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THE AGGRESSIVE SHEPHERD.

The reports from the livestock convention recently in session in Salt Lake go to show that the sheep men are in the saddle and the cattle men are dethroned.

It is a curious illustration of the timidity of fixed investments, says the San Francisco Call. Nearly every cattle man in the west, whether a large or small herdeman, is a land-owner. He has ranch lands and headquarters buildings and is a taxpayer.

The flockmasters, on the other hands are rarely landowners. The have the daring and independence of nomads. They drive their flocks at will where they please, frequently in one year making from 500 to 1000 miles, feeding and fattening their sheep as they go, and leaving the range behind them bare and dusty. Recently a flockmaster in Wyoming, who had just sold out his flock of 140,000 sheep, boasted that he had made a great fortune in sheep and yet had never owned nor paid taxes on more than fifteen acres of land! His pasture cost him nothing, for he grazed on the public domain and paid the government nothing for the feed that had made his great fortune.

These aggressive shepherds have discovered that they can drive the cattle off the range, for sheep will feed where cattle have been, but cattle will not feed where sheep have been. So when a sheep man opposes leasing the range and talks highly about the need of a free range open to all he means a range from which he has the power to exclude cattle, monopolizing it for himself. These brave and enterprising nomads go further than this, for they proposed at Salt Lake to demand a higher tariff and compel a federal inspection of manufactured goods, tagging every bolt of fabric to show of what it is made. They demanded also that all forest reserves be thrown open to sheep. We really hope that they will not demand an inspecting officer to overhaul us all on the street and strip us to see if we have woolen under clothing, with the power to imprison us for failure to wear wool from sheep that never cost a dollar for their feed.

While these virile nomads are asking for what they want, and getting it, the timid cattle men are in disagreement among themselves, and while they quarrel and higgle the sheep men are crowding them off the range.

With free feed and a high wool tariff, and disappearance of range cattle, the profits of sheep-growing rise, and so does the price of clothing and the price of meat. The consumers of both are the people who own the public domain. Perhaps they may soon demand that the shepherds pay them something for the use and destruction of their property.

CRISIS IN GERMANY; WORLD AT WAR.

Financiers have learned to look for seasons of "hard times" once in ten years, says the New York World, and a remarkable series of coincidences seems to point to the third year of each decade as a time of peculiar danger. For instance:

1863—War in the United States; Pennsylvania invaded; cotton rising to a dollar a pound; draft riots in New York; cotton riots in England; gold at a premium.

1873—World-wide depression begins, to last four years; Black Friday in New York; Berlin over-speculating after war with France; Rome plunging into real estate and stock gambling to become a "world capital" Pennsylvania railroad riots in 1877.

1883—Contraction in railroad shares; Grant & Ward failure, 1884; Southwestern strikes under Martin Irons, 1886.

1893—Banks closed, loans called; Cordage trust collapses; currency hoarding in New York; railroad strikes in Chicago under Debs, 1894.

Panics always give warning. The contraction of 1873-77 grew out of continental speculation following the Franco-German war of 1870-71. That of 1883-86 followed a period of 10,000-miles-a-year railroad building in the United States. That of 1893-95 was prefigured in the collapses in Argentina, followed on November 15, 1890, by the Baring failure, with liabilities of over one hundred millions, and in the Australian bubble-bursting of 1891. But since 1873 each period of depression has been breifer and less severe than its predecessor.

In 1901 the world is waging many little wars instead of one great one, as in 1871 with consequent interruption of peaceful industry. German trade, which has for years been highly prosperous, has suffered greatly by the loss of the Chinese and South African markets. The great German iron, cotton and wool industries are all suffering.

American trade was apparently never in a more satisfactory condition. Our exports for 1900 were $202,000,000 over those of 1899; our imports increased only $30,000,000. The South rejoiced in ten-cent cotton, against six cent cotton only two years ago; farm exports increased $119,000,000. There is no reason to doubt a prosperous year in this country, no excuse for alarmist forebodings; but it is a good time to avoid "plunging" in speculative stocks which can only gain established value by a long continuance of such rapid expansion as the past three years have witnessed.

SUPREME COURT DECISIONS.

Prof. Bryce has called the supreme court of the United States "the living voice of the constitution." While we are waiting for its authoritative word on the Porto Rican cases a retrospect of some of its most important decisions—the landmarks of American constitutional law—has timely interest.

* * *

National supremacy: In the first period of its existence, while John Jay and John Marshall were chief justices (1790-1835), the supreme court's leading decisions, taken in a body, all tend to establish one great constitutional doctrine—the supremacy of the federal government over the state governments in all matters in which a conflict could arise as to the limits of their respective authorities. Thus in Ware vs. Hylton the court held that the United States by treaty could annul a state law. In Chisholm vs. the state of Georgia it decided that a sovereign state could be sued in the federal courts by any citizen. The eleventh amendment to the constitution was adopted to counterpoise this decision.

In Marbury vs. Madison it declared its power to adjudge any act of congress to be null and void. It affirmed its power in the cases raised by Aaron Burr's staff (arrested for treason) to issue writs of habeas corpus, and proclaimed that no one could be guilty of treason by merely conspiring to subvert by force the government of the country. In Fletcher vs. Peck it ruled that allegislative grant made by a state could not be revoked. In McCulloch vs. the state of Maryland, decided in 1819 the power of the federal government to create a bank was affirmed and the right of a state to tax any branch of a federal bank was denied. This famous decision was never reversed by the court but President Jackson closed up the United States bank in spite of it.

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Dartmouth college case: More popularly celebrated than any of these decisions was that in the Dartmouth college case (1819). The state of New Hampshire claimed the right to amend the charter which it had previously granted to the college and transfer its property to a new corporation. The court decided that it could not do so; that a charter was a contract which no state had the right to impair. Daniel Webster's splendid fame as a lawyer and orator began with his argument in this case. But as counsel for Harvard college a few years later he had the mortification of hearing Chief Justice Taney deliver a decision reversing that which he won for Dartmouth college. This reversal was in the judgment on what is known as the Bridge case in which the court held that the state of Massachusetts had a right to nullify an old grant made to Harvard college in 1650.

* * *

Regulation of commerce: Again in Gibbons vs. Ogden the court decided that congress had exclusive authority to regulate commerce in all its forms on all the navigable waters of the United States without any monopoly, restraint or interference by state legislation. But this decision of Marshall's was reversed by a later one of Taney's in the case of the city of New York vs. Miln in which it was ruled that a state legislature could impose regulations upon the masters of vessles arriving in their ports and collect penalties for their non-observance. And this reversal has since been reversed.

Again in the case of Craig vs. the state of Missouri the court decided that a state law establishing loan offices and authorizing the issue of certificates of stock was unconstitutional because they were "bills of credit' which the constitution forbids the states to emit. Later in 1837 this ruling was completely reversed in the case of Briscoe vs. the Bank of Kentucky.

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The Cherokee episode: Next in order of time among landmark decisions was that in the Cherokee case. When Georgia in 1792 ceded her western territory to the United States the federal government agreed to extinguish the Indian titles to lands in Georgia as soon as this could be peaceably done. As the United States had by treaties recognized the Cherokees as a nation having their own laws and had guaranteed to them all the lands not hitherto ceded it could not legally disturb them in their possessions. Georgia passed laws extending her laws and jurisdiction over the Cherokee people and dividing up their domain among the people of the state by lot. This proceeding was finished in 1830. Appeals to the government by the Cheorkees for protection under their treaty rights called out the response from President Jackson that "a state is sovereign in its own domain" and that the United States could not interfere. A Cherokee convicted of homicide in the Indian lands being sentenced to be hanged under the laws of Georgia the case went to the supreme court which in 1830 granted a writ of error requiring the state to show cause why the matter should not go to the Cheorkee courts. President Jackson is quoted as saying: "John Marshall has made the decision now let him execute it." The writ was disregarded and the Cherokee was executed—the first instance of the nullification by a state of laws of the United States.

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Taney's Dred Scott judgment: A case which created a far more profound impression was the Dred Scott affair in 1857. In 1834 Dr. Emerson of the United States army took Dred Scott, one of his slaves, with him from Missouri to Illinois where slavery was prohibited by statute and thence to Fort Snelling in what is now Minnesota where it was prohibited by the Missouri compromise. Four years later he returned to Missouri. Learning that his residence in free territory gave him a claim to freedom Dred Scott in 1848, having been whipped by his master's orders, brought suit in St. Louis against him for assault and battery. This action raised the question of his freedom. After many mutations in the case, during which Scott changed masters by being purchased by J. F. A. Sanford, of New York, the matter got to the supreme court in 1855.

On March 6, 1857, Taney read the decision (Justices McLean and Curtis dissenting), which was that Scott was not a citizen of Missouri in the sense in which the word "citizen" is used in the constitution; that the lower court had no jurisdiction in the case; that Scott had no right to sue and that the judgment of the lower court must be reversed and a mandate issued directing the suit to be dismissed for want of jurisdiction. The decision went further than this, however, touching on the slavery question in its broad political aspect, and herein lies its historical importance. It denied the right of congress to control slavery in the territories and declared that the Missouri compromise of 1820, prohibiting slavery in the Louisiana territory north of 36 degrees 30 minutes, was unconstitutional and void. In passing, the popular fiction that Taney declared that negroes "had no rights which the white man was bound to respect" should be once more exposed. Taney never said so. He did say that in a previous century negroes were on that footing, and he said truly.

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Contrary rulings on liquor laws: In 1847, in the case of Pierce vs. New Hampshire, the court decided that a state might prohibit the manufacture or sale of liquors or their importation from another state, even though such liquors had been brought into the country from foreign countres under the authority of an act of congress. But in 1889, in the Original-Package case (Leisy vs. Hardin), the decision of Taney in Pierce vs. New Hampshire was reversed, and state laws interfering with the importation of liquors "in the original packages or kegs" were declared unconstitutional. By a large number of decisions the court in the reconstruction period upheld the war amendments giving equal rights to the negroes, but it declared Charles Sumner's civil rights bill an unconstitutional exercise of the power of congress.

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