## Albany Register.

U. S. Official Paper for Oregon.

SATURDAY, FEBRUARY 23, 1874.

The Dartmouth College Case.

The leading article in the January number of the American Law Review, opens up a discussion which goes to the root of all the difficu ties in the way of railroad legislation Certainly so long as the decision of the Supreme Court of the United States in the Dartmonth Coll go case stands as the law of the land, and so long as the principles of that decision are accepted by the Courts of the country as the standard by which to measure the limits of right ful legislation in the way of amerding rail ay charters, all attempts to fix rates of freight, and to legis late generally in restriction of the powers of railway corporations, wil be in vain. To these great corporations, says the writer in the Review, often so powterful as to constitute quasi sovereignties, the decision in the case above referred to has been, indeed, not only a Magra but a Major Charta, for it has conferred upon them an independence such as the East India Company, in its palmiest days, never possessed or even aspired to.

Our readers have doubtless noticed that in Illinois, Iowa, or elsewhere, where the validity of State legis'ation concerning alleged railway extortions has come in question, the attorneys for the railways have demolished the other side with this ever ready and powerful decision, which is backed by the logic of Webster and Marshall, two of the greatest legal minds this country ever possessed. The argument in these cases is familiar to all. Its propositions are as follows:

I. The Constitution of the United States declares that no law shall be passed "impairing the obligation of contracts."

II, The Supreme Court of the United States decided in the Dartmouth College case, that "a charter granted by a State government to a private corporation, without any reservation of a right to amend or repeal it, was an irrevocable grant of the rights, privileges and franchises included in it, possessing the nature of property; and that any subsequent act of legislation, altering or amending the terms of the charter, was a law impairing the obligation of a contract,"

III. Rai road companies are private corporations, their charters are contracts, and no Legislature car after or amend them, unless the right to do so is reserved in the charter itself.

Rail however much we may, still these three propositions can not be got rid of. The State Courts are constantly reaffirming them; but if they presume in any case to disregard them, the Supreme Court of the United States overrules their decisions. The writer further says that young lawyers read it (the decision above quoted 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 lawyers who venerate it. Justice Davis of the Supreme Court in a recently decided case, said: "A departure from it now would involve dangers to soci-

shock the sense of justice of the nearly every Supreme Court of the country, and unhinge interests, and different States, and has taken firm weaken, if not destroy, that respect hold of the mind of nearly every which has always been telt for the influential lawyer in the land, judicial department of the Government."

to permit such corrective legislation organic laws. concerning corporate franchises as will provide for the public good. The Largest and Finest Flower Gerden in the World. He states as historical facts that the Vadison papers were not published until 1840, and that the journal of cerning the inviolabil ty of contracts, was not published until after the deeision of the Dartmouth College case. is as follows:

"And in just preservation of rights and property, it is understood and fleelared that no law ought ever to be made or have force in said territory that shall in any manner whatever interfere with or affect private contracts or engagements bona fide and without fraud previously termed."

considering artice 12, when Mr Commentaries he had discovered standing among his flowers. thinks it is clear from the debates. He has, in pursuance of his ently, or would have been more that, while the case was carefully pendous and most beautiful crotchet. prepared and cogently argued by Webster and Hopkinson for the speaking of Holmes' argument:

three hours of the merest stuff that the medicine will cure it? Or if it of argument. But he seemed to rheumatism for seventeen or eightreat this case as it his side could teen years before he can take a forpish nothing but declamation \*\* He made an apology for himself that he had not had time to study of it until he was called on."

This is very interesting history, and would seem to indicate that had better lawyers argued the case, the decision would have been quite hawk, and live on chicken." different. But the misfortune lies in this, that the principle decided der the direction of Mme. Amanuest that cannot be foreseen, would in the case has been reaffirmed in Weinlich.

What can be done about it? is the question. Will our present Su-In spite of all these facts the preme Court overrule it? The peowriter in the Review draws his ple seem determined to get rid of sharp eimeter and assaults the castle it in some way, and if the Supreme within which these huge corpora. Court stands in the way, the popular tions imagine themselves securely will will demand an amendment to intrenched He attempts to show the Constitution. One glorious feathat the decision was wrong in ture of our institutions is, there is principle, and that, if it is not over- always a peaceable solution of our ruled, it should be so modified as difficulties by the amendment of our

Henry Shaw, of St. Louis, has given precical execution to the most remarkable bachelor's crotchet the Constitutional Convention, of the age, He is a Scotchman, a which exacted the provision con millionaire, and some seventy-five years old He has constructed the finest flower garden in the world. It has 350 acres in it, and it is a gorgeons marvel of a garden It The history of the prohibitory clause has all the flowers in it obtainable in the world, that will live in the St. Louis climate. It is a bewildering paradise of floral beauty. The flowers number by the millions Its cost no one can tell. Shaw himself don't know. It is threaded by walks, and adorned with conservatories, and hot-houses full of the rarest exoties. A force of 100 gardeners is needed to keep the place in order. Shaw, it is said, On August 28th of the same year spends the entire incomer from his the Constitutional Convention was millions in keeping it up. He began the thing after the war, and King moved to incorporate the for several years has opened it to above provision and make it appli- the public. Hundreds of thousands cable to the States. After some of visitors resort to it. It is the discussion Mr. Rutledge moved, in-chief attraction and curiosity for stead of Mr. King's motion, that the stranger in St. Louis to visit. States should have no right to And, strange to say, no police pass lills of attainder nor retro- guard it, and no flowers are pispective (in the printed journal ex fered. This is the public reverence post facto) laws," and it carried, to the man's generous enterprise. seven States voting aye and two no. In a splendid house at the head of On the next day Mr. Dickins in the garden there is an elegant picstated that on reading Black-tone's ture of Shaw, represe ting him that "the term ex post facto related elegant portraits of beautiful ladies to criminal cases only, and that the in the garb of a past day, represent provision as it stood wou'd not resome of his female progenitors. A strain the States from passing retro- huge book is kept there for visitors spective laws in civil 'cases." Af- to record their names in, A curiterwards, but upon whose motion one feature of the garden is beds does not appear, the clause was al- devoted to one flower. For intered so as to read as it does now, stance, there is a large bed with "pass any bill of attainder, ex post every variety of cactos; another tacto law, or law impairing the ob- with hundreds of verbenas, and so ligation of contracts." Mr. Curtis, on. Everything is in prodigal pro-in his History of the Constitution, fusion. Shaw is near his grave. that the object of changing the bition, willed his garden to the words of the prohibition in the or- city, on condition that the city dinance of 1787 was to diminish binds itself to keep them up. The and not to increase the force of the city has eagerly accepted the beprohibition. In view of these facts quest, and thus, through private the writer infers that the Supreme liberality, gets, without cost, a Court would have decided differ- public garden not surpassed in the world for magnificence and beauty, guarded in its decision of the Dart- The garden will be forever dubbed, mouth College case, if the full his- "Shaw's Garden," and be thus tory of the enactment of that clause travels on to immortality on the had been before it. He also alleges successful realization of his stu-

A patent medicine advertisement plaintiff, it was imperfectly argued says: "this article will cure rheuby Mr. Wirt and Mr. Holmes for matism of nineteen years standing." the defendant. In proof of this, he As far as it goes, this is perfectly quotes from a letter written by satisfactory, but we want light upon Webster to Mr. Mason on the 18th another view of the matter. Supof March, 1818, in which he says, pose a man's rheumatism is only of three years standing, must be let it "Upon the whole he gave us stand for sixteen years more before was ever uttered in a County Court. has stood for twenty years is there \* Wirt followed. He is a good no hope of a remedy? We want deal of a lawyer, and has very quick to know about this. It is going to perceptions, and handsome power be unpleasant for a man to endure medicine for it.

A little four-year-old in Richthe case, and had hardly thought mond, very fond of a certain dish, when asked by his mother if he wouldn't like to be an angel with wings and fly about heaven like his little brother, replied, after a pause: "No ma: I'd a heap rather be a

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over one quarter of all machines sold during that year. Nine out of ten of sald
singer Machines were for FAMILY use
moving the rr at popularity of the Singer
la the household. Annexed are the Sales
of the different makers:

MACHINES

The Sing T Ministry Co. Sold 2 9 758. Wheeler & Wilson M'T's Co. Sold 171.88 Howe Machine Co. estimated: " 17,000 Grover & Raker S. M. Co. " 32,61 Domes & E. M. Co. " 45,74 Weed S. M. Co. " 45,74 Homestic S. M. Co.,
Weed S. M. Co.,
Wilson S. M. Co.,
Wilson S. M. Co.,
Wilson S. M. Co.,
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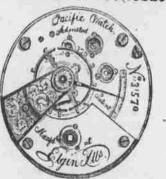
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