads in Britain ought to have been in the hands of Government; if they had been, there is no probability that they would have been attended with such immense loss as they have been to the people. The "Railroad King" and his fellows would have been more speedily checked when they had the eyes of the members of the House of Commons upon them during their whole career, than when the supervision went no farther than to pass an Act of Incorporation giving certain powers, and then leaving such vast numbers of their fellow-citizens to be the victims of delusions, frauds and dishonesty. On the continent of Europe the railways are in the hands of governments. The lines of railway running from foreign countries, where there was no intervening separation by the sea or a large river, might have occasioned umbrage among the powers of Europe, unless those lines at least, had been in the hands of the respective governments.

There are many cogent reasons in favor of the government having under its control all railways that enter into the province as continuations of lines from other states, without crossing the St. Lawrence or its parent lakes. This can happen in Lower Canada only. There are as yet but three lines of railway that thus enter Lower Canada. One is the Grand Trunk from Portland; the government, as part owner of that road after its entrance into Canada, may probably have there all the control which it may require. There are then only two other lines, which ought to have been only one, as they come from places little distant from each other; both on the west side of Lake Champlain, both terminating at the same place—Montreal—and running about twelve miles apart: one is the first, and was for a number of years the only railroad in Canada, begun in the reign of his late Majesty William IV,—viz., the railroad to St. Johns, with its continuation to Rouse's Point. If the right of primogeniture gave any claim to preference in railways, loudly might it be urged in favor of what was, for a long period, the first and only railroad in Canada, that connected the province with a foreign country, or the waters of the St. Lawrence with those of Lake Champlain. The other is a railroad commenced a number of years afterwards, extending from Montreal to Lachine, thence subsequently and more recently prolonged from Caughnawaga, on the opposite side of the St. Lawrence, to the province line—which was reached about twelve miles above Rouse's Point where it crosses the Ogdensburgh railroad, as does also the Rouse's Point railroad about twelve miles below it. The utter impossibility of these two lines being remunerative, and the certainty of their being ruinous to each other after an outlay of about two million of dollars, has led to an attempted amalgamation of interests. If this takes effect, it would be easy for the government, as it would doubtless be for its interest and that of the Grand Trunk, to acquire the control of this amalgamated road, but there is no other railroad that could be needed or that could be carried on, without an enormous annual loss, between Lower Canada and the United States, unless it be one projected by the Grand Trunk from Island Pond to shorten the distance between Portland and Montreal, of which we have spoken in a former number. The Grand Trunk now in operation commanding as it does the whole intercourse between Portland and Montreal, and a part of the intercommunication with Boston; and the Rouse's Point road serving for the remaining intercommunication with Boston, which passes over the Green Mountains, and for the intercourse with New York which is carried on by land through Vermont or by water through Lake Champlain. The delusions, to say nothing of the frauds of railroads have wrought enough of misery and disaster in the neighboring states and in the parent country to render it imperative on the Legislature in this province as it prizes the good of the people, and as it values its own reputation, to stay its hand as to future enterprises of this nature. The power, functions, and character of the government are as much interested in these matters, as they are

in the repression of delusive frauds or vices of a different character that tend to degrade and impoverish the whole people. Why are lotteries prohibited amongst a moral people? Why is gambling an offence? The worst and most fraudulent features of lotteries and gambling are apparent in the management and transactions of railways conducted upon the voluntary system. What would be the benefits, it may be asked, that would be likely to result from the government taking into its own hands the management of railways? Those benefits are obvious as soon as the demoralizing and suicidal law authorizing Municipalities to subscribe for shares of the capital stock on behalf of unwilling minorities shall have passed away. If individuals see their advantage in becoming stockholders in a promising line, they can then subscribe, secure that no competing line will be allowed to destroy its advantages. As the officers of the railway will not then be allowed to maintain antagonistic interests to the stockholders—the dangers which they have now to dread from internal treachery, will also be escaped. The government possesses advantages for railway purposes that can be possessed by no other; it can select their course—it can choose their number. It can and must avert the certain ruin of competing lines, it need build none except such as would be considered advantageous to the whole community—such in other words, as would be remunerative. Do any persons want such as would not be remunerative? Then they want to inveigle others into undertakings which might be hazardous and ruinous: they want that their road should become a stock jobbing, a cheating, and a fraudulent concern, in which speculation and gambling should have unlimited scope, as in most railroads which have been denounced by Governors and State Engineers in a neighbouring country; men of this stamp should meet with no confidence. In the affairs of the world, says Franklin “men are saved not by faith but by the want of it.” Again the government can fix remunerative prices; it can manage more cheaply having large lines under its control than when a full complement of President, Directors, Secretary, attachés and men are separately employed for each railway. Many of the officials who are the most expensive might be dispensed with, because there would be a general superintendence for all, while the numbers of the working men who contribute to the safety of the passengers might be increased.

The riots which now take place too frequently from the non-payment of wages, sometimes for months together to impoverished labourers, enlisting in their favor the sympathies of all the humane, might be wholly prevented.

The employment of any on the running stations excepting temperance men who would be necessary for the safety of the passengers could be avoided, for the triumph of temperance regulations cannot be long in forcing its way, where steam is the propelling principle, and where consequently without such precaution the dangers and disasters of travelling by land might be greater than those of travelling by sea. Steam power and drunkenness can never be associated without destruction.

The power of railway officialism in the Corporations with the large sums of money which come without any security into the hands of railway Presidents and Directors, of which the message of the Governor of the State of New York affords some specimens, and the chances of gambling and fraud which offer in various directions of which the English courts and publications give us ample examples. “How in one company half a million of capital was down to unreal names, how in another company Directors bought for account more shares than they issued and so forced up the price, and how in others they repurchased for the company their own shares, paying themselves with the depositors money.” All these, and endless numbers more, suffice amply to establish that even the voluntary partnership system of joint stock companies is radically and incurably bad, as a common system on which to construct railways—and if as a voluntary system, it is so fraught with evil, how doubly and insupportably pernicious must it be when to these evils the Canadian Municipal powers of coercing minorities against their wills into these partnerships shall be superadded.

Mutual confidence should be the soul of all associations. Railway associations have almost universally forfeited that confidence and lost that soul which was their life. Different railways have often hostile interests to each other. Each incorporat-

ed railway, although in itself a partnership, has, as it is managed, antagonisms and separate interests in itself sufficient to work its ruin, or to centre all its gains in the hands of half a dozen. The railway directors can raise or depress the price of shares or bonds to suit their exclusive designs, and seldom have they been deterred from pursuing their own at the sacrifice of the interest of all others. We do not hear from the continent of Europe, where railways are in the hands of government, of such frauds and infamies as those that takes place in England and the United States, but which will be enlarged and improved on in this Province, if to the voluntary system the ineffable tyranny of Municipal coercion, by taking shares of the capital stock for the unwilling, shall continue to be superinduced. The French Canadians, far more considerate as to consequences, will rightly look upon this pretended Municipal power as a snare to involve them in a far heavier thralldom than all the seigniorial privileges from which they have been so long laboring to emancipate themselves; they will, of course, wisely avoid the snare. The majority of the qualified electors in the Anglo-American townships, "studious of change and pleased with novelty," although not possessing a fiftieth of the property, may in some places, possibly venture into it, in the hope that they may migrate before the day of reckoning shall come, careless of what shall befall those whom they leave behind; but railway explosions—whether of steam or credit—come often with such sudden destruction upon those interested, that the ruin may often precede the intended migration. We shall not employ time at present in characterising Legislators who would deliberately form and carry into execution plans so destructive to the prosperity of the people who elected them. We know not yet that such plans were formed or will be persevered in; if not persevered in—we shall be entitled to believe they have never been formed; but if they should, there will be time enough then to talk of conspiracies, not of the people against the government, but of the Legislature against the people, as the Legislature of England conspired against the people of the then Colonies by the stamp act.

But we have happier expectations from futurity: from the very extremity of the difficulties which beset us we may draw our hopes of deliverance. We have no confidence in Joint Stock Companies; we have none in Municipalities. Like the petty Dukedoms and Marquisates of a past century in Italy, or the Barons in Germany, who could hang, draw and quarter on their own estates, these Companies or Municipalities have just power enough to involve us in a civil war of competition and ruin, but not enough to effect a conquest that shall give us the hope of peace or prosperity. The iron yoke that is now pressing upon us we feel heavily; that which is in prospect before us is more grievous than we can bear, and we "would fly from petty tyrants to the throne;" from Municipalities in which we can have no trust, to the Legislature in which we still place confidence, from the state of shareholders to the state of tax-payers, piously believing that as tax-payers something may still be left us, while as shareholders

"—In a land of Hectors,
Cheats, supercargoes, swindlers and directors,"

we have reason to fear that all may be swallowed up. It is certain that a safer system might be devised (notwithstanding all the bugbears that we hear of government frauds) than could be established by any other mode, for the officials might be men chosen for the business, professional men, who should be prohibited from speculating in the shares of the concern, who would act in the face of the whole country, be under continual and ready supervision, and not find shelter under their own insignificance, as may now be done. Then the complaints of individuals would inspire salutary fear and restraint, if well founded; the officials would not be traders, nor furnishers of materials or supplies, nor contractors, nor in league with them, and the remedies to frauds could be applied so speedily as to prevent their most injurious effects. Besides, the prestige and reverence which rightfully obtains in favor of a work of government, would remove much of the envy and jealousy which now attaches to almost every undertaking of this nature begun and carried on by associated individuals, and

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which prompt to attempts at injury, regardless of the many lives of innocent people who may be sacrificed to hatreds and enmities in which they take no part.

Those who assume that governments cannot conduct any public work to advantage, by reason of the constant readiness of the people to impose upon and overcharge their rulers, do not reflect that the same objections exist against canals which are almost exclusively government works, that the same disposition to impose upon and overcharge exists against Corporations and Municipalities, and that while the credit of the government is so much better, they must have superior advantages in obtaining contracts at the lowest price. Besides, the examples of internal treachery have been much more flagrant in the Corporations of a neighboring country than could be possible in works conducted under a government.

The superiority of the railroads on the continent of Europe to those of England in point of convenience, comfort and safety to life and property, is conceded by all recent travellers. Safety to life may be too contemptible a matter to deserve of itself the attention of enterprising men devoted to steam progress; but the lives now have to be paid for, which may secure them a little more regard. Still, if the voluntary principle could not be entirely superseded, as people must be allowed to ruin themselves—although you rightly prohibit others from ruining them—an occasional railroad on the voluntary system, might be permitted by government where it can do no injury, nor effect a civil war upon other railroads. There would always be enough of the unprincipled, and more than enough, to undertake them, for the chances of gambling and fraud which they would afford to Contractors, Presidents, Directors and others admitted to their secrets, were this the sole prospect of profit. Surely greater encouragement than this ought not to be permitted.

NERVA.

CORRESPONDENCE.

To the Editor of the Montreal Herald, [Published December 7, 1854.]

STR,—There are many of those who have read the *alarming and ominous* communication of "Nerva," in your paper of the — instant, who would be very much gratified if that gentleman would tell them in what way the large sum of money he mentions has been lost in railroads in Great Britain? And, also, whether it is not a fact, that even those railroads, that have been most ruinous to the stockholders, have greatly increased the value of Real Estate to those Districts through which they pass or are contiguous, so much so, that it is a matter of doubt whether the proprietors would not be greatly the gainers if they were to be mulcted in the whole cost of those roads. They are also at a loss to see what the injustice and hardship can be in nineteen out of twenty men obliging the twentieth to do something that will double the value of his and their own property.

ALIQUIS.

CORRESPONDENCE.

To the Editor of the Montreal Herald, [Published December 11, 1854.]

STR,—Your correspondent "Aliquis" speaks of many persons, who would be very much gratified if "Nerva" would tell them in what way the large sum of money he mentions has been lost in railroads in Great Britain. The answer is obvious—it has been lost in the same way in which money was lost by the South Sea, the Mississippi, and other schemes, by the selfishness, misconduct and misrepresentations of the unscrupulous or unprincipled agents and speculators, and by the want of business habits or capacity, and the confiding trust of the deluded victims. But the question meant or intended to be put by "Aliquis," perhaps is not so much "what way" the large sum of money has been lost, as what is "Nerva's" authority for the statement and the answer to that question is, correspondence from England and publications stating that more changes have taken place already in fortunes in England, since the introduction of railways, than during five times the same period before. The wealthy have become impoverished, unscrupulous agents have risen as by magic to rapid fortunes, clergymen, the infirm, the incapable of business, widows and orphans, who had placed their all in these concerns, as in safe investments, have been reduced to beggary. Where these vicissitudes occur with prodigious or unusual frequency, there must be something evil in the enactments of the state itself, or in the conduct of the persons through whose agency the wrong occurs. The great mistake has been the considering railways, as many have unfortunately done because their foundation is on land, as partaking of the security of landed estate, and, therefore, as being a safe investment. Many thousand persons have been induced to invest their means in railway undertakings who would have shuddered at the idea of doing so, had they been told fairly and honorably that they were embarking in trade, or investing their little all where all might be lost. But railways ought to be universally known and declared to be what they really are, that is, a purely trading concern, not only subject to the chances and misrepresentations of trade, but to far more than the ordinary risks and uncertainties to which trade is liable.

The way in which the large sum of five hundred millions of dollars has been lost in England, is also to be found in an article in the Edinburgh Review for October, 1854, entitled, "Railway Morals and Railway Policy," where the interest of the directors is shown to be often adverse to that of the proprietors, and therefore to re-

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quire great watchfulness on the part of the latter, and where directors and contractors are not too advantageously spoken of. Having, thus, not only answered, but given our authorities in answer to the first question, as well as to another question which we were led to presume might be meant or inferred from the one propounded, we proceed to the next enquiry, namely, "whether it is not a fact that even those railroads that have been most ruinous to the stockholders, have greatly increased the value of real estate in those districts through which they pass, so much so, that it is a matter of doubt whether the proprietors would not be greatly the gainers if they were to be mulcted in the whole cost of these roads." The first part of this enquiry contains a question, and the latter part appears to be the questioner's own deduction and inference, and if not, it must be a second question—they each deserve an answer. To the first part it might be fairly answered that some railroads, which have proved most ruinous to the stockholders, have greatly increased for a time, *until other and competing railroads have been built*, the value of the real estate in those districts through which they pass. But is this a reason or justification for encouraging the making of railroads which may prove most ruinous to the stockholders? If the ruined stockholders had been informed at the beginning by the speculators, agents, directors and contractors of railroads, some of whom must have foreseen, but kept this knowledge concealed, that such most ruinous results would possibly attend their outlays in stock, would they have been induced to risk their fortunes in such enterprises? They would not. And is it any consolation to the ruined stockholders who have been misled and deluded by the visionary fallacious or fraudulent representations of speculators, to tell them that, although they have lost their fortunes, a different set of people, the landowners, have gained something by what they have lost? It is the duty of the legislature to protect all its subjects equally, as far as it can, from the delusions and frauds of the reckless or unprincipled. To the latter part of this enquiry of "Aliquis," whether it be an inference or a question, the answer is, that it is no "matter of doubt;" *it is certain* that the proprietors would not be greatly the gainers, nor at all the gainers, if they were to be mulcted in the whole cost of the railroads; that they would be ruined completely. To the concluding remark of "Aliquis" that "they," meaning the many who have read the communication of "Nerva," "are at a loss to see what the injustice and hardship can be in nineteen out of twenty men obliging the twentieth to do something that will double the value of his and their property," we have only to observe that their sense of right must be drawn from very different fountains than those of equity and morality, than those of the laws of France, England or any other civilized country, who could be for a moment at a loss to see the injustice and hardship of the case supposed. The sacred rights of property are set aside, the freedom of agency is denied, and the equal exercise of judgment and conscience, on the part of the twentieth, is set at naught. Several railways in the United States, after costing large sums, are now closed because they did not pay the working expenses, and a Committee of the Caughnawaga, and Champlain and St. Lawrence railways is now appointed to consider whether one or both of those railways shall cease to run. These are fact startling enough to occasion hesitation in the twentieth person, whose rights and freedom are to be over-ridden by the nineteen, concerning the credit due to railway representations and visions. This twentieth person may be of the conscientious opinion that the railroad projected is disadvantageous, that it will not pay the expenses of being worked and must be abandoned, that a competing line will be set up, which may cause it to be closed, and cause him to suffer loss. It might be that he would willingly agree to the desires of the nineteen if they would secure him against loss; but he is not to be permitted to exercise any right over his own property; his strongest conviction, his conscience itself, in preserving his property for his children, is to be violated because he is the twentieth, and may be wrong, while nineteen infallible persons making railway promises, which are never deceitful, have a different opinion, and what the injustice and hardship of this can be, railway favourers, schemers and promoters are at a loss to see!! We had thought religious persecutions had at least produced the conviction of their own inpropriety, and are we now

to be threatened with railway persecutions in addition to the appalling loss of life and property they have heretofore occasioned ?

The readiest way, as has been already said, to put an end to the greivous delusions, misrepresentations and injustice, to which our present system of railways gives encouragement and support, to afford better protection to the lives and property of Her Majesty's subjects, to restore them to right and freedom of agency, of which no representative body or individual is entitled to deprive them, but of which what now purports to be law deprives them, is to make some changes in the law, and for the Government to take the matter into its own hands. The only part of our population, to their honor be it spoken, who have exercised any independence of judgment on the subject of railways are the French Canadians—most others seem to have delivered themselves up with blind and unreasoning credulity to the ordinary views of unbounded wealth, improvement and progress, artfully suggested by railway agents and scemers, until, at last, morality has expired, and the statutes of Canada contain an unexampled law, against which petitions will soon be received, and which the French Canadians, it is believed, will do their best to repeal.

NERVA.

ERRATUM.

On the 33rd line of page 15, for " offered," read " afforded."

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