## Allbayy \%registr.

N. S. omtelal Raper for oremon. 8ATURDAY. FEBRUARY 22, 1874

The Dartmouth College Case.
The leading article in the Jaun ary sumber of the Americon Lem Revien, opersupa di-chssion which goes to the root of all the difiten tire in the way of railroad lexi-lation Certainy so long as the decision . the Supreme Court of the lowitem States in the Dartmonth C.II 2 case rtands ax the law of the land and so long as the principlen of tla decision are aceepted by the Coartof the country as the -stadard by which to measure the limitsot right iog rail ay charters, all attempt to fix rates of treight, and to legiolate generally in restriction of the powers of railway corporations, wil ations, says the writer in the Rviec, often so pow'erıul as to com. stitnte quasi sovereignties, the decision in the case above reterrel t. has been, indeed, mot oaly a Magis but a Major Charta, for it has conferred upon them 's an indepemletee such as the East India Compary. in its palmiest days, never possessed or even aspired to,
Our readers have doubtless nicticed that in Illinuis, Iowa, or elswhere, where the validity of State egis'ation concerving alleged milway extortions has come in queshon,the attorneys for the railway have denolished the other sile with this ever realy and powerfin decision, which is backed by the logio of Welster and Marslall, two of the greatest legal minds this sonutry ever possesed. The argnment it these caes is tamiliar tu 3ll. Its propositions are as fillows:
I. The Constitntion of the luited states declares that no law slaill be passed "impairing the obligation of onitrats.
II. The Supreme Court of the United states decided in the Dartmouth College case, that "a charter graited by a state goverument to a private corporation, without any reservation of a right to amend or repeal it, was an irrerocable grant of the rights, privileges and franohises included in it, prosensing thic nature of property; and that any subequent act of legislation, altering or amending the terms of the oharter, was a law impairing the obligation of a contract."
III. Rai road companies are private corporations, ther charters are contracts, and no Legislature can ster or amend them, uuless the right to do so is reserved is the charter itself.
Rail however much we may, still these three propositions can not be got rid of. The State Courts are constantly reafirming them; but it they presume in any case to disregard then, the Supreme Court of the Uvited States overrules their deoisions. The writer further say chat voutg lawyers read it (the decision sbove quotel) when studying the law, and are no more likely to question it than they are to question the precepts of the Bible when taught by their mothers. And it is not alone the young lawyens who venerate it. Justice Davis of the Suprame Court in a recently decided caes, seaid: "A departure from it now woild involve dangers to aoci-
theck the sene of $j$ A country, and unhinge interests, and different States, and has taken firm weaken, if not destroy, that respect huld of the mind of neally every which has always been telt for the influential lawyer in the land. judicial department of the Government." In spite of all these facts the question. Will our present $\mathrm{Su}_{\mathrm{u}}$ writer in the Rerienc draws his ple seem determinel to get rid of sharp cimeter and assanits the castle within which these huge corpora. Court stank in the way, the popmar thuns imagive themselves securely will will demand an amendment to strenched He attempts to show the Constitution, One glorions fea that the decision was wrong in ture of sur institutions is, there is priseple, and that, if it ix not over- always a peaceable solution of our ruled, it slould be so modified as diffeculties by the amendment of our to permit such corrective legislation organic laws.
onterning corporate fratchises as will provide for the public goorl. lialisous as historical lacts that the nitil 1840, and that the juurnal of the Costitutional Conventions which enacted the provision con cering the inviolabil ty of contracts, wa- not published until atter the de cision of the Darmouth College cave Thie listury of the prohibitory clause is as follows:
rights and property, it is multerstood nghits and property, it is mulerstom
and tlieclared that no law onght ever ti. be made or have force int said territury that slall in any manne whatever interfire with or affect private contracts or engagements ously turnel."
On Augu-t 28 th of the same year the tonatitutional Conrention waconsidering artice 12, when Mr
King moved to ineorporate the abive provision and make it applicable to the States. After some
disenssion Mr. Butledge moved in tead of Mr. King's mution, sates should have mo right "pass lills of attainder nor retro prective (in the printed jomrual ex phost tactu) laws," and it carried seven states vuting aye and two no. On the next day Mr. Diekinsmi statei that on reading Black-tone's Commentaries lie had diveovered
that "the term ex pust facto related that "the term ex pust factorelated
w criminal caves only, and that there Le criminal cases only, and that the provision as it stond wond not re-
strain the states frum passing retro*pective laws in civil cases." Af. terwards, but upon whose mrotion does not appear, the clanse was al-
terel so as to read as it does now "pass any bill of attainder, ex post lacto law, or law impairing the obligation of contracts" Mr. Curtis,
in his Histry of the Constitution, thimks it is clear from the debates
that the object of changing the wurds of the prohibition in the ordinance of 1787 was to dimimsh city, on couldition that the city and not to inerease the torce of the ends itsel to keep then up. Tine prohibition. In view of these facts quest, aud thus, thrungh private the writer infers that the Supreme liberality, gets, without const, a Court wonld have deciled differ- pablic garden not surpassed in the guarded in its-decision of the Dart- The garden will be furever dubbed. mouth, College case, if the full lis- "Shaw's Garden," and be thins tory of the enactment of that clase travels on to immortality on the
hiad been betore it. He aloo alleges smecssalil realization of his stus. that, whi'e the case was carefully pendons and mom beantiful croteliet. preparel and cogently argued by Weh-her and Hopkinson for the
plaintitt, it was imperfectly argued phaiatift, it was imperfectly argued says: "thas articie will cure thent by Mr. Wirt and Mir. Holmes for matism of nineteen years standing." the detendait. In prooof of this, he As far as it gies, this is perfectly quates frum a letter written by
Webster to Mir, Mason on the 18 th of March, 1818 , in which he says, peaking of Hulmes' argument: "pree a man's rheumatism is ouly of "Epun the whole he gave us stand fars sixteen years more before three hours of the merest kuff that the melicine will cure it? Or if it Was ever uttered in a Conuty Court. has stood fir twenty years is there
$*$ \& Wirt fillowed. * Wirt followed, He in a good no hope of a remedy? We want deal ut a lawyer, aul has very quick to know abont this. It is going to pereeptions, and handsome power be mupleasant for a man to endure or arymment. But he seemed to rheumatism for seventeen or eigh.
treat this case as it his side conld then years tefore he can take fromish nothing but déclamation ** He made an apology for himself that he had not had time to study the case, and had hardly though of it until he was ealled on."
This is very interesting history, and would seem to mdicate that had better lawyers argued the case, the decision would have been quite different. But the misfortune lies in this, that the priuciple decided
in the case has been reaffirmed in

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Heary Shaw, of St. Louis, hav given prectical exerution to the Tunt remarkable bachelor's erotchet of the age. He is a Sotchmat, a millimaire, and nome seventy-five
year- old It bas constrncted the hest thwer garden in the wor'd. fuggeoms marvel of a garien has al the flowers in it wbainable in the worl, that will live in the
t. Lonis climate. It is a lowihl ing paradise of Horal beauty. The flowers number by the millions Hs cont no ome can tell. Shaw himeet don't know. It is thereadel by walks, and aloried with coll-
servatories, ani lio:-anmes full of the rarest exuties. A force of 100 pardeners iv beeded to keep the
place in order. Slaw, it is sail, -pertls the eutire nowme from his mithins in keeping it up. He be. on the thang aftor the war, and the puhlic. Haulralsuf thousanuls chief attraction and cariusity the the strauger in St. Louis to visit hind, strange to say, no pulue uard it, and no flowers are pil ered. This is the public revereice the man'x generous enterpria we garden there is an elegant pic re of Shaw, represe ting him mang among lois tlowers. Tw the garb of a past day, represe me of lis female progenenitors. to rea rl theirin names in vis and nos feature of the garden is bell davoted to one Hower, For it ance, there is a large bed with with haudreds of verbenas, aud so . Everything is in prodigal proSion. Shas is near his grave nas, in pursnatice of his am
 GLANs, haMPs, ETE., PATENT MEDICINES, ane cutlerf, chaars, tobac ations Perfomer
and Tollet Goods. and Tollet Goods.

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