DAILY CRESCENT

OFFICIAL JOURNAL

OF THE CONSOLIDATED CITY OF NEW ORLEANS

THE NEW ORLEANS DAILY CRESCENT,

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TUESDAY MORNING, FEBRUARY 1, 1858.

Somewhat pressed by Council matter crowding our columns, we make place for the following in lieu of editorial:

The Senatorial Election.

The public mind seems to be somewhat divided as to the legality of the election of J. P. Benjamin as Senator, to succeed the Hon. S. W. Downs, whose term of office expires on the 4th of March, 1853. I confess that I am very desirous to see the State represented in the Senate by so able and distinguished a member of the party to which I belong, and one every way so well qualified to fill with dignity and usefulness that high station, as Mr. Benjamin; but I trust that I feel a still greater desire to see the Constitution and the laws of the State maintained in their integrity. I propose, therefore, to inquire calmly, without reference to party politics, what the law is, a correct interpretation of which, after all, must determine this question.

The Constitution of 1812 established annual sessions of the Legislature, to meet on the first Monday in January by the act of the Legislature of the 1st September, 1812, section 1, it was provided "that on the second Monday in January, next preceding the expiration of the term for which any Senator or Senators to represent this State in the Congress of the United States is or shall be chosen, it the Legislature shall then be in session, and if not, within eight days after a quorum of both Houses shall be assembled, etc., they shall proceed to the choice of a Senator," etc.

As it was certain that there would be a meeting of the Legislature in the year in which any Senatorial term would expire, and before the expiration of such term, no other Legislature than that meeting in the year in which such term would expire, had any authority to proceed to the election.

The Constitution of 1845 superseded that of 1812, and established biennial sessions of the Legislature, to meet on the third Monday in January. Article 37 provided, "that in any year in which a regular election of a Senator of the United States is to take place, the members of the General Assembly shall meet in the hall of the House of Representatives on the Monday following the meeting of the Legislature, and proceed to the said election."

This article did not determine in what year a regular election for Senators was to take place. The act of 1812 was still in force; and it imperatively required the election to be held in January next preceding the expiration of the Senatorial term, or within eight days after a quorum of both Houses should be assembled. But as the Legislature was no longer to meet every year, a Senatorial term might happen to expire in a year in which there was no meeting of the Legislature; in which event the constitutional provision requiring the members to meet, etc., in the year in which a regular election was to take place, etc., could not be carried into effect, unless, indeed, an extra session was called for that purpose.

To remedy this state of things, the first act of the Legislature which met in 1846 was to provide for the election of Senators. The first section of this act repealed the first section of the act of 1812; and the second section is as follows:

"That on the first Monday following the meeting of the Legislature, in the session thereof, commencing in the year in which the term of office of any Senator or Senators chosen to represent this State in the Congress of the United States of America shall expire, or in case there is no session of the Legislature in such year, then in the year next preceding such year, the two Houses shall meet in the hall of the House of Representatives and proceed to a choice of Senator, or Senators, to represent this State in the Congress of the United States of America, in place of the Senator or Senators going out of office, and the person, or persons, having the greatest number of votes shall be declared elected, provided such number be a majority of all the members present."

It is not possible to doubt the object of this act; and its terms are too explicit to require interpretation. It fixed with certainty the year in which a regular election for Senator was to take place; and, as article thirty-seven of the Constitution had already done, it established the manner in which that election should be held.

Nor can it be seriously urged that the law of 1846 had in contemplation any other than the regular sessions of the Legislature. It could never be doubtful when the term of office of any Senator would expire, nor could there be any difficulty in determining whether or not there would be a regular meeting of the Legislature in the year in which such term would expire; but it could never be known in advance whether or not the Governor would choose to convene the Legislature in extra session in any year in which a Senatorial term would expire. The necessary, common sense meaning of the act is, that the election of Senator was to take place in the year in which the term expired, if that should be a year in which, in contemplation of law, a regular session of the Legislature was to be held; or, if there was no regularly established session of the Legislature in that year, then in the year next preceding. Any other interpretation would lead to the conclusion that the evil, manifestly intended to be remedied, had, in fact, not been touched, and still existed with all its inconveniences. The Legislature meeting in the year next preceding the expiration of a Senatorial term, would know that no regular session was to be held in the year in which the term would expire; but peradventure the Governor might convene the Legislature in that year. If the Legislature, whose duty it was to elect a Senator in view of the vacancy to occur the year after its meeting, should, in discharge of that duty, elect a Senator, the Governor, by calling an extra session to meet in the year in which the vacancy would occur, would have it entirely in his power to annul that election. It was always possible for the Governor to call an extra session; and therefore, always possible for a session to be held in the year in which any Senatorial term would expire. The provision, then, "or in case there is no session of the Legislature in such year, then in the year next preceding," etc., would have been the sheerest nonsense, entirely idle and void of meaning, if the Legislature had intended or contemplated any other session than those established by the Constitution, and which were required to meet every two years.

When the Legislature met in 1852, two things were certain, and well known to each of the members: First, that the term of Senator Downe would expire in March, 1853; and second, that under the Constitution then in force there could be no regular session of the Legislature in 1853.

To be sure there might be a called session; but no one could know in advance whether it would or would not be the pleasure of the Governor to convene the Legislature. The state of things contemplated by the act of 1846 existed; and the members of the Legislature of 1852 would have been guilty of a gross violation of their duty, as well as of their official oath, if they had failed to proceed to the choice of a Senator. They discharged their duty under the laws and Constitution, and the result was the election of Mr. Benjamin.

The Constitution of 1852 superseded that of 1845, and established annual sessions of the Legislature. Art. 34 is as follows:

"In the year in which a regular election for a Senator of the United States is to take place, the members of the General Assembly shall meet in the Hall of the House of Representatives, on the Monday following the meeting of the Legislature, and proceed to the said election."

How does this article affect elections which had already been held? It does not by any means purport to repeal the act of 1846, nor are its provisions in any way inconsistent with those of that act. So long as that act and the present Constitution remain in force, it is certain that there will be a meeting of the Legislature in the year in which the term of office of any Senator shall expire; and therefore, the proviso in the act of 1846, which was not merely proper, but absolutely necessary under the Constitution of 1845, becomes no longer operative, because the state of the case for which it was intended can not exist again.

It cannot be denied that an election, valid and legal at the time it takes place, gives to the officer elected a vested right to the enjoyment of the office, and to its emoluments during the term for which he may have been elected.

But, here it may be asked, if this be true, how is it that the Governor, and many other State officers, went out of office before the expiration of the terms for which they had been elected? Simply because, as citizens of the State of Louisiana, they had authorized the call of a convention to frame a new Constitution; and by voting for adoption of that Constitution, which was incompatible with the tenures by which they held, which in fact vested their offices before the terms would regularly have expired, and provided for the election and installation of their successors, they had consented to give up a portion of their previously existing rights, and to retire from office in obedience to the will of the people. And here, it is to be observed, that the action of the majority, in calling the Convention, and in voting the adoption of the new Constitution, is considered to be the action of the whole, and is as obligatory upon each citizen as if each one had personally voted with the majority.

The new Constitution changed the duration of certain offices, and established a new mode of choosing the officers, making them elective by the people; and it fixed the periods at which elections for such officers should be held, and at which their terms of office should commence. As these provisions were inconsistent with those previously existing, and as the new Constitution superseded the former one and became the supreme law, these several offices became vacant, and that by the consent of the officers themselves, as citizens of the State.

Were any such changes made in the office of Senator? Was the manner of his election changed? He is still to be chosen by the General Assembly. Was the duration of his office made longer or shorter? Or was the period at which he was to enter upon the discharge of his official duties, or the nature of his duties, as Senator, in any manner affected by, or dependent upon the action of the State Convention? These matters were long since settled by a higher authority, and they do not come within the province of State Conventions or State Legislatures. Nor has the new Constitution made any change as to the time of holding elections for Senator, except, incidentally, as it establishes annual sessions of the Legislature, it obviates the necessity of the proviso in the act of 1846, and renders that proviso inapplicable to the existing state of things. The act of 1846 is still in force; nor is there any such absurdity in the Constitution as an attempt to interfere with the tenure, or the commencement, or the duration, or the duties of the office of Senator or Representative in Congress.

It is competent for the Legislatures of the several States to fix the time and place of holding elections for Senators; and that was done by the act of 1846. According to the provisions of that act the election was held at the proper time and place. No irregularity is alleged in the proceedings which resulted in the choice of Mr. Benjamin; and if any had existed it would long since have been paraded before the public.

His election was therefore, valid and legal at the time it took place. And if the new Constitution could have declared that election void, as it most certainly has not attempted to do, or if the present Legislature can treat it as null, as some of the members seem disposed to do, merely because such charges have been made in the organic law as render it impossible that the state of things can exist again which authorized that election, and which made it valid and obligatory, there is no right which became vested under the former laws and constitutions, which is not at the mercy of legislative action. Our lands, our slaves, all that we possess and call our own, are held merely at the will, and subject to the whim and caprice of the Legislature, and we may well exclaim,

"Chaos is come again!"

R. H. M.

Thanks to the Clerk of the steamer St. Charles for Red River papers.

We are indebted to the clerk of the steamer Georgetown for Louisville papers.

The Hon. Pierre Soule will please accept our thanks for valuable public documents.

Thanks to the Clerk of the steamer H. M. Wright for Louisville papers.

Thanks to the Clerk of the steamer James L. Day for Texas papers.

We are indebted to the Clerk of the steamer Tecumseh for river favors.

MARINE DISASTER.—The bark Compeer, of New York, was lost in Maraanham Bay on the 11th of December. The crew were saved.

MARINE DISASTER.—Captain Robinson of the schooner John Albert, arrived yesterday from Charleston, reports, that on the 22d inst., he saw a ship ashore to the westward of Loe Key, on the reef, with wreckers alongside, discharging cargo of cotton. Could not learn her name.

On the same evening, saw another ship on the Florida Reef, close to Sand Key, totally dismasted, with wreckers alongside, taking out cargo.

Captain Robinson also reports that the Sand Key light was not lit up; passed it about 10 o'clock, P. M., saw the light-ship and the Key very plain.

Capt. G. B. Prove, of the Sardinian bark San Pietro, arrived yesterday from Palermo, reports having met, on the 18th of January, in latitude 19, 20 N. longitude 85 deg. 30 min. 40 sec., the American bark Mopang, Capt. Allen A. Lane, thirty-five days from San Juan de Nicaragua, bound to New York. There were seventeen, in all, on the Mopang, all sick with fever, except three sailors, who were on deck unable to do duty, being almost starved. Capt. Prove, notwithstanding the bad weather, put his own boat to sea and sent them stores and medicines. Had not Capt. Prove met the said bark they would have all starved to death. The wind was blowing, at the time, from N. N. West, with a heavy sea, which caused Capt. Prove great trouble to put his boat alongside of the bark Mopang.

Louisiana Interior.

SUDDEN DEATH.—A young man named John N. Arnold, connected with the Surveying Corps of the Austin Railroad, died at the Palmetto House, Shreveport, a few days since. It is said that he belonged in Covington, Ky.

THE TELEGRAPH.—The South Western American says: Messrs. Smith and Ward were in town last week, on business connected with the contemplated telegraph. They speak very confidently of its success.

RED RIVER.—The South Western American of the 26th ult. says: Accounts from above report that the river, on the 18th, had risen sufficiently to allow two boats that had been detained at White Oak Shoals, to pass over.

FROM TEXAS.—The steamship James L. Day, Capt. Talbot, which arrived yesterday, brought dates from Galveston to the 28th and Indianola to the 27th ult. We only got one paper from each place, as the Day brought no mail.

SMALL POX.—The Austin Gazette reports four cases of small pox in that city.

REWARD OFFERED.—Gov. Foote has offered a reward of $500 for the apprehension of John J. Edwards, who murdered Col. James H. Sims recently in Kemper county, Mississippi.

OHIO STATE CAPITOL.—Since 1840 the Legislature of Ohio has appropriated $495,870 for the erection of the new State Capitol. It is supposed it will be ready for the next Legislature to hold its sessions in.

REVOLUTIONARY RELICS.—The bell on the academy, in School street, Boston, was first brought to that city on board the ship from which the cargo of tea was so unceremoniously pitched overboard by the citizens, it was then taken back to England, and did not again reach this country until after peace had been declared.

NAVAL.—The United States squadron, consisting of the Susquehanna, Plymouth, Saratoga, and storeship Supply, were at Hong Kong, 26th September, all stationed about the Canton Estuary, awaiting orders, it is supposed, to proceed to Japan.

Prof. Justin R. Loomis has sailed for Panama, en route for South America. He is to make a scientific exploring tour along the line of the Andes. He will then follow the Rio de la Plata to the Atlantic.

The Government of Peru has received with great satisfaction the intelligence of the acknowledgment of the right of that country to the Lobos Islands. The Peruvian Secretary of the State says, that by this declaration, the United States Government has only confirmed the high confidence which the Government of Peru has always reposed in the spirit of justice and friendship with which the Cabinet of Washington has cultivated relations between the two Republics.

SHOOTING CASE.—The quiet of our city was somewhat disturbed yesterday, says the Natchez Courier of the 27th by the report of a man shot. We learn that Mr. Wm. Ayles, engaged in the dray business, having found a stray horse of his in an enclosure, indulged in some harsh language towards the party who kept it, a horse-trader from Greenville, Kentucky—words ensued, when Ayles attacked the other man with a stick. The person attacked drew a pistol, and fired twice at Ayles. The first shot missed him, but hit a mule. The second shot entered Ayles's side and penetrated his lungs, inflicting a very severe and dangerous wound.

We have since learned that the other party's name is Beard.

Gen. Pierce, it is stated, refused to see separately either of the New York delegations which waited upon him last week in relation to his Cabinet appointments. Both delegations, friends and opponents of Mr. Dickinson, were therefore compelled to unite. The mission is said to have effected nothing.

DAHLONEGA BRANCH MINT.—During the past year there was coined at this mint, in Georgia, the sum of $473,813 in gold, of which $91,462 were in half-eagles, $4,078 in quarter eagles, and $6,930 in gold dollars. Of the receipts of gold at the mint, $324,951 was from California, $80,122 from Georgia, $57,542 from South Carolina, $740 from Tennessee, and $448 from North Carolina.

CONSUL RECOGNIZED.—The President has recognized Augustus Reichard as Consul of Hanover at the port of New Orleans.

CHEAP FARE.—The fare from Louisville to New York, by railroads and lakes after the opening of spring navigation will be reduced to $12.

Rev. Christopher B. Wyatt has accepted the call of the Trinity Church in San Francisco, and sailed on Thursday last in the steamship Ohio for the field of his future labors. He is to receive a salary of $3,000 per annum.

Ferdinand Palmo, whose name is intimately associated with the struggle to establish the Italian Opera on a lasting basis in New York city, is so reduced in circumstances that he is obliged to work as an assistant cook.

We find the above statement in the Baltimore Sun, but no mention is made of Mr. Palmo's place of residence. We do not know whether he is still in this country or not.

THE FASHIONS.—A change has taken place in London and Paris in the fashion of men's garments. Overcoats and frock coats are made to reach the knee, and the pantaloons are full and long. The bob-tails now sported by "young America," reaching down nowhere, and the tight trowsers, (such a saving in cloth to the tailors) must yield to common sense, and ordinary decorum.

The "good time" has come for authors and lecturers. A few of the literati are making small fortunes out of a half dozen lectures which they repeat in different cities. One lecturer has made $2,000 in one city, $800 in another and is promised $1,000 for the copyright after he has gone through the United States.

TELEGRAPHED TO THE CRESCENT

By the National Line.

FURTHER BY THE AFRICA.

Liverpool Markets.

NEW YORK, January 31.

The Africa's circulars report the provision market in Liverpool quiet. No Bacon yet arriving, and only small lots of new Pork yet in the market. Beef was selling at advancing rates. Breadstuffs generally firm. Wheat was in request, according to McHenry's circular, at an advance of 1d. per 70 lbs. Flour was quoted 5d. to 6d. per bbl dearer. Corn quiet but held at firm prices for cargoes afloat.

Scotch Pig Iron was selling at a decline of 2 to 3s. per ton. A meeting of the iron and coal masters of Staffordshire and Shropshire had been held, when it was resolved to maintain the rates of the previous week. Bugers were offering £39 15s. for bars, but no sales were made at less than £41 per ton, without regard to quality. Copper dealers had determined upon an advance of £5 per ton.

Liverpool Cotton Market.

LIVERPOOL, January 16.

During the last two days there has been an improved demand in the money market. Fair Orleans is quoted at 6d.; Fair Mobile at 5¾, and Fair Uplands at 5¾; Middling Orleans 5¼, and Middling Mobile and Uplands 5⅛d. per lb.

Failure of Wetherman.

The failure of the house of P. Wetherman, of Amsterdam, was caused by the forgeries of Fries, the corn dealer.

Shipwreck—Vessels Windbound.

The Africa brings intelligence of the loss of the ship Provincialist, bound from Philadelphia for Liverpool with a cargo of pork. The crew were all saved.

When the Africa left Liverpool a large number of vessels bound for foreign ports were lying in the Mersey windbound.

French American Steamers.

The line of steamships between Cherbourg and America is to be composed of screw steamers, of which more than fifty are ordered by the French government to be constructed.

Portuguese Tariff.

The new Tariff fixed by the government of Portugal is unfavorable to English commerce.

French Speculations.

Louis Napoleon has ordered a Commissioner to visit and inspect every post in the public service with a view to frauds, etc. This measure has been taken in consequence of the scandal attached to the recent speculations of General St. Armand.

Railroad Accident—Loss of Life.

BALTIMORE, January 31.

Another accident has occurred on the Ohio and Pennsylvania Railroad, by which several persons have lost their lives.

Congressional Proceedings — Death of a Member.

WASHINGTON, January 31.

Upon the meeting of the House to-day, the death of the Hon. Mr. Ruell, of Michigan, was announced, and nothing was done except to pass the customary resolutions of respect, etc. [Alex. H. Ruell, of New York is the only member of Congress of that name that we are aware of. Eds.]

In the Senate, a joint committee was appointed to count the votes cast in the recent election of President and Vice President of the United States. The death of Mr. Ruell was announced, and the Senate adjourned.

Illness of a Member.

WASHINGTON, January 31.

The Hon. Zeno Scudder, member of Congress from Massachusetts, is now lying dangerously ill in this city.

Kane Extradition Case.

WASHINGTON, January 31.

Judge Nelson to-day delivered the opinion of the Supreme Court on the Kane Extradition Case. The decision is "that the prisoner is in confinement under the treaty without lawful authority."

California Steamer.

NEW YORK, January 31.

The steamer United States arrived here from Aspinwall on Saturday.

Escape of a Murderer.

LOUISVILLE, January 31.

William Howard, the murderer of Henry Dricham, broke jail at Lagrange, on Saturday, and escaped. He has probably gone South. The Governor has offered a reward of $300 for his arrest. Howard is heavily built, and has but one eye.

The Nashville Fires.

NASHVILLE, January 31.

On Friday morning last two very destructive fires occurred in this city. The first broke out on College street, two doors from Union street, in the hat store of Messrs. Waterfield & Walker, consuming that store. Thomas Keer's jewelry store, the office of S. Lusk, broker, the dry goods store of J. C. & T. D. Fite, the book store of John York & Co., the cigar store of C. J. Mallet, the shoe store of A. B. & C. W. Robertson, and the store of Ewen & Bros., drugists. Total loss, $85,000. Ewen & Bros. were insured for $10,000, and Kent and Messrs. Robertson for $9000 each, beyond which they sustain heavy losses, their stocks on hand being large. The Messrs. Fite were fully insured, and Waterfield & Walker had an insurance of $4000. York, the Messrs. Mallet, and Lusk saved most of their goods. The stock of Fall & Cunningham, hardware merchants, was damaged to the value of a few hundred dollars by water.

The second fire broke out in the house of J. G. French & Co., which was destroyed—then extended to the house of Morris & Matthews, on Market street, and partly consumed that. Loss, $15,000.

Ohio River—Steamboats.

PITTSBURGH, January 31.

The river here is still closed by ice. A thaw is soon expected.

CINCINNATI, January 31.

The river here is falling slowly.

LOUISVILLE, January 31.

There is now five feet four inches water in the canal, and the river falling.

The following steamboats have arrived from New Orleans during the last three days: The Europa, the A. L. Shotwell, the Washington City, the Ohio, the Fanny Smith, the Grand Turk, the Iowa and the Jamestown; and the following have departed for New Orleans: The J. P. Tweed, the Alex. Scott, the Australia, the Empire State, the Ambassador, the Wm. Noble, the Delta and the A. L. Shotwell.

Steamboats Passing.

VICKSBURG, January 31.

The following steamboats have passed here to-day, bound for New Orleans: The Harry Hill at 4, the Sachville at 5:30, and the Gen. Lafayette at 6 o'clock this afternoon.

[FROM OUR SPECIAL CORRESPONDENT.]

Louisiana Legislature.

BATON ROUGE, January 31.

SENATE.—Mr. Lacey introduced a resolution appropriating $500 out of the contingent fund of the Senate, to pay for letters and papers received by members of that body. It was passed.

A bill was introduced by Mr. Wickliffe, appropriating the moneys paid into the Treasury by the parishes and the Superintendent of public schools, under the act of the Legislature now in force. [We do not understand this.—Eds.] It was passed.

The Senate then went into Executive Session, and soon after adjourned.

HOUSE.—Bills introduced: Mr. Texada, to establish a seminary; Mr. Corcoran, an act to amend an act allowing appeal from all judgements of Justices of the Peace in New Orleans; Mr. Wilder, an act to amend an act to consolidate the city of New Orleans; Mr. Parham, an act to appropriate $18,000 for the payment of Assessors for the past year.

Mr. Wilder introduced a resolution, instructing our members of Congress to call the attention of the Postmaster General to the fact that the contractor for furnishing Baton Rouge with a daily mail has neglected to fulfill his contract, and that proceedings should be instituted against said contractor.

Mr. Parham introduced a resolution, requesting the Judiciary committee to report on the propriety of decreasing the number of Judicial Districts and increasing the salary of judicial officers.

Mr. Pugh introduced a resolution instructing the committee on Public Lands to inquire into the expediency of advertising the sale of swamp lands donated to the State.

Mr. Brickham submitted an act amending the total population clause in the new Constitution, and reducing the terms of the Supreme Court Judges to four years.

Washington Correspondence.

DEATH AND BURIAL OF MRS. SENATOR DOUGLAS—REFLECTIONS—IMPORTANT MEASURES NOW BEFORE CONGRESS—DOUBTS ON TEXAS CLAIMS—TEHUANTEPEC ROUTE.

Correspondence of the CRESCENT.

WASHINGTON, January 22, 1858.

Our city has been quite interested to-day in the funeral obsequies of Mrs. Senator Douglas. Mr. Douglas is quite popular here, as he is in Louisiana, and the sudden decease of his estimable lady has awakened a very general sympathy.

The services were conducted at the house of the Senator, by Rev. Dr. Butler, of the Episcopal Church, Chaplain of the Senate, and Rev. Mr. Samson, Pastor of the Baptist Church, of which Mrs. Douglas was a communicant. A large company of sympathizing friends attended, and the occasion was one of deep interest—reminding to all, so soon after the departure of our great men, like Clay and Webster, and the fearful death of the only son of the President elect, that while relentless death spares not the talent nor the youth of the land, neither does he spare loveliness.

Mrs. Douglas was a lovely woman. As she laid there in her coffin, shrouded in the pure habiliments of the grave, her face was so blooming, her eye, but half closed, was so lustrous, that one could hardly believe she was dead. The humane heart, at it beat above these beautiful remains, was incessibly prompted to ask that the funeral rites should be stayed, for that she was in a trance, must, he yet believe, be sudden, as severe, is this stroke of the deadliest, for, day before yesterday, the accomplished lady, the happy wife of a gifted Senator, and the mother of three promising children, was chiding with her husband, and playfully, yesterday, she sleeps for her last sleep in the cold and silent tomb.

What is our life? It is even as a vapor, that appeareth for a little while, and then vanisheth away."

Both Houses having adjourned until Monday, we have but little of interest stirring in the Congressional world to-day.

The great standing topics of discussion now are—the Monroe doctrine—Mr. Gwin's Pacific Railroad bill, the payment of the creditors of Texas, the French Spoliation bill, and the bill to establish a Branch Mint at the City of New York.

From present appearances, I should say that there will be serious obstacles in the way of the payment of all that passes under the name of "Texas claims." The whole of that matter will be probed thoroughly.

The Tehuantepec route to the Pacific will be faithfully presented by Senator Mason. That route has many strong friends in Washington. Several routes will be required, and Tehuantepec must inevitably be one of them.

De Soto.

Local Intelligence.

SUPREME COURT DECISIONS.—*Monday, January 31.*—Present, full bench. Decisions were read in the following cases:

Wyndham Robertson, appellant, *vs.* Dr. Fausset, appellee.... Appeal from the Fifth District Court of New-Orleans. Rost, J. Judgment affirmed.

F. A. Woods, appellant, *vs.* Wylie & Egan, appellees.... Appeal from West Baton Rouge. Dunbar, J. Ordered that the judgment be reversed in so far as it allows eight per cent. Interest on the Judgment adjudged, and in all other respects affirmed.

J. M. Laperre, appellant, *vs.* J. O. Osgood and P. & V. Fortier, warrantors, et al., appellees.... Appeal from Jefferson. Dunbar, J. Judgment affirmed.

Villere Fourcaud et al., appellants, *vs.* the Mayor and Commissioners of the General Sinking Fund, appellees.... Appeal from the Fifth District Court of New-Orleans. Rost, J. Judgment affirmed.

J. Chapman & Hoskins, appellees, *vs.* Jesse Hart, appellant.... Appeal from West Baton Rouge. Rost, J. Judgment affirmed.

J. B. Laporte et al., appellants, *vs.* the General Council of the Municipalities, appellees.... Rost, J. Judgment affirmed.

The State of Louisiana, appellee, *vs.* Pierre Canse, appellant.... Appeal from West Baton Rouge. Dunbar, J. Judgment affirmed.

F. J. Cortes and S. A. Lacoste appellees, *vs.* Cesile, f. w. c. appellant.... Appeal from Pointe Coupee. Eustis, C. J. Judgment reversed, and judgment rendered for defendant, with costs.

David S. Iiben, Testamentary Executor, appellant, *vs.* Isaac T. Taylor, appellee.... Appeal from West Baton Rouge. Dunbar, J. Judgment reversed, and decreed that there be judgment for the plaintiff against the defendant for $3000, with ten per cent. interest on one-third of said amount from the first of August, 1836, till paid, and like interest on one-third of said sum, from the 8th of August, 1840 till paid, and like interest on the remaining third of said sum, from the 8th of August, 1841, till paid, subject to a credit of $166 as of the 1st of January, 1841, and a further credit of $115 as of the 1st of March, 1845, and that defendant and appellee pay costs in both courts.

Cortes, f. w. c., appellee, *vs.* S. A. Lacoste and wife, appellants.... Appeal from Pointe Coupee. Eustis, C. J. Judgment affirmed.

John Dunner, appellant, *vs.* Charles Decoux et al., appellees.... Appeal from Pointe Coupee. Rost, J. Judgment affirmed.

FIRST DISTRICT COURT.—*Judge Lorac.*—Samuel D. Conroy, convicted of embezzlement, came up yesterday on a motion in arrest of judgment.

The Judge said that he had determined to deliver a written opinion in the case, but from indisposition on the previous day, had been rendered unable to do so. A motion had been made for a new trial, on the ground that the verdict was contrary to law and evidence, but the Court being of the opinion that the verdict was in accordance with both the law and the evidence, a new trial had been refused.

The indictment in the case was defective. It did not set forth that Conroy had committed the act of embezzlement charged, in his capacity of "broker!" For this, and other defects, patent on the face of the indictment, the judgment was arrested, with directions to the District Attorney to present the matter again to the Grand Jury, under an indictment drawn according to law.

HABEAS CORPUS CASES.—Seven precocious vagabonds—four boys and three girls, from seven to ten years of age—were brought into Court by writs of habeas Corpus, on applications to be released from the House of Refuge, whither they had been sent by the Recorders, for the various offences of being dirty, ragged, hungry and forlorn, and on specific accusations of stealing cotton on the Levee, vagrancy, abandonment, etc., etc. A half dozen old women were there to claim these precocious charges—women more hideous than Hecate—

"Withered beldams, dull and droll,
Rigwoodie hags wad spean a foal!"

Making, altogether, a picture of human vice and wretchedness harrowing to behold. They answered to the various names of Ventimeyer, Stinkenberger, Hingenoff, McNasty, etc. Mr. J. Saul, of the House of Refuge, appeared to oppose their discharge, and, on representing to the Court that his witnesses were not present, the subjects were all remanded to their caging until this morning, at 10 o'clock, for examination.

TRIAL FOR MURDER.—Antonio D'Angelo was yesterday put on his trial in the First District Court, for the murder of Amiro Cutino, on the night of the 4th of November last.

The homicide occurred on Circus street, at its junction with Poydras street, about eight or nine o'clock in the evening. The weapon that caused the death was a pistol, loaded with ball. Both the prisoner and deceased were Italians, barbers by trade, and had been at enmity for some time past. The prisoner is a young man, apparently about twenty-two years of age, with a dark complexion, straight hair, black and gray eyes.

The widow of the deceased, a comely young woman, neatly dressed, appeared in court, accompanied by her son, a handsome, dark eyed urchin, elegantly clad, and about five years of age.

Dr. Ciborn, the first witness for the State, testified that he attended the post mortem examination held on deceased. He had a wound in his breast sufficient to have caused death.

Schneider, for the State, sworn.—Was the officer who arrested the accused on the night of the homicide. His attention having been called to a difficulty in the Poydras Market by hearing a pistol fired, he went to the spot and saw deceased laying in the ground, covered with blood. Saw accused near the spot, running. Arrested accused. He had no arms about him.

Cross-examined.—When witness heard the report of the pistol, he went to the spot, and having found deceased laying in the ground, picked him up. He was then dead. This was about eight o'clock at night. The night was dark. Did not see deceased while on his feet. Prisoner when first seen, was coming from Circus street into the market. There were a good many people in view and around, and some were running after accused.

McIlvenny, for the State, sworn.—Was at Poydras Market on the night Cutino was killed. Was in an adjoining store and heard the report of a pistol. Went out and saw a man running, and some persons running after him, crying, "Stop him, stop him! he's murdered a man." Saw the flash of the pistol in the middle of Circus street, opposite Poydras street. Went to where he saw the flash and picked up a pistol, identified in court.

Cross-examined.—There was not a great many people about the Market until after the pistol was fired.

Mr. Pelale for the State called.—Heard the noise of a pistol, went out and saw the accused in charge of a watchman. Saw Cutino lying on the ground. Knew nothing calculated to implicate prisoner.

Leonard, for the State, sworn.—Heard the report of a pistol, went out; saw accused running and another man running after him. The man who was running ahead was armed. Ran after accused. Accused asked why he had killed Cutino and was told by watchman Dunbar to "hush up." Recognized the man who was running to be the same man who the policeman arrested.

Madame Cutino testified that the accused had been a lodger at the house of deceased. There was no difference between the accused and deceased and accused had quit lodging with deceased about five months before the homicide.

The testimony on the part of the State was here closed.

The first witness called on the part of the defence was Joseph Semmes, Recorder of the Second District of the city. Being asked whether he had not known deceased to be a man of violent temper, who had a great many enemies, the Court ruled the question to be improper. Mr. Grimes, Counsel for the defence, here requested the Court to bear in mind the fact that the question had been so ruled, in order that it might be made the ground of a bill of exceptions.

Joseph Matco, for the defence, sworn—Heard the report of a pistol, and saw distinctly three persons running away from where Cutino was killed. Two of them ran towards the market, and the third, who was running very fast, ran in an opposite direction. He ran very close to witness. Never saw him afterwards.

The testimony was here closed, and the case was submitted without argument.

The Judge charged the jury that the offence charged was either murder or it was nothing. It was with the jury to determine whether the accused was guilty or not guilty of murder, according to circumstantial evidence. The Court then proceeded to recapitulate the evidence, and the jury retired.

After a brief absence, they returned with a verdict of "guilty, without capital punishment."

THIRD DISTRICT COURT.—*McDonough Succession.*—Judgment was filed yesterday in this court by the Probate Judge of the Parish of Orleans, right back of the Mississippi, against the executors of the estate of the late John McDonough, in which the petitioners set forth that according to an act of the Legislature, approved 12th of March, 1852, authorizing an appropriation of a tax of one per cent. on property situated in parishes, towns and cities, for the payment of subscriptions of stock for railroad purposes, petitioners did, on the 16th of July following, subscribe to three thousand shares of the stock of the New-Orleans and Opelousas Railroad Company, making the amount of seventy-five thousand dollars, and that said estate of McDonough, comprehending a large quantity of real estate, situated within the limits of said Parish, by the operation of said act of the Legislature, became liable to pay as its share of said stock, on the instalments due on the 1st of January, 1853, the sum of $417, for which amount they ask judgment against the executors—C. Rosselius, A. D. Crossman, and others.

FIFTH DISTRICT COURT.—*Embezzlement Case.*—A suit was filed in this Court yesterday by Cuthbert Bullitt, against James B. Rowley, in which he claims $800 from said Rowley, and asks for his arrest, that he may be dealt with for the crime of embezzlement, under the statute of 1840.

The petition sets forth that on the first of April, 1851, petitioner entrusted to defendant a negro slave worth $800 with instructions to sell said slave. It is alleged that Rowley sold the slave according to instructions, for $800, received the money for and in the name of plaintiff, and refused to hand it over.

The premises considered, plaintiff asked that Rowley be arrested to be tried for fraud, etc. A writ of arrest issued accordingly.

RECORDER'S COURT, FIRST DISTRICT.—*Discovered.*—John Kelly, James Griffin, Patrick McLaughlin, Owen Mahoney and Adam arrested as the supposed murderers of the death of Cockney Jim, in Bentley's Exchange, at the corner of Common and Tchoupitoulas street, on Sunday morning, were discharged from custody by the Coroner, the inquest finding a verdict of death from apoplexy.

FRAUD.—Richard Northup was examined yesterday on a charge of Fraud, in that he received $60 for a check for $50, which was overpaid by Mr. Archibald Binney, paying teller of W. W. White & Co.

A casual glance would indicate that the check was for $60, and Mr. Binney remarked, sixty dollars. Accused answered yes, received the money and walked off.

Soon after Mr. Binney scrutinized the check and finding it was only for $50, he followed the prisoner, who declined receiving the extra money, and refused to give it up; but said that if Binney would make affidavit that he had paid the amount of sixty dollars, he, accused, would refund. The affidavit was made before C. V. Jonte, Esq., and Northup, without forking over, requested that he might be searched. On the examination, he was sent to answer before the Criminal Court.

Amusements This Evening.

PLACIDE'S VARIETIES.... The comedy of OLD HONEST transgrams of ISLE OF TRANQUIL DELIGHT, and the POST OF HONOR.

ST. CHARLES THEATRE.... The successful Drama of the CORSICAN BROTHERS, and a THOUSAND MILLINERS WANTED FOR CALIFORNIA.

ORLEANS THEATRE.... The grand opera, in four acts, by Rossini, entitled the BARBER OF SEVILLE.

DAN RICE'S HIPPODROME, St. Charles street, opposite Perdido.

DAN RICE'S MUSEUM, No. 102 St. Charles street.

Arrivals at the Principal Hotels.—Jan'y 31.

ST. CHARLES.—H W Allen, J York, C Monson and lady, J Hoover, J M Anderson, W B Stewart, C Thompson, La; F F Stanton, D M Warren, Pa; R Simple and lady, Miss Baliffe Miss Waite, D S Cage, C K Hoover, Dr Elliott, R Strickwell, M Fowler, Miss T L Barrer, J M Johnson, B J Sage, J T Young and lady, J H Willis, J Price, Jr, Mr McGregor and lady, N O; W H Burbank, H L Leary, N Y; M E Deuzee, G S Price, Ohio; Miss Washington, R N Lamb, Tenn; Wm Toadhunter, C Hayden, Ky; J W Tunell, Va; H Sullgem, Rome.

ARCADE.... W H Toler, E G Robertson, Ark; L C Alexander, T E Congdon, Texas; J Grissold, T E Mabry, J T Neal, Wm Nolan, La; W Bingham, Va; G R Cole, E Whitied, Ala; F Caw, Md; G Chilbolt, J Daiey, J Kocher, M J Anderson, J Shields, R R Snow, N O; J S Jones, Ind; L J Roy, John Clary, Miss; D Addison, J J Williams, Tenn.

CITY.... J T Bagondi, N Y; F Mayer, D A Long, S Hollingsworth, C Hofmann, St M Benardi, La; W C Dugas, N J White, W Donohe, F B Coleman, T Shelby, Wm Holmes, G T Murphy, A W McAllister, S Howard, Jr, M A Cheatham, Miss; J Veal, G A Boswell, T A Mathews, Ky; A Lawles, Wm S Pearl, Lon.

ST. LOUIS.... C P Mathews, R Thompson, C P Dalco, O J Mathews, R J Dugenid, Md; J Lucas, Mobile; S Allais, P D Quays, D M Hughes and lady, Mr Chandler, C Morse, C Cockrell, La; Charles Carrington and lady, D G Gale, Md.

VERANDA.... J T Lord, S L Chandler, J V Sevier, L L B Boston, La; J Bell, Ky; J H Bennett, Ala; T Aiges, S Mead, T W Key, Mobile; E Hunden, Ala; M D Porter and family, Ohio; H A Gilpin, Texas; W A Carr, Tenn.

A Card of Thanks.

EDS. CRESCENT.—The Ladies of the Thalia Street