naked word of spoilsmen may go unchallenged. But what is the good of this pious pretense? Here for instance is the Rebecca J. Taylor case, to which we referred (pp. 147, 151) last week. Notice the tender way in which those good friends of civil service reform, the present administration and its supporters, have in that case treated civil service rules.

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Miss Taylor had written and published a newspaper letter condemning the imperialist policy and criticizing Mr. Roosevelt's "stay put" speech. She was a classified clerk in the war department, but had written her letter "out of hours." In order to discharge her without officially assigning this insufficient cause, or any other, the President made a new civil service rule which throws down the bars to spoilsmen as completely as they could wish. In effect he orders that no reasons need be assigned provided the discharge is not for political or religious reasons. But when no reasons need be assigned, the discharge may be for political or religious reasons as well as any other. Miss Taylor's was for political reasons—because she was an anti-imperialist and said so. In consequence a resolution was offered in the lower house of Congress calling for an explanation; but this has been headed off by the committee on civil service which tabled the resolution by a strict party vote. A letter from the secretary of war was read, however, in which he said:

> No head of a department can maintain effective administration if he is obliged to depend upon the services of clerks who are so violently opposed to the success of the work in which they are engaged that they are unable to refrain from public denunciation of the purpose of the work and public insult to the President.

That letter has a plausible sound, but will it bear examination from any other point of view than that of a thorough-going spoilsman? We think not.

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To consider the last point first, every one would probably concede that no clerk should remain in government employment who publicly insults the President. Neither should he remain if he publicly insults any other superior, or an equal, or an inferior in the service. But, unless the spoils system is to be perpetuated, the specific reason for his discharge should be given, with its appropriate characterization, so that it may be known whether the discharge was made by a faithful head of a department for the good of the service, or by a faithful spoilsman for the good of the party. In this particular case, Miss Taylor did not insult the President. She criticized a speech of his in which he had publicly insulted his political adversaries, but she did so while off duty, as a citizen and not as a clerk, and with propriety and restraint. For such conduct she would not be amenable to discipline under any bona fide merit system in the civil service; and of this the President seems to have been well aware, for he wrecked the rules in order to discharge her for her politics without officially assigning reasons.

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Mr. Root's other point is that "no head of a department can maintain effective adminsitration if he is obliged to depend upon the services of clerks who are so violently opposed to the success of the work in which they are engaged that they are unable to refrain from public denunciation of the purpose of the work." Divested of its insinuating verbiage what does this mean? Nothing more than that it is contrary to the good of the service for government clerks to be so violently opposed to the policy of the party in power that they are unable to refrain from publicly opposing it! According to Mr. Root, then, government clerks must not criticize the party in power, though "out of hours," and though their clerical work be well done. Yet it is well known that they may safely applaud the party in power at all times, and denounce parties out of power even to the extent of calling them "cranks" and "traitors." They retain their rights of citizenship if they adopt the political policy of the party in power; they lose them if they reject it. So we see that stability of tenure under Mr. Roosevelt's civil service reform system differs very little, if any, from what it was under the spoils system. Fidelity to the policy of the party in power is still a condition of clerical tenures. Or, as Mr. Root would probably express it, "public denunciation" of "the purpose of the work" upon which government clerks are engaged is "incompatible with the good of the service." If pious pretense should go out of fashion in the Republican party, what would become of some Republican leaders? Habits once formed are hard to get rid of.

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Mayor Johnson, of Cleveland, has won the first battle in the courts over the "ripper" legislation adopted by the Republican legislature of Ohio last winter. Johnson, it will be remembered (p. 141) had appointed a city board of tax review which attempted to tax the franchise corporations on the same basis of valuation with other property. A Republican state board, beneficiaries of railroad favors, came to the rescue, and annulled the action of the city board, thereby making the basis of franchise taxation only about a quarter as high as that of ordinary property. But it was known that the Cleveland board would raise the taxes of the privileged corporations again this year; so the plutocratic element of Cleveland, led by Senator Hanna, got the legislature to "rip" the board by passing a law authorizing the county auditor, a railway pass beneficiary, to call upon the state board, in his discretion, to appoint a tax board for Cleveland. Upon that being done the mayor's board was to be out of office. The auditor of the Cleveland county, acting under this "ripper" law, applied for a new board; and accordingly a board, manifestly calculated to serve the plutocratic interests was appointed. But the mayor's board promptly carried the matter into the courts. It applied to the auditor for clerks and messengers,

and upon his refusal to recognize it instituted mandamus proceedings. In the lower court, Judge Babcock has now decided this case in the mayor's favor.

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An appeal from Judge Babcock's decision has been taken, but unless a very forcible opinion can be overcome or ignored there is little likelihood of a reversal. Judge Babcock in his opinion says:

This is, in so far as I can discover, the only enactment of a legislative body in this country where it has been left to the will, judgment, or caprice of one man to act as umpire for the legislature, with power to say whether the law shall go into active operation, touch the rights of the people, and help to shape the affairs in the state by the molding powers of the law, or, if the umpire decree otherwise, forever sleep as a mummy in the museum of legislative curiosities. Suppose the general assembly should pass a law declaring horse stealing a crime punishable by imprisonment in the penitentiary, and, in its enacting clause, declare it to be in force from and after its passage, and should provide in the law that it should go into execution in the different counties of the state only upon a written application of the county prosecutor to the governor. I venture the suggestion that no lawyer could be found who would contend for a moment that such a law would be valid. Who shall point out the constitutional difficulty with such a law which is not also a difficutly which can be pointed out with this law of tax review? Criminal laws are laws of a general nature, and cannot be enforceable in one part of the state and not enforceable in some other part of the state. This is also true of the taxing laws, including laws for boards of assessment, equalization and review. They both stand on the same principle, and stand or fall together when challenged by the constitutional provision embodied in Section 26 of Article 2 of the constitution, which says: "All laws of a general nature shall have a uniform operation throughout the state."

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The following interesting bit of political history is going the rounds:

In one of his essays the late Edwin L. Godkin threw a very neat little harpoon into Henry Cabot Lodge in the following style: "In 1884 I learned of the prospect of Blaine's nomination from Henry Cabot Lodge, who called at the Evening Post office. He told me, with the proper expression of countenance, that there was a serious cloud hanging over the Republican party; that there was danger of Blaine's nomination and that he was on his way to Washington then to see some of the leading men with a view of preventing it if possible. I heartily approved of all that the good young man told me he had in mind and cheered him on his shining way. But I was chastened by seeing him on the stump for the said Blaine by the month of July."

It is a pity that in this connection Mr. Godkin could not have lifted the curtain upon a certain dinner party of three ambitious but baffled young reformers, gathered in conference immediately after Blaine's disappointing nomination and before that chastening appearance of Mr. Lodge upon the stump. He might have shown how two of them, Mr. Lodge and Mr. Roosevelt, decided, for personal reasons somewhat cynically disclosed, to abandon their dinner comrade to his awkward scruples.

PROPERTY RIGHTS OF PUBLIC SERVICE CORPORATIONS.

Of late years the sentiment has been assiduously fostered that public service enterprises—such as railroads, street cars, lighting systems, telegraph and telephone lines, and the like—which depend upon legislative sanction for authority to operate, are private businesses, and as such should be as free from public dictation as any other private affair. So strong is the hold which this notion has come to have upon the minds of business men, even the great mass of business men who suffer in their vocations from the practical application of it, that they are usually willing to agree with the Vanderbilt dictum regarding railroad rights. They seem to feel that the legal obligations to the public of public service corporations are so slender, if any exist at all, that railroad magnates are fully within their legal rights, whatever may be thought of their generosity and wisdom, when they determine to run "their own business in their own way," and if the public doesn't like it—why, "the public be damned!"

It would probably surprise men of this way of thinking to learn that public service corporations, so far from being private persons managing private businesses, are state officers or agents performing public functions. Yet that is the fact.

Nor is this an irresponsible inference from charters or franchises or from the nature of the work in which such corporations are engaged. It is a legal characteristic, attested by legal literature, which has attached to these corporations from their origin, which is part of their legislative and judicial history, and of which they cannot be divested so long as the essential principles and the constitutional safeguards of the legal doctrine of eminent domain are acknowledged and observed. It is, so to speak, a corporate birthmark.

To be convinced that this is so, one need but read attentively a judicial decision of absorbing interest and the utmost importance, rendered threescore years ago by the highest tribunal of the state of New York, in which the true constitutional character of railroad corporations, then in their infancy, was expounded with extraordinary ability. It was there decided, and that decision has furnished the groundwork for all subsequent adjudications upon the subject—being what lawyers call "a leading case"—that the state, in taking private property for the purpose of making railroads or other public improvements of like nature (as it has the constitutional right to do upon giving just compensation), may either make the improvements itself through its regular officers, or make them "through the medium" of private enterprise. In different phrase, but with identical meaning, when private property is taken under authority of the state, for "making railroads or other public improvements of the like nature," it is the state that takes the property; it is for its own use that it takes it; it is for its own benefit that the railroad or other improvement is made; and, though the state may authorize private investors to make and maintain such improvements, those investors are for that purpose agents of the state. Their business in this connection is not a private business. It is a state function.

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The New York case in question is known in legal literature as "Blood-