The Daily Crescent.

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THE DAILY CRESCENT.

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TERMS OF THE CRESCENT.

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NEW ORLEANS:

FRIDAY MORNING, MARCH 16, 1849.

LIST OF PUBLIC ACTS

PASSED AT THE SECOND SESSION OF THE 30TH CONGRESS.

An act to authorize the judge of the courts of the United States of the 5th circuit, to hold the circuit court for the district of Kentucky.

An act concerning the selection of jurors in certain courts of the United States.

An act declaring Fort Covington, in the State of New York, to be a port of delivery, and for other purposes.

An act to transfer the towns of Vinal Haven, North Haven and Islesborough from the collection district of Penobscot to that of Belfast, in the State of Maine.

An act to provide for the payment of horses and other property lost or destroyed in the military service of the United States.

An act to authorize the coinage of $20 and $1 gold pieces at the mint of the United States and its branches.

An act for the settlement of the claims of New Hampshire against the United States.

An act amendatory of the act entitled "an act amendatory of the act entitled 'an act to incorporate the Provident Association of Clerks in the Civil Departments of the Government of the United States, in the District of Columbia,'" approved March 3, 1825.

An act supplemental to the act to approved the 6th day of July, 1842, entitled "An act confirming certain land claims in Louisiana."

An act to extend certain privileges to the town of Whitehall, in the State of New York.

An act granting a half section of land for the use of schools within fractional townships south of range eighteen west, county of Lowndes, State of Mississippi.

An act to act to aid the State of Louisiana in draining the swamp lands therein.

An act to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1848.

An act to provide for carrying into execution, in part, the twelfth article of the treaty with Mexico, concluded at Guadalupe Hidalgo.

An act making appropriations for the support of the Military Academy for the year ending 30th June, 1850.

An act making appropriations for the payment of revolutionary and other pensions of the United States, for the year ending 30th June, 1850.

An act making appropriations for the payment of navy pensions for the year ending 30th June, 1850.

An act granting five years' half-pay to certain widows and orphans of officers and non-commissioned officers, musicians and privates, both regulars and volunteers.

An act to establish an additional land office in the State of Missouri.

An act in relation to the Fox and Wisconsin river reservation in the State of Wisconsin.

An act to make arrangements for taking the seventh census.

An act making appropriations for certain fortifications of the United States for the year ending the 30th June, 1850.

An act to settle the title to certain tracts of land in the State of Arkansas.

An act to amend the act entitled "an act supplemental to the act" for the admission of the States of Iowa and Florida into the Union.

An act to incorporate the Oak Hill Cemetery, in the District of Columbia.

An act for the relief of the President and Directors of the Union Bank of Florida.

An act for the relief of Sidney Flower, of Louisana, and other purposes.

An act to authorize the citizens of Ozark county, of Missouri, to enter less than a quarter section of land for the sent of justice in said county.

An act making appropriations for the service of the Post Office Department, for the year ending the 30th June, 1850.

An act to provide for the settlement of the accounts of public officers and others who may have received moneys arising from military contributions, or otherwise, in Mexico.

An act to extend the provisions of al laws now in force relating to the carriage of pasengers in merchant vessels, and the regulation thereof.

An act requiring all moneys receivable from customs, and from all other sources, to be paid immediately into the treasury, without abatement or deduction, and for other purposes.

An act to establish the Home Department, and to provide for the Treasury Department an Assistant Secretary of the Treasury and a Commissioner of the Customs.

An act making appropriations for the support of the army for the year ending the 30th June, 1850.

An act making appropriations for the naval service for the year ending the 30th June, 1850.

An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June 30th, 1850.

An act making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th June, 1850, and for other purposes.

An act to extend the revenue laws of the United States over the territory and waters of Upper California, and to create a collection district therein.

An act declaratory of the act for the admission of the State of Iowa into the Union.

An act to extend the provisions of an act, approved the 3d of March, 1847, for carrying into effect the existing compacts with the States of Alabama and Mississippi with regard to the five per cent. fund and school reservations.

An act to continue the light at Sands Point, on Long Island.

An act to amend an act entitled "an act for authenticating certain records, approved February 22, 1849.

An act making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes.

An act for the better organization of the district court of the United States within the State of Louisiana.

An act concerning the pay department of the army.

An act to establish the collection district of Brazos de Santiago, in the State of Texas, and for other purposes.

An act authorizing the payment of interest upon the advances made by the State of Alabama for the use of the United States Government in the suppression of the Creek Indian hostilities in 1836 and 1837 in Alabama.

An act to authorize the Secretary of War to make reparation for the killing of a Caddo boy by volunteer troops in Texas.

An act to authorize the issuing of a register or enrolment to the ship Annie Tefft.

An act in addition to an act entitled "An act to incorporate the Washington, Alexandria and George.own Steampacket Company."

An act to cause the northern boundary line of the State of Iowa to be run and marked.

An act to continue the office of the Commissioner of Pensions.

An act to grant the right of way to the Mobile and Ohio Railroad Company.

An act to provide for an increase of the medical staff, and for an additional number of Chaplains of the Army of the United States.

An act to define the period of disability imposed upon certain bidders for mail contracts.

An act to grant to the Atlantic and Gulf Railroad Company the right of way through the public lands of the United States.

An act for changing the location of the Land Office in the Chippewa land district, and establishing an additional land district in the State of Wisconsin.

An act for authenticating certain records.

An act to establish the TerritorialGovernment of Minesota.

An act to carry into effect certain stipulations of the treaty between the United States of America and the Republic of Mexico, on the 2d day of February, 1848.

An act to provide for the final settlement of the accounts of Abraham Edwards, Register of the Land Office at Kalamazoo, Michigan.

An act to provide for the final settlement of the accounts of Thomas C. Sheldon, late receiver of public moneys at Kalamazoo, Michigan.

An act to allow subsistence to certain Arkansas and other volunteers who have been prisoners of war in Mexico.

An act for the relief of forward officers of the late exploring expedition.

An act to relinquish the reversionary interest of the United States in a certain Indian reservation in the State of Alabama.

RESOLUTIONS.

Joint resolution granting to the Secretary of the Treasury further time to make the report concerning the sale and entry of certain lands in Cincinnati.

Joint resolution relative to evidence in applications for pensions by widows of deceased soldiers under the act of July 21st, 1848.

Joint resolution for the purchase of copies of the General Navy Register and Laws.

Joint resolution for the distribution of the Official Register or Blue Book among the several States.

Joint resolution authorizing the Secretary of the Senate and Clerk of the House of Representatives to subscribe for 1,000 copies of a further publication of the debates and proceedings of Congress, and for other purposes.

Joint resolution for the relief of the painters in the navy.

An to expenditures made in pursuance of orders during the war with Mexico.

Joint resolution directing that the Government of Russia be supplied with certain volumes of the Narrative of the Exploring Expedition, in lieu of those which were lost at sea.

A resolution for the appointment of regents in the Smithsonian Institute.

A resolution relating to the compensation of persons appointed to deliver the votes for President and Vice President of the United States to the President of the Senate.

A resolution authorizing the Secretary of War to furnish arms and ammunition to persons emigrating to the territories of Oregon, California and New Mexico.

A resolution to authorize the Secretary of the Treasury to make an equitable settlement with the sureties of Robert T. Lytle, late surveyor-general of the district of Ohio.

A resolution to defray the expenses of certain Chippewa Indians and their interpreter.

A resolution to fix the meaning of the second section of an act for changing the location of the land office in the Chippewa land district, and establishing an additional land district in the State of Wisconsin.

A resolution relative to the public printing.

Correspondence of the Crescent.

Large Packet—Ship Building Prospects—Great Newspaper Telegraph Enterprise—The Inaugural Address—Large Damages—Austin Acquitted.

NEW YORK, March 6, 1849.

Eds. Crescent—Messrs. D. & A. Kingsland & Co., of this city, have a ship now on the stocks in the ship-yard of Messrs. Fernald & Co., Portsmouth, N. H., measuring 1640 tons! the largest sailing vessel ever yet built for the merchant service. Her name is the "Empire State," her master J. S. Russell, and she is to sail as a New York and Liverpool packet.

The ship-builders throughout the country have fine prospects for the business of the coming season, and New York capitalists are making contracts in every direction, for first-class ships. Several large steamers, for ocean navigation, are to be built soon, but it is not yet decided what builders will have the contracts. Two of them will pretty certainly be built in this city, and perhaps all: but Philadelphia may get one or two, and perhaps Boston one.

The proprietors of the Sun, of this city, announce that they have closed arrangements for the immediate construction of new lines of magnetic telegraphs between Boston and Washington City, "designed solely for the transmission of news for the Sun establishment" in this city, the terminus of the two lines, and the instruments, to be in the editonal sanctum of that paper. The cost of the whole arrangement is estimated at one hundred and twenty-five thousand dollars, an outlay which the Sun people profess themselves ready to make alone, but invite other "newspapers to join in the enterprise and share its benefits." There are to be nine intermediate stations on the line between Washington and New York, and six between Boston and this city. This looks more like public spirit than the last effort of the Sun people to which I referred—that of offering $250 for two or three dozen prize tales, twelve columns long. I have no doubt that the contemplated enterprise will pay an immense profit, and that the example of the Sun people will be followed in other cities. The Times, in Boston; the Ledger, in Philadelphia, and the Sun, in Baltimore, are understood to be parties to the arrangement, and their offices will probably be the "stations" for their respective cities.

The government express, with the inaugural address of the new President, got in town last night several hours after every body had read the document of which it brought a copy. The engineer in charge of the express locomotive put on so much steam, or speed, that the wheels could not feel their way, and the concern "flew the track," to the imminent danger of life and limb. Notwithstanding this mishap, the express arrived in this city in a little over ten hours from the time of leaving Washington.

The inaugural address of President Taylor gives very general satisfaction. There is occasionally an observation in it which calls forth a partisan's objection; but the objectors are, as far as I have seen, very few. I have heard one Van Buren man complain of its *non-committalism;* and one or two "Old Hunkers" profess to find, in the President's promise to look to the practice of the *earlier* Presidents, for the interpretation of the Constitution, a slur on the *recent* governments of the country.

Bennett, of the Herald, yesterday obtained a verdict in a suit for libel against Judge Noah, in the Sheriff's Court. The damages were laid at $20,000, and the jury awarded *six cents*—a slight difference.

Austin, tried for the murder of Timothy Shea, was yesterday discharged from custody, the jury having brought in a verdict of "not guilty." It was as clear a case of murder as usually occurs, and has the usual result of murders in this city. Rowdies are in no danger of punishment in our courts, so long as their valuable services are required by the political clubs of the city. Austin's are yet needed.

Respectfully yours, INDICATOR.

LATE FROM TEXAS.

The steamship Palmetto, Capt. Smith, arrived last evening from Galveston, having left that place on the 13th. From the papers received by the Palmetto we extract the following items:

SILVER ORE.—We learn from the Austin Democrat that a specimen of Texas silver ore, sent to New Orleans to be assayed, turns out to be exceedingly rich, yielding one hundred and fifty ounces to the ton.

SMALL POX.—We learn that the small pox was prevailing at Seguin, in this State, last week. There is one case in our own town.—*Victoria Advocate.*

THE BRAZOS STEAMERS.—We learn by a gentleman who left Washington (on the Brazos) on Friday, the 9th, that the steamer Washington, on her trip down, got aground on Cooper's shoals, but was hauled off by the steamer Brazos, on her passage up on Monday, the 5th inst., and proceeded on down the river.

Companies A and I, 8th regiment U. S. Infantry, have been removed from Austin—one company to Presidio del Rio Grande, and the other to a station on the Leona.

A meeting of the Democracy of Houston, held on the 3d inst., passed a resolution recommending a State Convention to be held at Washington, on the Brazos, in May next.

At the regular meeting of the Galveston Lyceum, on the 10th instant, E. Walbridge announced the death of Dr. Stephen Smith, a member thereof.

The Palmetto towed up the British schr. Dart, which vessel had on board Mr. Folger, the clerk, the first engineer and part of the crew of the steamship Galveston. The Palmetto brought the following passengers:

Mr. Foster, Mrs. Lewis and child, Mrs. Sessin and servant, Mr. Martin, Mr. J. W. House, Mr. Tucker, Mr. A. B. M. Waters.

☞ The following letter from our friend, David Jobson, will be read with interest. He goes in the company alluded to in the letter from Col. Hays, appended below:

[Correspondence of the Crescent.]

VICTORIA, TEXAS, March 6, 1849.

Eds. Crescent—I am in first rate health; I go in the Victoria crowd, on the 15th inst., headed by Major C. N. Creaner. I did intend writing you in full, and shall forward you full particulars of our route as I proceed, and follow this letter in a day or two in detail. I have just been handed a letter from the gallant J. C. Hays, of Texan fame, and hasten to give you a copy of it, as I think it will interest your community. Now for items: Our company will consist of some 60 men. A constitution has been adopted, and its stringency will have a beneficial effect upon the entire command; I will forward it to you at my earliest opportunity. A gentleman from San Antonio says there are upwards of 2000 persons at that place, bound for California—some of them waiting to go with Worth. I found it difficult getting mules—they are selling freely for $40 up to $100. California has had a great effect on the mule market. Mr. Logan, of the Texan Advocate, is on his way to Washington City, and will be in your city soon. They have a case of the small-pox in this place, and great is the alarm. Vaccine matter is in demand. I will write in a day or two again. No pistols or fire arms to be had here. Adieu. D. J.

[Copy.]

SAN ANTONIO, February 24, 1849.

Gentlemen—Yours of the 15th has just come to hand, and in answer to your inquiries I will state to you that as yet I have not determined whether or not I shall go further than the Gila this spring, if I do I should be happy to have the company of yourselves and friends from that point to California. You can leave Victoria by the 1st of May and overtake Gen. Worth's command by the time that it reaches the Gila, as it will not leave this place before the 15th of April, and will travel very slow. I would advise you by all means to take the route which will be opened by Gen. Worth, as it is the nearest and best route to California. Gen. Worth will open the route to the Gila, and from that point it is a good route to California, as it has been traveled by the commands of Majors Cook and Graham, with large teams of wagons. You will have no difficulty in taking light wagons, and I would prefer them to pack mules. You will be able to procure supplies for the road at Passo del Norte, so it will not be necessary to start with supplies for the whole route.

Very respectfully, yours, JOHN C. HAYS.

Messrs. Logan & Allen.

☞ Mrs. Fanny Kemble Butler read "Romeo and Juliet," on Monday forenoon, 5th inst., at the Stuyvesant Institute, New York, to a large and fashionable audience, mostly ladies. Her "Macbeth" on the Saturday evening previous, was a triumph in every way, and realized upward of $300.

☞ Mr. Frederick Dickens, brother of "Boz," has married a young lady of the name of "Weller." Some editor wonders if she is a sister to "Samivel!"

Supreme Court of Louisiana.

Condensed Decisions—NEW ORLEANS, March 12, 1849.

[Continued.]

JAMES HALLEMAN ET AL *vs.* PATRICK C. CLARK ET AL.....*Appeal from the Tenth Judicial District Court, Parish of Madison*....KING, J....The judgement of the lower Court was reversed and the case remanded for a new trial, in order to enable the plaintiffs to make one Riley legally a party by having a *curator ad hoc* appointed to represent him.

N. E. LARCHE, ADMINISTRATOR, *vs.* WM. COLLINS.... *Appeal from the Tenth Judicial District Court, Parish of Carroll*....ROST, J.....The judgement of the lower Court in favor of plaintiff for $500, with interest, was affirmed, with costs.

A judgement is not a personal action and is not prescribed by ten years. A party who acquires property by inheritance cannot be viewed as a third person. The administrator of an insolvent succession represents the creditors, and a plea that his action to annul a transfer of property on the ground of fraud, cannot be maintained, as the testator could not have maintained it, is inadmissible.

MILLS JUDSON ADMINISTRATOR, *vs.* BRIDGET T. CONNOLLY..*Appeal from the Fourth District Court of New Orleans*..(His Hon. Judge Slidell, with consent of parties, declined sitting in this cause)..ROST, J..*Per curiam:* This suit is a sequel to that of Bridget Connolly et al. *vs.* Sarah Connolly and husband, lately deceased. The administrator of the insolvent succession of the late Felix Connolly, relying on the judicial declaration of the plaintiffs in the suit, that the property adjudged to Bridget Connolly belonged to the said succession, and was held by Sarah Connolly under a simulated sale, now asks that Bridget Connolly be cited, and that said property be decreed to belong to the succession he represents. There was judgement by default, which, upon proof of the facts alledged in the petition, was made final, and the defendant appealed.

The opinion we have formed on the merits, renders it unnecessary to notice the bills of exception found in the record.

The defendant has filed in this Court several pleas of prescription, and the plaintiff waives his right to have the case remanded under article 902, C. P.

1. It is alledged that this is a personal action; that more than ten years have elapsed since Sarah Connolly received from the syndic of Hopkins a title to the property claimed, and that under article 3508 L. C. the action is prescribed.

2. It is further alledged that the debts due by the succession of Felix Connolly are evidenced by judgments rendered more than ten years before the institution of the suit, and that they are also prescribed under the same article of the Code. We have also been referred to an act passed in 1848, on the subject of prescription, providing that the time required for it shall not be affected by absence from the State.

The prayer of the petition is, that the immovable property therein described be decreed to belong to the succession of Felix Connolly, and that it be delivered to its administrator.

This is clearly a real action, unaffected by the prescription of ten years. Article 3508 provides that all personal actions, except those previously enumerated in the Code, are prescribed by ten years. But a judgement is not a personal action, and does not come within the rule. The debts have proved are still due, and must be satisfied out of the property of Felix Connolly, if he had any at the time of his death.

That the property claimed belonged to him is proved by the judicial declarations of the defendant in the former case, which have in evidence.

There is nothing in the judgment of the court in that case tending to falsify those declarations; on the contrary, it enforces a compromise entered into between the parties to the suit, as heirs of Felix Connolly, in relation to the property left by him, and with the consent of the other heirs, adjudges to the defendant in full ownership that portion of it which is now claimed. The defendant received it in right of Felix Connolly, and her title to it is by inheritance. She cannot therefore be viewed as a third person, and the prescriptions of one, five and ten years, which she has pleaded under articles 1989, 3507, 3442 and 3437 C. C. can no more avail her than they would avail Felix Connolly if he was alive.

The plea that the action of the plaintiff to annul the sale cannot be maintained, because if there was fraud Felix Connolly was a party to it, and as he would have no action himself he could transmit none to his representatives, assumes that the plaintiff represents the deceased. It is not so: the succession is insolvent, and the administrator represents the creditors. The case of Gravier's curator *vs.* Carraby's executor is not applicable to this controversy. The judgment is affirmed, with costs....Hoffman and Habsey for plaintiff and appellee; Preston for defendant and appellant.

An instrument not negotiable is prescribed only by the lapse of ten years....In an action to render an attorney at law liable for a claim placed in his hands for collection, it is incumbent on the plaintiff to show that he had a valid claim, which has been impaired or lost by the negligence or misconduct of the attorney.

BLASSINGHAM SPILLER *vs.* THOMAS GREEN DAVIDSON.....*Appeal from the Eighth Judicial District Court, Parish of Livingston*....SLIDELL, J....*Per curiam:* The plaintiff alledges that in 1829 he placed a note in the hands of the defendant for collection, and that the defendant has made no effort whatever to obtain a judgment, but has permitted it to become extinguished by prescription; that he has retained the note in his hands, or has transferred it for his own benefit, and by his professional neglect and misconduct has made himself liable for its amount. The defendant pleaded the general issue. He also pleaded that the plaintiff had failed to furnish the evidence necessary to establish the validity of the note; that he had offered to return the note, and has always held it subject to the plaintiff's order. He deposited the note with the clerk of the court at the time of filing his answer.

The note is dated in October, 1838, is payable at twelve months, and is not negotiable in its term, being a promise to pay to Isaac B. Shipler. It purports to be signed by the mark of the maker, Amelia Gordon.

As the instrument was not negotiable, it was not subject to the prescription of five, but of ten years. It is, therefore, not yet prescribed.—Whiting *vs.* Prentice, 12 Rob. 141, &c. The judgment of the court below, predicated upon the supposed extinction of the note, is therefore erroneous.

In an action of this sort it is incumbent on the plaintiff to show that he had a valid claim, which has been impaired or lost by the negligence or misconduct of the attorney. The evidence does not establish the existence, now or at any time, of a valid claim in favor of the plaintiff against Amelia Gordon or her ancession.

It is therefore decreed that the judgment of the court below be reversed, and that there be judgment for defendant, with costs in both courts....Watterson for plaintiff and appellee; Jones and Childress for defendant and appellant.

Where an executor, in the State of Arkansas, placed certain slaves of the succession in the possession of his sureties, in order to quiet their apprehensions relative to his mismanagement of the succession, and the executor afterwards fraudulently and forcibly took the slaves out of the possession of the sureties, removed them into Louisiana, and transferred them to a third party residing therein: *held*, that the sureties have such a qualified property in the slaves as would enable them to maintain an action in Louisiana against such third person for their possession, but that the hire of the slaves, while in the possession of such third person, must be claimed by the succession.

JOHNSON, RALPH AND SLATER *vs.* CAMPBELL AND IMBODEN.....*Appeal from the Tenth Judicial District Court, Parish of Carroll*....No. 1295....EUSTIS, C. J....*Per curiam:* The plaintiffs were the sureties of Samuel Campbell, on his bond, given in the State of Arkansas, as executor of the last will of Duncan G. Campbell, deceased.

The plaintiffs, it appears, having reason to be alarmed at the mismanagement of the executor of the affairs of the succession entrusted to him, and the Court of Probates, under which he held his authority, having taken cognizance of the application of the said plaintiffs to be released from their suretyship, decreed that Campbell should furnish other security. It further appears, that in order to quiet the apprehensions of the plaintiffs, and before any new security was given by Campbell, he deposited with them for safe-keeping, to await the further action of the Court of Probates, certain slaves belonging to the succession. It is alledged that afterwards Campbell fraudulently and forcibly took from the possession of the plaintiffs the slaves thus deposited and brought them to this State, where he fraudulently transferred them to Imboden, who has them in his possession.

The plaintiffs brought the present suit against Imboden for the possession of the slaves, and had them sequestered. A verdict of a jury was rendered in favor of the plaintiffs for two of the slaves, Alice and Viney, and $298 for their hire. From the judgement rendered on this verdict, the defendant has appealed.

The occurrences which gave rise to this suit took place in the county of Chicot, adjoining the northern boundary of the State.

The argument presented for the defence relates to the want of any legal right to maintain this suit on the part of the plaintiffs. But it appears to us that this right is unquestionable. The slaves being in the possession of the plaintiffs in the State of Arkansas, where the succession is still open and its affairs unsettled, and having been delivered to them by Campbell for safe-keeping, to await the action of the Court of Probates, it seems to us that their right of possession can not be drawn in question by a mere spoliator. Campbell's rights as a legatee gave him no right to remove the slaves to this State and dispose of them to the detriment of the succession which he was charged to administer. The other slaves brought to this State by Campbell have found their way across the line to Arkansas, and in permitting the depositary to maintain this action we are only in fact returning these slaves to the action of the forum from which they have been removed, for purposes which no court can justify. Slaves being moveables by the laws of Arkansas, the plaintiffs have such a qualified property in them as will support this action against a party in the position of the defendant. The judgment being for the possession of the slaves, we consider that part of it which decrees the possession to the plaintiffs as correct, but for their hire the defendant will be responsible to the succession to which the slaves belonged.

The judgment of the District Court decreeing the defendant to pay the plaintiffs the sum of $298, or, as it is written, two thousand and eight dollars, is therefore reversed, and that decreeing the possession of the slaves Alice and Viney to the plaintiffs is affirmed, the defendant paying the costs of the District Court, and the plaintiffs those of the appeal....Dupuy for plaintiffs and appellees; Short and Blackburn for defendants and appellants.

All acts or hindrances, coming from the debtor, which deprive the creditor of the remedy and forum contemplated at the time of the contract, suspend prescription.

HENRY BOYLE *vs.* WILLIAM MANN.....*Appeal from the Fourth District Court of New Orleans.* (*Strawbridge, J.*)....No. 1059....ROST, J....*Per curiam:* This action was commenced by attachment, in August, 1847, on a promissory note which had been due more than five years at the time. The plea of prescription, under Art. 3505, of the Code, presents the only question in the cause. That plea was maintained in the first instance, and the plaintiff appealed.

In January, 1837, the defendant was a member of the commercial firm of W. L. & W. Mann, trading in Franklin in the State of Mississipi. His brother and partner subscribed the note sued on in the name of the firm, on the 6th January, of that year. It was payable six months after date. William L. Mann was killed before the maturity of the note. The defendant took charge of his assets, and, in the words of one of the witnesses, "paid as long as he had available means, and finally abandoned all in despair."

In 1845, he removed from Mississipi to Texas, which was then a foreign country, and thence to Mexico, in 1847.

We consider this a proper case for the application of the rule *contra non valentem.* All acts or hindrances, *voies de fait et empêchemens*, coming from the debtor, which deprive the creditor of the remedy and forum contemplated at the time of the contract, suspend prescription. 2 Troplong, prescription, 725.

The Commercial Code of France estsblishes for bills of exchange a prescription similar to that which is here plaeded. It has been held there that this prescription cannot be opposed by the drawer of a bill, who, before the expiration of the five years, obtained it confidentially from the holder, and wrongfully kept it beyond the time at which prescription would have accrued. (2 Troplong, *loco citato.*) And again, after the drawer of a bill of exchange has failed, and the bill has been placed by the holder in the hands of the syndic, if the syndic fails or refuses to return it, the prescription of five years is suspended from the day of such failure or refusal. (Dalloz, 1845, 1st part, p. 29.)

The disappearance of the defendant, and his removal to a foreign country, was also an *empêchement*, by which the plaintiff was deprived of his remedy, and that his intention in removing was to defeat the claim of plaintiff and of his other creditors, is proved by his declaration to plaintiff and agent, that he had left behind him many debts which he never intended to pay, and that if this was one of them, he would class it with the others, and never pay it. In this resolve we cannot assist him. The judgement appealed from was therefore reversed, and judgement rendered for $302 75, with interest and costs in both Courts. It was further ordered that the property attached be sold to satisfy this judgement....H. D. Ogden and R. Mott, for plaintiff and appellant; J. S. Concklin, for defendant and appellee.

[*To be Continued.*]

DAGUERREOTYPE.

ELECTRO-MAGNETIC PORTRAITS.

BY the application of the above mysterious agent to Daguerreotype, (a discovery of the subscribers,) the undersigned is enabled to produce PORTRAITS of the most superior kind in a SINGLE SECOND—catching the precise expression instantly, and fixing it indelibly upon the silver plate. ☞ Those who wish to retain in their families good LIKENESSES of relations or friends, can do so at a moderate price. Rooms, corner of Canal and Chartres sts.—Entrance No. 3 Chartres street. [my3 1y] W. H. HUTCHINGS.

MAGUIRE'S DAGUERREOTYPE.

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Lake end of New Shell Road.

THE undersigned has just refitted and opened the above well-known and favorite establishment, and intends to make it, in every respect, worthy of the patronage of his friends and those who wish to enjoy a pleasant drive to one of the most elegant and salubrious retreats in the country. The gardens and grounds will be kept in the best order; he will have boats out at all times to keep his table supplied with the finny tribe, fresh from their ocean home. He will also be at all times supplied with every description of wild game, and all the delicacies that the New Orleans market affords, together with choice liquors and wines, with good lemonade