The Daily Crescent.

BY CROCKETT, FROST & CO.

JOHN W. CROCKETT....J. W. FROST....HUDSON A. KIDD.

NEW ORLEANS:

WEDNESDAY MORNING, FEBY 13, 1850.

☞ Thanks to steamers Oregon and Bostonia for Mobile and Louisville papers.

☞ Read the communication upon "Constitutional Reform," to be found upon our first page.

THE ATTORNEY GENERALSHIP.—This is one of the most important offices in the State. It ought to be filled by the ablest lawyer of the Democratic party willing to accept it. We think that Judges and District Attorneys should be appointed without reference to political opinions; but the Attorney General, who is the legal adviser of the Governor, ought to be selected from among his political friends. He ought to be familiar with the statutes of the State and the United States. He ought to be learned in criminal law, and should be a man of forensic power. The best no personal unkindness to the present incumbent, but we frankly say that the Democratic party has far abler men in its ranks. The unfitness of the present officer is proved by the single fact that Legislature has just paid three thousand dollars as a fee for assistant counsel in the case of the Consolidated Bank vs. The State of Louisiana. Now that fee was not too large. The great error was in the appointment of an individual to that office who could not stand alone in an important case. It is rather hard on the people to make them pay $3000 a year for an Attorney General, and then pay fat fees for assistant counsel. We hope the Governor will appoint some man who can represent the State under all circumstances. The trial yesterday was, on the part of the prosecuting officer, a series of blunders. We look forward with impatience to the time when the people will choose all of their own officers.

GENERAL AGENCY.—By reference to our advertising columns, it will be seen that Dr. WOODSON WREN has established himself in this city for the purpose of doing a General Agency business. Dr. Wren has been, until recently, a citizen of Natchez, where, in the capacity of Postmaster, he gave the highest satisfaction for, if we mistake not, about fourteen years. His long residence in the South, the responsible stations which he has filled, the high recommendations which he presents, leave nothing for us to say in his behalf.

MISS CUSHMAN.—Miss Cushman made her second appearance last evening in the character of *Rosalind*, in "As You Like It." The St. Charles was filled in every part—the storm could not prevent this tribute to the histrionic powers of one so well known to fame. Miss Cushman's *Rosalind* was a very fine delineation of the character; yet it enchanted you without arousing deep feeling—the masculine predominated over the softer traits—the woman seemed lost in the page's dress, but the bewitching persuasion, and the artistic grace, clothed a character not well suited to the lady with an irresistible charm. It was not *Rosalind*, with all the beautiful attributes given to her by the poet, but it was nevertheless *Rosalind*, and given, too, in a manner that belongs exclusively to Miss Cushman.

To-night Miss C. appears as *Lady Macbeth*, which is said to be one of her best characters. Her fine form is well suited to tread the stage in royal robes, and in this great tragedy she has ample field for the display of her peculiar *forte*.

ORLEANS THEATRE.—The grand opera of "The Huguenots," by Meyerbeer, will be performed to-morrow evening for the benefit of Mr. Duloc, the first tenor. This gentleman deserves a bumper, and we feel assured that he will receive it. To the lovers of music, "The Huguenots" will prove a rich treat, "a concord of sweet sounds." The Orleans is at the head of the amusements, and visiters to our city should attend on this occasion, to realize all that they have heard of the opera at New Orleans.

MOBILE AND OHIO RAILROAD.—Mr. Foote has introduced in the U. S. Senate a bill granting to the States of Alabama and Mississippi, respectively, a donation of public lands, to aid in the construction of a railroad from the city of Mobile to the mouth of the Ohio river, which was read a first and second time and referred to the Committee on Roads and Canals.

THE RIVER.—The Louisville Courier of the 5th says: "The river continues falling quite fast, with about 8 feet water on the falls last evening. The weather was intensely cold yesterday morning; the thermometer ranging down to zero; but in the evening it had moderated very materially, though still quite cold.

"At Pittsburg last evening there were 9½ feet water in the channel, and weather very cold. At Cincinnati the river was still falling."

DECIDEDLY QUICK.—In the Charleston Courier of the 20th we find a telegraphic dispatch, headed thus: "Dispatch from Washington, Feb. 5—9.11 P. M. Received in Charleston, Feb. 5—9.10 P. M." That is, it reached Charleston *just one minute before it started* at Washington! Strange, but not impossible.

GOLD IN NORTH CAROLINA.—The Ashboro' Herald states that from the labor of two men, for twelve days, Mr. E. P. Miller of Sawyerville, Randolph county, N. C., realized five and a half pounds of virgin Gold. This beats California.

SIGNIFICANT.—The bill introduced by Mr. Root, of Ohio, into the House of Representatives, excluding slaves from the Territories, was, on the 4th inst., laid on the table by a vote of 105 to 79.

GEORGIA.—Col. J. W. Jackson, editor of the Savannah Georgian, has been elected to Congress from the 1st district, to fill the vacancy occasioned by the resignation of T. Butler King.

ALABAMA.—The two houses of the General Assembly, in Legislative caucus, have adopted resolutions with a view to the representation of that State in the Southern Convention, at Nashville. Thirty-six delegates were appointed, composed of an equal number of whigs and democrats—eight for the State at large, and four for each of the seven Congressional districts.

ROBBING THE MAIL.—Alford Gaskins, of Winter Seat, South Carolina, has been arrested for robbing the mail. He has confessed the crime. Gaskins is spoken of as a young man of highly respectable connections.

OHIO LEGISLATURE.—A bill repealing so much of the apportionment scheme as divided the county of Hamilton, has passed both houses of the Legislature of Ohio.

☞ The Cumberland Civilian, of the 1st inst., says: "The Baltimore and Ohio Railroad, west of this place, is progressing as well as could be expected at this season of the year. Now and then a storm comes up and stops the work for a day or so. But the snow stays not long, and the never-failing effort that is always made in such cases to regain lost time, in a little time brings up all square again. The work is pushed on with great energy."

MR. BODISCO.—The Washington correspondent of the New York Courier and Enquirer writes: "The rumor of Mr. Bodisco's recall, which has been so extensively circulated by the employed agents of interested parties, and by Swiss mercenaries, who have malicious purposes to gratify, is unfounded. Letters of a recent date have been received from him by members of his household, announcing that the report of his exile to Siberia had created no little merriment with the Court at St. Petersburgh. His return to the United States is anticipated in March."

PLACIDE'S VARIETIES.—The grand spectacle of the "Naval Queen" has proved a good card. Its magnificence is seen in the crowded houses that it calls forth. The scenery and costumes are new and attractive.

HERWEG'S PANORAMA.—This beautiful exhibition still continues to attract numbers of our citizens, and Armory Hall presents nightly a large audience exceedingly gratified with the collection of fine views so faithfully portrayed.

THE PAINTING OF THE FRENCH REVOLUTION.—Do not fail to visit this fine work of art at 103 St. Charles street. The painting should be seen to be appreciated, and its great merits deserve the most liberal patronage.

Amusements...This Evening.

AMERICAN THEATRE.—"The Soldier of Fortune"—"How to Pay the Rent"—"Founded on Facts."

ST. CHARLES THEATRE.—"Macbeth"—"Your Life's in Danger."

PLACIDE'S VARIETIES.—"Shocking Events"—"The Naval Queen"—"Lend Me Five Shillings."

ARMORY HALL.—HERWEG'S PANORAMA.

PHILOPOMEN'S PAINTING—"The Proclamation of the French Republic"—103 St. Charles street.

Law Reform—Husband and Wife.

The series of papers under this title, commenced in the Picayune, will be continued in the Crescent.

We purpose in this essay to explain in a simple manner the legal consequences which result from this most important contract. Whatever may be the prejudices of those who have been educated under the common law, all must admit that the Continental systems in this particular are far superior. By the common law the legal existence of the wife is merged in that of the husband; her personal property becomes his; the control of her real estate is transferred to him; she becomes a nonentity. This was the growth of the Feudal system, when society was in complete panoply, and even law partook of the spirit of the age. Fortunately the war power has passed away. That form of society, which existed like Mahomet's Paradise, beneath the points of swords, has ceased, even in England, but still the relations which the laws of a barbarous age had created linger in existence, chilling with their malign influences the feelings of a humaner era, ready to bud forth into practical institutions. Winter still dallies in the lap of Spring.

The matrimonial law of the Continental nations always regarded the rights of the wife. Especially was this the case in Spain and France, from whom the colony of Louisiana received its laws and opinions. Doubtless our law requires amendments, but taken as a whole, it is admirably adapted to protect the rights of the feeble woman, guarding her alike from the tyranny of the husband, or the self-sacrificing affection of the wife. It places her beyond the influence of the husband by placing her beyond herself. The property of the wife in Louisiana is divided into two classes—the Dotal and Paraphernal.

"The Dowry, or Dotal property is that which the wife brings to the husband to support the expenses of the marriage."—L. C. 2317. This must be settled at the time of the marriage, and cannot be increased after.—2320. The income belongs to the husband to help him to support the charges of the marriage.—2329. The property is inalienable, except in a few enumerated cases, such as the establishment of children—for the liberation from jail of either husband or wife—for supplies of food—for making repairs, or to effect a partition when the property is held in common with other persons.—2321.

Marriage contracts containing this provision are of rare occurrence among the American population. In a practice of twelve years, the writer has never seen a marriage contract containing a settlement of dowry. An American never feels that property belongs to him unless he has the right to dispose of it. He really believes that property was made to be "swaped off," and would hardly accept a fortune, if clogged with the condition that he should never risk it in trade. Hence such stipulations which place property *dehors* commerce meet with no favor from the new population; and these provisions of the code are to the greater number of our readers a dead letter.

The second division is that of Paraphernal property. All property of the wife, not expressly settled as dotal, is paraphernal.

The wife has the right to administer this without the assistance of her husband. If she, however, does not administer it herself, it is considered under the management of the husband. When administered by him the income belongs to the community of gains existing between them. The wife may at any time resume the management of the paraphernal property which she has entrusted to her husband. If she retains the administration of her property, she ought to bear a proportion of the expenses of the family up to one half of her income, if need be. She has a right to alienate her paraphernal property, with the consent of her husband; and if he refuses she may cite him before the Judge and obtain the consent of the court. If, however, the price of the property is received by the husband, she has a tacit mortgage on his property for its restitution.

To-morrow we will explain the subject of Community property—show the operation of this law, point out its defects, and suggest remedies.

Mr. Forshey's Lecture.

The third Lecture was devoted to the Animals, Plants, and Minerals of the transition and secondary periods.

Geologists differ in their divisions, but the lecturer chose to limit the transition series to the Grawacke group, including the old red sandstone.

Before this period, there seemed to have been no animals or plants. There may have been both; but if so, the intense pressure and heat to which the rocks of the stratified primary period have been subjected, has obliterated all traces of them.

The animals and vegetables of the transition were of a character to subsist best through the violent changes of that remote age. The coral builders were the earliest architects, and are still at work in the seas. Many Islands have been wholly produced by them, but they begin to wane, and are now limited to seas whose mean temperature is above 69° Fahrenheit. Doubtless they will become extinct ere long, geologically speaking; and so will all the animals now inhabiting the planet. Observation teaches us that some animals are able to sustain a very high temperature, but a very low one is not endurable by any. Unless the law of animal life be changed (and this is not to be expected), the time will come when

"The frozen earth will wander voiceless."

But we turn from the dark picture.

The carboniferous period was one of life in such multitude and variety, both animal and vegetable, as to have no parallel, before or since, in the history of the earth.

Coal was of vegetable origin, admitted now by all. The leaves, limbs, and ligneous fibre of trees were still plainly traceable in all the bituminous coals. Such is its abundance as to prove the prolific character of that period in vegetable life. All the forests on the earth, for the last six thousand years, would not furnish the carbon of the Ohio coal-field.

The coal was deposited in basins, showing evidences of eddies in the seas that deposited them; and explained Prof. Mather's theory of the coal basins of the Mississippi valley. This view of the subject was truly grand, but cannot be presented in our limits. Go, reader, and listen to these sublime teachings for yourself.

The lecturer asked the question which has always staggered Geologists: "Whence came the lime and the carbon of the secondary beds?"

It is not found in the primary beds, except in very small amounts in the primary limestone beds. Life could not exist without carbon, nor bones or shells without lime. After stating the several hypotheses of philosophers, none of which, according to his searching criticisms, were satisfactory, the lecturer ventured to mention his own, as a new suggestion.

Carbon and lime, or calcium, which is its base, may be derivable from the older rocks by some analysis unknown to us, made in the crucible of nature. The simple substances, regarded as elementary bodies, are constantly changing in number. Possibly we may yet find that carbon and calcium are constituents of some of those long regarded as simple, or these themselves may be found to be compounds of other known substances, in the primary rocks.

The utilities of coals and minerals to man were countless, and were to be numbered among the countless bounties God has furnished us with. But man is apt to overrate his own importance in the material world. Let him not be presumptuous.

"While man exclaims, see all things for my use,
See man for mine, replies a pampered goose."

The physical world was not made for man, physically considered, any more than for a monkey, a saurian, or an oyster. Spiritually considered, man is in the image of his Maker, and it is intellect only that dignifies him. His body is liable to the same casualties, subject to the same laws with the thousand other animals of his age, and the future naturalist may examine his fossil bones, and reconstruct his skeleton just as Conybeau did the plesiosaurus. The geological period is fitted for his animal enjoyment, and he alone of all earth's creatures, can explore the periods of the past and find intellectual pleasures. If he would unveil the mysteries, before which he now bows in meekness and humility, let him live here physically and mentally for a spiritual eternity.

☞ Commodore Daniel Turner, of the U. S. Navy, died very suddenly at Philadelphia on the 5th instant.

Telegraphed to the "Daily Crescent."

[BY THE SOUTHERN LINE.]

BALTIMORE, Feb. 10th, 1850.—We send you the following additional details per Europa: New Beef 75s. 6d.; new Mess Pork 55s. Sales of Tobacco, since the 1st of January, 1200 hhds., at full prices, and the article very firm.

The French have abandoned their expedition to Buenos Ayres. In Prussia there was a threatened dissolution of the Cabinet, but the difficulty had been compromised. The Austrian Diet had been convoked. The Hanoverian Chamber of Deputies had refused to recognize the Central Commission (?) of Austria and Prussia. The Sardinian Government had approved the treaty with Austria. Negotiations for peace with Denmark had been renewed at Berlin, and Prussia had renewed diplomatic intercourse with Austria.

The Pope had not returned to Rome. Nothing new in politics in England or Ireland.

The steamer Ohio has arrived at New York.

The Mutilated Record Case.

The First District Court room was crowded yesterday to listen to the trial of the prosecution, "State vs. W. S. Upton, R. M. Carter, and Amos Hough," for defacing a record. Messrs. Grymes, Hunt, Benjamin, and Colton, appeared for Mr. Carter, Mr. Graihe for Mr. Upton, and Messrs. Field and Pike for Dr. Hough. The Attorney General alone represented the State, and when he stood against this formidable array, he was "like a poor man at a frolic."

Mr. Cohen, before the Jury was empannelled, moved for separate trials for each of the traverses, on the ground that there was no charge of conspiracy, and that the act charged, the effacing of a record, could only have been committed by a single individual. He moved for allowing a severance, each would be allowed the benefit of the testimony of the others. But the motion was overruled.

The Jury was composed of the following gentlemen: J. W. Reed, S. Meyer, S. H. Shepherd, A. Lanusse, J. Budd, S. S. Relf, W. R. Brasshan, F. Arroyo, H. Legouiec, H. Perry, A. J. Arthur, P. Ward. The question came up, who should challenge first, the State, or the traverses? The Court decided that the State was entitled to the last challenge, and the point was reserved.

The Attorney General read the indictment and the statute, in these words:

"SEC. 20. Every person who shall deface, alter, falsify or embezzle any record, enrollment, matter or instrument recorded, or registry thereof, with intent to defraud, shall, upon conviction thereof, pay a fine not exceeding one thousand dollars, and be imprisoned at hard labor, for a term not more than two years, and shall be for ever rendered incapable of holding any office within this territory."

The indictment was substantially that a record of the First District Court was altered by the defendants, to defraud one J. B. Chandler. Mr. Elmore said it was necessary for the State to prove an intent and the act to defraud Chandler, or the indictment could not be sustained. The intent to defraud must accompany the cancellation. R. H. Marr was retained as an attorney by J. B. Chandler, to investigate the affairs of the succession of his mother, Mrs. Bannister. He found the paper alleged to be altered. Mr. Benjamin objected to any evidence in regard to any paper not already in evidence. Mr. Elmore then offered the record.

Mr. Benjamin objected to it, because the allegations did not correspond with the proofs. The defaced record is attempted to be copied, and certain blanks are left in the copy. There is no charge that any words are cut out or in any manner destroyed. The indictment purports to give an exact copy of the mutilated record, but there is no mutilation apparent; it only shows some blanks. Now we object to the introduction of a record which does not show the cutting out of something of that record. The charge is that we altered and defaced the record. We are charged with carrying away or embezzling the record. He then showed that the copy embodied in the indictment did not correspond with the record. The indictment charges the erasure of the opposition to the medical and juridical charges. The record shows the word "*juridical*." The charge is the suppression of the opposition to the juridical claim. We show the record contains the opposition to the juridical claim. There is no copy of the filing, which alone makes it a record. Ten or twelve lines are omitted in the copy. The recited contains on the back the endorsement, "Discontinued Sept. 20, 1847." This is not copied. The indictment charges the alteration to have been made on Sept. 23.

Mr. Elmore thought the parties meant to stand their trial on the merits, but this was purely a technical defence. He wished to see the law which sustained the objection. There was no necessity to give a record. The case of Bernard Archibald, 3d.

Mr. Grymes replied—There is no description in the indictment of the offence, so that the traverses might make their defence; and then there is a material discrepancy between the indictment and the record. The offence is the defacing the record: 2 An. R. The endorsement must be made on the indictment, forms a part of it, and completes it. The endorsement is: "Filed in the State vs. U. Upton et al. For defence. A true bill." There is no charge that the blanks in the copy embodied in the indictment were defacements; that those blanks were ever filled up, and afterwards cancelled. He quoted the authority of the Attorney General, which was only the conclusion, and not the narrative part of the indictment; but he read the pleading which was bad.

The Court decided that the discrepancy between the indictment and the record was in matters of substance, and sustained the objection.

The Attorney General moved to enter a *nolle prosequi*; but this was opposed.

Mr. Grymes cited 22 Pick. 35, which conclusively shows that after a jury is empannelled, the prosecutor cannot discontinue; the traverser is entitled to a verdict.

The Attorney General quoted Wharton's Am. Law in support of his motion; but the Attorney General relied rather on a *nolle prosequi at any time*.

Randel Hunt said that these dicta of law, made by incompetent persons, were most dangerous authority. He expected and entitled him that Wharton was not to be relied on. It is true that the Attorney General may enter a *nolle prosequi* at any time, but not against the defendants; and the authorities, cited by Wharton, in express terms so announce the law.... Mr. Hunt said that on a question of common law, the Court could have no judicial authority than the unanimous opinion of the Supreme Court of Massachusetts; but he would add the decision of Chief Justice Marshall.

Judge Strawbridge said he sat in this court against his will, and he felt much embarrassed. There were important questions on the mind in early life which were stronger than those made at a later period. One of those which had been graven on his mind in early life was, that a prosecutor before a grand jury had a right to a verdict. The decisions of Massachusetts were not made on statute, but on the common law. He overruled the motion.

Mr. Grymes, for Mr. Carter, withdrew his objection to the introduction of the record. Mr. Graihe, who appeared for Mr. Upton, had not objected to the record. Mr. Pike, on the part of Dr. Hough, also declared his willingness to have the record entered on the minutes.

Mr. Elmore offered the record. Hereat the opposition. Mr. Benjamin required he should offer also the endorsement of the dismissal. The Attorney General objected, but the Court said the whole record must be read.

Mr. Marr was then sworn. He said it was about a year since he discovered the cancellations. He never saw the record before it was altered. J. B. Chandler claims to be the son of Mrs Rebecca Bannister, who died intestate. Witness did not know Mrs. Bannister. I alleged this record had been mutilated in a petition filed to set aside the homologation of the account. I established the fact before Judge McHenry, in the First, last November, in the progress of that suit. No questions for defence.

Mr. SIZER, the Deputy Clerk of the Court, said the first time he ever saw the record, was when Mr. Marr examined the papers. It looked then as it does now. I did not inform the Attorney General of it. I do not remember its state when filed, but we have a printed record which contains the present word. The endorsement of dismissal, of Sept. 23, 1847, is in my handwriting. He produced the copy, which contained the accompaniment of Mr. Marr. The petition was filed and left with the papers of the record. He produced the minutes of the Court of Sept. 20th, 1847, entering the dismissal of the opposition, and of Nov. 30, 1847, the entry of the rule of the opposition, and the reinstatement of the opposition of Merle, Beyle & Co., made by Upton, and a judgment in their favor in contumace with numerous creditors.... No cross-question.

The Attorney General offered the judgment recognizing J. B. Chandler as heir of Mrs. Bannister.

JOHN MCHENRY.—The first I recollect of the case was in November 8, 1847, when the oppositions were tried. Several gentlemen appeared, and all the parties interested were represented. They asked for a few moments' delay, and we consented the outline of a judgment, which was sustained by the evidence. Shortly after, my attention was called to the large fees allowed to lawyers, executors and tutors. Mr. Laurens Duncan came into Court, and said he had reasons to believe that the judgment of Merle, Beyle & Co. was fraudulent. I then was objected to, but I ordered a rule to show cause. I did not to pay over the money until further orders. But while I was absent the money was paid them on his *ex parte* order of the second term. The Court, on the motion of Mr. Duncan and Marr argued the exceptions to the suit he had brought against Carter and Hough. He established the mutilated record. I met Mr. Carter on the following morning, and informed him of this fact. Mr. Carter said that Mr. Upton had made opposition; but he had explained to Mr. Upton that Dr. Hough had been her physician for many years, and rendered her important services; and that he had advanced her large sums to Mrs. Bannister, and was fully entitled to the sums charged. That as for his own fee, it was just, and he did not expect any. Upon this evidence I was satisfied fraud, and that Upton immediately cut out the charge. The Clerk was absent at the time, and it was during vacation. Mr. Upton informed me that he had cut it out before it was filed. I advised him to produce some proof, or at least exhibit his affidavit to that effect. I spoke of the matter to some gentlemen, and in the court-room, what Mr. U. said about it, when the Clerk said, "I assure you, I have there is a copy of the opposition in the record, which is perfect."

In the conversation with Mr. Carter, he referred me to Mr. Upton. That gentleman himself spoke to me on the subject. There was nothing remarkable in his manner. I did not think of any crime at the time. I said it was imprudent conduct to cut a record; but it done before filing, it was not criminal.

The Attorney General offered the tableau of Mrs. Bannister's succession on Sept. 28th, 1847; an order of homologation of account so far as not opposed; and the monitory proceedings in that succession.

MR. COOK.—Is an attorney at law. In June, 1848, I was requested to examine the papers and ascertain whether the sales had conferred a good title. Also about a month after, I was employed to collect a debt due Mrs. Bannister. I could not find from the record that my client, Mr. McMasters, appeared on the record. I called on Mr. Carter, who refused to give me any satisfaction. Mr. Winons went with me to Mr. Carter and requested him to aid me in the collection of the debt. It was one-fourth of the Merle, Beyle & Co. judgment, assigned by R. M. Carter to McMasters.

Here the witness produced the assignments:

"One fourth part of the judgment of Merle, Beyle & Co. vs. R. Bannister belongs to R. M. Carter. W. S. UPTON."

"I hereby assign, for a valuable consideration, to—Mr. Masters my interest in the fourth part of the judgment of Merle, Beyle & Co. vs. R. Bannister's succession.

"Nov. 30, 1847. R. M. CARTER."

MR. COOK resumed.—Mr. Carter asked me not to file the transfer among the papers, as it would tend to confuse the papers. I suggested to the clerk, if the claim of Upton or Merle, Beyle & Co. we might lose the debt. He said there was no danger, and he went over and saw Upton. I meantime to him that the transfer was but on record, and he did not wish it. He then went on to tell witness how Carter obtained the claim.

This was objected to by Mr. Benjamin, who said that if the State wanted the testimony of either of the accused, the Attorney General should have procured the evidence by a severance of the trial. This is not an indictment for conspiracy to defraud, but it is a charge of defacing a record. As to Carter and Hough there is not the slightest proof, and Mr. Upton frankly says that he did it without any criminal intent, and at a time when it was entirely innocent.

Mr. Hunt argued on the same side.

The Attorney General offered the testimony to prove the fraud, and cited authority from Roscoe, that a conspiracy being proved, the declarations of any of the accused are evidence against all. He wanted to show what consideration Carter paid for the fourth interest.

Mr. Hunt replied to the authority of the Attorney General, and showed that he had again quoted only a part of the authority. As to the surprise of the Attorney at the ignorance of Mr. Benjamin in criminal law, Mr. H. would show the ignorance was as elsewhere. He read from Roscoe, that declarations of a confederate in a conspiracy are only those made *prior* to the crime, and those made *subsequently are evidence against the criminal*. Mr. H. retaliated with severity on the ignorance of the Attorney General, who, he said, did not understand the point announced in the authority quoted by him.

The Court ruled that the declarations of Upton were evidence against him, but not against Carter, and he so instructed the Jury.

Mr. Cook resumed.—Upton said he had feared his friends could not furnish the proper legal proof, and that he satisfied Carter of the debt, and offered him one-fourth of the debt as a gratification for doing what he ought to have done. McMasters did receive the fourth.

S. B. CONRAD.—I purchased the fourth part assigned by Carter from Mr. Wilcox.

The case closed for the State.

Mr. Benjamin moved for a verdict in behalf of Carter and Hough, that they might be used as witnesses for Mr. Upton.

The Attorney General consented as to Dr. Hough, but not as to Carter.

The Jury accordingly returned a verdict of "not guilty" as to Amos Hough.

Mr. Benjamin now made the motion to submit the case of Mr. Carter. The Attorney General objected, and said he knew of no authority to justify the motion. Mr. Benjamin said he might retort the charge of ignorance of criminal law on the Attorney General. He read from authorities directly to the point.

Mr. Elmore thought there was evidence against Carter, and he opposed the motion.

Mr. Grymes closed the argument on the motion.

The argument of the Attorney General to one *ad interrogatorem*, and that only as to himself. Because he may have to argue the same twice, he objects to the enforcement of the law. We are yet to learn that the rights of the citizen depend on the convenience of the Attorney General.

The Judge refused the motion. He was not prepared to say that there was no evidence against Mr. Carter.

Mr. Benjamin opened the defence, and offered a letter from J. B. Chandler to R. M. Carter, authorising him to settle the claims of opposing creditors as he thought best, Sept. 28, 1847. We shall show that Carter left among the papers a copy of this very mutilated record. We shall prove that Chandler himself was anxious to have these debts paid, then we will show that the debt of Merle, Beyle & Co. was a just one to the last dollar.

Mr. Upton opened his own case. He had an honest and just claim out in his hands for collection; that when the executor refused to allow his claim, he filed his opposition to the tableau; then, within an hour or two after its filing, the heir, with Mr. Carter, came to him and showed his debt. At that time the succession had not been filed.

At this point the Attorney General stopped him on the ground that he was stating matters which rested only in his own knowledge.

Mr. U. met with so much difficulty in the progress of his argument that he closed abruptly.

MR. MERLE was clerk for Mr. Carter; knew that Chandler frequently examined the tableau, and was anxious that the estate should be settled and he get the balance. He used to be at the office all day long. He seemed to understand everything about it.

Cross-examined.—This is a copy of the tableau which Mr. Chandler was familiar with. Mr. Benjamin used him to examine certain papers, which witness said were the rough drafts afterwards consolidated in the tableau. These items corresponded with the items of the tableau, and were seen every day by Chandler.

MR. PITOT is a clerk at the Citizens Bank; at the time of the death of Mrs. Bannister, was a clerk of Mr. Hermann. He was present when she made her will. She said to Mr. Hermann, her son, J. B. Chandler, would be of age in May, 1847. After her death, I often heard Chandler urge Carter to settle the estate; he appeared to understand the business, and was anxious to have it settled.

MR. FREUDENTHAL.—Is one of the firm of Merle, Beyle & Co. The claim of the firm against Mrs. Bannister was placed in Mr. Upton's hands. It was the exact sum due us. He intitled to the letter of demand made by the firm on the executor.

Cross-examined.—We placed it in the hands of Mr. Upton before August, 1847, but cannot recollect exactly when; some time in the year 1847. As Mr. Bannister died after his wife, we supposed he had an interest in her successor. Mr. Bannister admitted the correctness of the debt to me.

MR. PITOT, recalled for the defence.—The money was all received by Mr. Hermann and paid out by him. Neither Carter nor Hough had anything to do with it.

MR. LUCIEN HERMANN.—Was the Notary employed in the settlement of Mrs. Bannister's estate. J. B. Chandler came frequently to my office. The money was in my hands and paid out by me. Chandler, I believe, knew all about the claims. He was anxious to have the estate closed and get his money. He was a very young man and inexperienced. Hough of sufficient intelligence to understand the transaction of the estate. A portion of the estate was sequestered in my hands.

Cross-examined.—Chandler knew, I believe, Merle, Beyle & Co. had a claim against the estate.

Mr. Benjamin offered a mortgage executed by J. B. Chandler, on October 12, 1847, for $800, to Lane and to Dr. Hough for $2200.

MR. J. G. HOWARD.—Is an attorney; testified that he had obtained judgment against Chandler for Hough for $2200, on the mortgage of October 12, 1847, which is unpaid.

The evidence closed at 5 o'clock.

The Attorney General delivered one of his *usual* speeches, which occupied over an hour.

Mr. Grymes disturbed the slumber of the Jury by stating that the counsel for the defendants would not argue the case to the Jury, but would ask the Court to give certain instructions.

1st. That the prosecution was based on Section 20 of the Act of 1805, (merely quoted.)

2d. That the sections applied only to the alteration or defacement of records other than judicial records.

3d. That the 19th section alone applied to the alteration of judicial records, and that to constitute the offence under that section, it was necessary for the State to *allege and prove* that by means of said defacement a judgment has been reversed, made void, or not taken effect; that there being no allegation and no proof of such a consequence, no verdict could be rendered against the traverses.

4th. That to constitute the offence, it must be shown that the act was committed with the intent to defraud the person named in the indictment as the injured party.

The Court gave all the charges asked by the defendants, and the Jury returned a verdict of "Not Guilty."

It is an act of justice to the accused to say that they refused to avail themselves of any technical defences which the case presented. When the mutilated record was rejected, and the Court forced the Attorney General to proceed, and refused him to enter a *nol. pros.*, at that period they might have had a verdict, but they would not accept of an "Ore Rullet nolentes." They withdrew all objections, and allowed the State to make out its case. They refused to plead prescription, which was a complete bar. The charge of defrauding Chandler is an issue involved in a civil suit, with which we have nothing to do. But it is clear from the evidence, that the parties were not guilty within the letter nor spirit of the act.

PASSENGERS—*Per Steamship Georgia.*—The following passengers left here yesterday per steamship Georgia, for California, via Chagres:

John D Harris, Charles C Harris, J W Ambrose, G W Brown, Geo Chapman, A M Wells, W Tullis, Wm H Whitehill, J W Tuttle, C O Reilly, S Chouteau, Wm M Wood, G Beauchamp, W P Pim, T F Pim, W F Cayce, H Wood, Jacob Levy, S Reichart, Isaac Kaiser, S Foster, E Wood, W Jones, W D West, J H Hagins, Abel Shaw, F Smith, Lemuel Dupre, George Fisher, Clinton Winter, H H Raymond, W M Williamson, Wesley Gutts, L M Prior, Wm Kimble, Johnson Kimble, Edward Kimble, S W Hunter, Jesse Stoughton, Hiram Rains, Denis Corcoran, J B Maytrank, Michael Kelly, George Williams, B F Alexander, L Wolff, Jamp Billingsley, E Shiouts, N L Shiouts, David R Jones, J W Beckham, Samuel Gallard, James Collins, B L Heath, J McIntyre, L D Reed, Wm McKarr, C W Barclay, James Crawford, Wm Jones, S C Dumas, B Dumas, Lewis Dumas, Stone, A H Hays, John Nye, Dave John, E W Deitrick, J Eshart, E W Wisler, John Dewing, August Green, Alex Gilpatrick, F Hoover, Jno Johnson, Seth Spencer, James Moss, Robert, Martin Sheppard, F M White, Dr Geo F Taylor, Z Faulkner, John W Curry, John M Phillips, Felix McLean, J E Mays, T Brown, Harper Wood, John Connolly, David Armstrong, E D Head, A W Wilson, S H Porter, J H Lewis, A W Oakley, James Ryan, M Carlon, J C Shell, David Wilson, J Wysinger, Wm Noble, John Scott, Thomas J Lynn, Jno McFarlane, A Green, Jno Mc Pike, Jno Ryan, A J Allston, T Knox, John H Kirby, W M Kelvey, S C Davis, E Newall, E Farmer, John Myers, W Ross, J R Ivey, Hilo Ferry, J Ferry, J Ferry, Jr, Jno Ferry, Jno Ferry, Jr, Vincen, John O Agnew, Anderson Miller, J Myers, Julian Harby, A D Cochran, C W Pierce, Capt E Merrill, George Wilkinson, S F Peck, Mrs Brashkieen, Miss Hart, Mrs Lee, Miss Gray, Mrs A Chantran, Mrs C Lewis, Mrs Anna Tryon, Mrs Thomas, Mrs Jane Brooks, Henry Palmer, Mrs Hastings, two children and nurse, Mrs J Gilmer, Mrs M Gilmer, Mrs V Rubie, W S Manning, John D Woodward, John M Baker, Jno Decandin, Wm St John, T W Moore, J R Keys, R Curtis, John Keys, Wm McClung, A Rose, John D Hamilton, J B Moore, Chas Wood, Jno Wood, J H Hoover, A B Cooper, R Hus, Wm S Maldon, T W Dull, Daniel Leslie, Andrew Cowan, W B Powell, F B Cowan, Richard Brada, Wm S Rockwell, G W Jones, C H Hill, Saml P Jones, J W Jones, Coleman L Mitchell, G B Dunn, James Malas, F F Foster, J Thurston, D E Britton, John H Adams and servants, Chas Williamson, Wm Elliott, Jas Pillsbury, Wm Wilkins, Wm Brogan, J B McMenomy, Geo Spenny, J E Nave, R S Pratt, Richard Taylor, Wm Montgomery, C Montgomery, J J Craig, J S Daggett, Jas Thompson, C H Bishop, Hiram Bass, Lots, or Vacant Lots, in this city or in any part of the United States; also to the adjustment of claims and accounts from any part of the world; the collection of debts; taking depositions, and authenticating deeds and documents.

Those wishing his services are requested to be particular in giving definite instructions that will not be misunderstood; and those wishing real estate to be purchased, sold or exchanged, should give accurate descriptions of the property.

Letters addressed to him on business, at New Orleans, post paid, will be attended to promptly and carefully.

He is COMMISSIONER for Mississippi and Alabama to take depositions and acknowledgements of deeds. ☞ Office at No. 99 Gravier street.

Dec. 27, 1849.—Having been long acquainted with Doctor Woodson Wren, I take pleasure in recommending him to the public as worthy of confidence for his integrity, accurate business habits and integrity. J. A. GUTMAN,
Gov. clerk of Miss.

EXECUTIVE OFFICE, Baton Rouge, *Dec. 28, 1849.*—I have no hesitation in recommending Mr. Wren to the public as a man of upright character and altogether worthy of confidence.
ISAAC JOHNSON, Gov. La.

SONNETS OF THE SANCTUM....No. II.

ON THE NATIONAL MONUMENT TO WASHINGTON.

I stand and gaze upon this vast upshoot-pile,
(The mighty memory of our stalwart race,)
Which we, the children, build to Him, the while
Immortal science, and brave honor, trace
Thy hallowed virtues; while my straining eye
Searches the annals of the world to find,
Among the dwellers 'neath the starry sky,
Thy like, in spotless purity of soul or mind.
Thy name is Freedom's, and long generations
Shall mould and mingle in the silent dust,
Ere we, the foremost in the field of nations,
Cease to remember thy most sacred trust.
Here the war-farer shall in reverence bend,
Like Mecca's pilgrim when the shrine is won;
And from this fane shall ever upward blend
Impassioned prayer for thee, our Washington;
Thy fame shall live beyond remotest years,
When time shall crumble this, thy country rears.

W. H. P.

Arrivals at the Principal Hotels...12th.

ST. CHARLES—J M Jennings, H W Fowler, T J Mulder, S D Miller, Ala; R H Mary and lady, R McConnell, N O; A Hall, Ohio, N R Davis, L Taylor, Mr Corbyn, Mr Coulcock, N J E Gunn, NC; A Craig, G Sinnamed and lady, Miss S M Lyon, D Brock, Jr, L Q Kempel, Miss W M Peyton, Miss S M Peyton, Va; W Robertson.

PLANTERS'—W W Eves, M S Jones, NY; H F Heath, A Bonner, Tho Baird, R Wheatley, E D Nugent and lady, N Bear, Mrs McDonal, J Bear and family, D Bear, M Bailey, R N Dubour, Isaac Dorst, W A Thomas, J Williams, B Angles, H Chauvin, Ala; O Smith, Michigan.

VERANDAH—T Rose, J M Smith, N C; Dr F Lawrie and family, Ark; K T Dade, A J Dubose, Ala; N Yorbrough, J L Lampkin, W R Stanford, M B Prine, Ga; J M Smith, N C; J L Mallams, Miss H R Chinn, Miss M H Conrad, Miss R Hunstock, Lai; H Bell, Tenn; W H Talman, N Y; H Thornhill, N O; A L Herman.

ARCADE—J M Anderson, Miss; A M Waddell, T Robertson, Lai; W F Melbourne, G W Martin, J W Rice, J J Amonette.

HEWLETT'S—J Jenkins, J E Berlle, G W Teller, N O; J B Taylor, Ala; W B Stelling, Mr Ballard, Ga.

Married:

At Tuscaloosa, Ala., on the 7th inst., by the Rev. R. B. White, ROBERT H. MARR, of this city, to MARY ELIZA JANE, daughter of the late Wm. M. Marr, of Tuscaloosa.

Auction Sales This Day.

SYKES, HYDE & Co. will sell, at 10 o'clock, at 59 Magazine street—Boots, Shoes and Brogans.

S. of T....Meetings This Evening.

PELICAN DIVISION, No. 1, at Pelican Hall, corner of Common and St. Charles streets, at half-past 7 o