NEW ORLEANS REPUBLICAN.

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VOLUME VI—NO. 198. NEW ORLEANS, WEDNESDAY, NOVEMBER 27, 1872. WHOLE NUMBER 1728.

AMUSEMENTS.

LOUISIANA JOCKEY CLUB.

FALL MEETING OF 1872.

Over $11,000 in Purses and Stakes.

COMMENCING

SATURDAY, NOVEMBER 30, 1872.

THREE RACES EACH DAY.

Members are notified to call for their Badges at the office, No. 27 Carondelet street.
In all Club Purses, entrance free.
GUS. A. BREAUX, President.
J. P. HORNER, Secretary, Lock Box 552, New Orleans. no17 10t

ST. CHARLES THEATRE.

BEN DeBAR.....Proprietor
ALEX. FITZGERALD.....Stage Manager
Immense success of the celebrated artist,
MR. F. S. CHANFRAU,
Wednesday Evening, November 27,
The new and exciting play of
KIT,
The Arkansas Traveler.
Kit Bedding.....F. S. Chanfrau.
New scenery and effects.

Friday—Benefit of F. S. CHANFRAU.
Grand KIT matinee Saturday at noon.
Doors open at a quarter to seven; the overture will commence at a quarter to eight o'clock.
no27 P. GLEASON, Treasurer.

EXPOSITION HALL.

The management of
MADAME CAMILLA URSO
return thanks to the public for the kindly manner they have received the first concert, and respectfully announce the
SECOND GRAND CONCERT
Thursday, November 28,
AT EIGHT O'CLOCK,
With the assistance of
MME. C. MES, Soprano
MR. METEYR, Tenor;
MR. VAN HUFFLEN, Basso
MLLE. ROMEY, Pianist;
MR. G. D'AQUIN, Flutist;
MR. G. COLLIGNON, Director of Concerts.

Tickets.....$1 00
Reserved seats.....1 50
For sale at Grunewald's music store.

Doors open at quarter past seven o'clock.
Matinee Saturday at noon. no27

OPERA HOUSE.

L. PLACIDE CANONGE.....Manager.
Tuesday, November 26, 1872,
LES PREMIERES armes de RICHELIEU, vaudeville in two acts. Musical interlude. UNE TASSE DE THE, comedy in one act. FAIS CE QUE DOIS, episode of the Franco-Prussian war.
Doors open at 6:30; performance begins at 7:30 P. M. no26 1t

ACADEMY OF MUSIC.

INAUGURATION OF THE LEGITIMATE DRAMA.
Engagement of the talented young American tragedian,
MR. FRANK MAYO,
Who will appear on
Monday Evening, November 25, 1872,
In his masterly impersonation of HAMLET, in Shakespeare's sublime creation,
HAMLET, PRINCE OF DENMARK.
Cast with the full strength of the Academy's talented dramatic company.
Tuesday—RICHELIEU.
Wednesday—OTHELLO.
Friday—Benefit of MR. FRANK MAYO.
Saturday Noon—Grand MAYO MATINEE. no24

VARIETIES THEATRE.

Sole Lessee.....LAWRENCE BARRETT.
Second and Last Week of
MISS CLARA MORRIS,
ASSISTED BY THE TALENTED COMPANY.
Monday Evening November 25,
And until further notice,
ARTICLE 47.
From the French by Augustin Daly.
NEW SCENERY BY MR. JOSEPH PIGGOTT.
Mlle. Cora, the Cause.....Miss CLARA MORRIS
(Her original character).
Friday, November 29, 1872,
BENEFIT OF MISS CLARA MORRIS.
Monday, December 2, 1872,
JOHN S. RAYMOND,
In the new play,
FORBIDDEN FRUIT.
Director.....LORRAINE ROGERS. no24

MACHINERY.

FAIRBANKS' SCALE WAREHOUSE.
FAIRBANKS & CO.,
No. 53 Camp Street,
MANUFACTURERS AND DEALERS IN
WEIGHTS AND MEASURES, RAILROAD TRACK
WEIGH LOCK, HAY, COAL, PLATFORM AND COUNTER
SCALES.
Agents for Baldwin's Patent MONEY DRAWER.
Agents for Troemner's STEEL CORN MILL.
Fine Gold and Druggists's Scales.
CHIMNEY FLUES from four to eight inches in diameter, in sections of two feet each, ready to put up in place of the regular brick chimney.
ALSO,
Chimney Caps, Intersections, Junctions, etc.
ALSO,
SEWER AND DRAIN PIPES, three to eight inches diameter, with all the requisite junctions, joints, etc., for sale at LOWER PRICES than can be furnished from the West or North, as they are manufactured in this city.
au17 6m d&w W. B. BOWMAN, Agent.

SHAKESPEAR FOUNDRY,
Girod Street, Between Baronne and Prytanée Streets, New Orleans.
Joseph A. Shakespear, A. Smith, S. Swoop.
SHAKESPEAR, SMITH & CO.,
(Successors to Geddes, Shakespear & Co.),
IRON AND BRASS FOUNDERS AND MACHINISTS.
manufacture every variety of Steam Engines, Sugar Mills, Centrifugal Machines, Saw Mills, Draining Machines, Mill and Gin Gearing and Grate Bars, Store Fronts, Columns, Ventilators and Sash Weights.
Blacksmith work of all kinds. ap27 1y

NOVELTY IRON WORKS,
Corner of Delord and New Levee streets.
WILLIAM GOLDING, PROPRIETOR.
mh9 1y

CIGARS.

JAYME MAGI,
IMPORTER OF HAVANA CIGARS.
Wholesale Depot,
No. 72 Common Street.
Retail Store,
Southeast Corner of St. Charles and Common Streets.
Constantly on hand a very large and selected stock of the best known brands and sizes, for sale at moderate prices. no22 3m

THE RETURNING BOARD CONTROVERSY.

Kellogg vs. Warmoth—The Right to an Injunction—Hearing Before Judge Durell Resumed.

Yesterday morning the case of W. P. Kellogg against H. C. Warmoth et als. was resumed before the United States Circuit Court. Again, as on the first day of the argument, a large crowd assembled, swarming in the lobby and filling the chairs of the auditorium, to hear the argument continued.

Mr. Billings—We desire now to offer four or five thousand affidavits of citizens from ten parishes, who have been denied registration.

Mr. Semmes—The answer yesterday denied in a more formal manner the averments of the bill, and it is now too late for the gentleman to make the application to file these affidavits.

By the court—Let the affidavits be admitted.

Mr. Semmes resuming)—Under the rules in chancery I say it very proper to await an argument on the merits before taking up the issue of contempt. The allegations of the bill are that 10,000 persons entitled to registration were, previous to the election, refused it—being entitled to vote; and further, that the supervisors have suppressed votes which, had not they been suppressed, would have been sufficient to elect the complainant; that through the instrumentality of the illegal board the Governor desires to fraudulently do what? to exclude the vote of certain parishes, on the ground of tumult. The bill, if I mistake not, does not aver that the votes were refused on the ground of race, color or previous condition. What does the bill ask? That your honor may intervene by the means of injunction and determine who are and who are not the legal officers of the State, charged with the canvass of returns. You are asked to perpetuate testimony in this case, and if you do thus interpose, the Governor and all his colleagues will be guilty of a misdemeanor in altering and defacing the returns.

When I have stated the case it will not be necessary for me to urge that the court has no power to interpose its authority. Is it necessary for me to read the bill? (Reads section twenty-three of the enforcement act).

The jurisdiction of the United States being limited by the act of Congress, and although courts may interfere, yet, in this case, the arm of the court is paralyzed in the absence of a specific act. What is the jurisdiction conferred? That of hearing a person entitled to office who is denied by reason of denial of the right to vote of persons without regard to color, etc.

Now, the only basis on which a party can bring suit is that he is defrauded of his office by a denial of citizens to vote on account of race, color and previous condition. Therefore, the only part of the bill that this court can entertain at all is that which alleges that certain persons have been denied, on account of race, color or previous condition. Now, what is the charge? That votes have been suppressed by the board appointed by the Governor, and you say these returns are to be manipulated and destroyed. Look at the law and you will find it impossible to perpetrate these frauds without destroying the records of all the courts in this State. Fraud is not alleged against (section twenty-nine, old election law) the commissioners, yet they are the only parties who could, by the election law, have used such corrupt influences.

So, sir, we are forced to presume that if any of these statements had been made, that if Governor Warmoth had destroyed all these statements, certified copies are preserved in all the courts in the State—one to be sent to the Governor, one to the Secretary of State and one to be kept by the commissioners. It would, therefore, be futile in the Governor to commit this crime. We must consider that the charge is (article forty-eight constitution) made by the unsuccessful candidate for Governor and not by any other officer.

In case the returning board declared either Kellogg or McEnery elected Governor, and the Legislature on assembling should enter into an inquiry and send for duplicates, and they should determine upon that, what court in the land can revise their action? From their conclusion there is no appeal. This party who brings the bill is defeated. Were he not he had no right to commence the action. Then he is defeated by those returns in the Governor's office, for the bill proceeds upon that theory. As I understood the bill, this defeat is the result of the ten thousand votes that have been rejected, and not even a parish is mentioned. According to this there was not a single honest commissioner of election in any parish, and this Mephistopheles, according to the bill, had diffused his corrupt influence over all the officers of election in the State. (Fifty-third section election law.) The returning board have no authority to declare the Governor elected. Evidently the meaning of the law is that no one may be declared elected but such as are obliged to be (section five) commissioned by the Governor, unless the commission is found in the declaration of both houses of the General Assembly.

You will therefore perceive that the only power given to the returning board is to go through the labor of compiling the returns of all polls, except where there has been riot and tumult, which shall be excluded and the votes of all, both white and black, be rejected. You will observe that no votes are excluded on account of race, color or previous condition, but in particular cases all votes are excluded. And the charge in the bill, gleaned from its verbose phraseology, is that the fraud of Governor Warmoth consists in his intention to exclude the vote—[Reads from the bill] "Attend to exclude from canvass the votes of all persons of color," etc. It is impossible to exclude, for all the jurisdiction of the board is confined to the manual labor of counting the votes of all, except the votes of those polls where there had been intimidation, fraud or violence. Therefore this could not affect the complainant as far as the bill stands; he makes the allegation that the votes have been excluded on account of race, color and previous condition.

Both parties stood upon and stood by the fourteenth and fifteenth amendments, and therefore it comes with a bad grace from the counsel to charge us with attempting to defeat progress. It seems progress belongs only to one side of this contest. What is the effect here, sir, practically for the United States to intervene, when the act of Congress does not give it the power to intervene, and declare who is or is not the returning board? And the charge is made that we have corrupted the officers of the State; and the charge is made against Governor McEnery, and he has been enjoined unadvisedly by your honor from acting as Governor. The Governor is also charged with a *coup d'etat* in the publication of the new election law; and that this was a violation of your honor's injunction. What new theory of *coup d'etat* is this? That the Governor, in the exercise of his constitutional powers, signs a law which abrogates his power in the returning board, and a meeting of the General Assembly is convoked that they, in the exercise of their constitutional authority, shall appoint the returning officers. Does this look like fraud? There is nothing in the world that will satisfy these people but to yield up the prerogatives into the hands of a board deriving its power from an alleged Secretary of State who is a defaulter, and who, fearing that his machinations with Lynch would be discovered and he removed, went to Douglas and ordered a seal, to claim that he who held the seal of Secretary of State held the office—a man who comes into court and swears that he voted against the organization of the board, when others make affidavit that he voted yea—a man who claims that the Governor had the right to suspend Bovee, but none to remove him. In a matter of this sort—of State jurisprudence—the United States courts will follow the decision of the highest tribunal of the State. Here is a decision which asserts that Bovee still held the office of Secretary of State—there being no provision in the constitution of the State to suspend, and Herron was nothing more nor less than a mere clerk, and Bovee being now in the office, with his power paralyzed by the action of the Governor, he holds no office; it has no term, and his master having been removed he is no longer in office. As if he had any right to hold an office, being removed—therefore, away with this man Herron.

They talk about our fraudulent schemes. What has been their action? On the thirteenth Herron is removed; Jack Wharton is called in. Herron proposed Messrs. Longstreet and Hawkins. The Governor, on the alert, said: "You've nothing to do here; I propose Hatch and DaPonte," and the vote is taken. Herron says he voted no. Lynch said nothing. Warmoth voted yes. Then Lynch, thinking that the minutes announced to the board, arose and left. Mr. Lynch sat still and saw these men, Wharton and DaPonte, and was silent, making no protest to vindicate his rights, and, doing nothing of the sort, he entirely acquiesces. Then these men go and swear to what is untrue, that they are the de facto board, as if there was a de facto officer who is not in possession of the minutiæ of the office, and claim what? That they are the returning officers. The law says the Governor, who receives the copies of the returns, and recognizes them, opens them and gives them to the board. This court has no right to determine who is and is not the legal returning board; no right to determine this collaterally to the main question, but it must be settled by direct action and writ of quo warranto.

Mr. Semmes then read from 32 Ala. 591, 25 Ark. 336; 21 An. 635; 5 Wallace 281, to prove that the right to office could only be determined on the suit of the Attorney General by quo warranto.

For this court to enter into the question would then do violence to the principles that no law but that of the government under which the officer has been destituted of his office, can determine the mode of his redress. Therefore, I say, they are asking you to issue, practically, a writ of quo warranto, in the issuing of the injunction in the premises which would have but this result. (Recess of fifteen minutes.)

The power of counting votes then was not in the nature of judicial but administrative act, and subject to the scrutiny of the Legislature. Now, if this is the case, the only mode of scrutiny into the election is to be determined by an act of the Legislature, and consequently the only manner of claiming an office is by an action under the intrusion act. Only in so far as the Legislature authorizes the judiciary to go can they proceed. I read from the 13 An., page 90, showing that if the statute under which he proceeded did not authorize the process he could go no further, and, indeed, some have gone further and said this is not a matter to be settled by courts at all. The counting of votes is not a judicial matter. The returning board is a court. The case is made up by the affidavits of the supervisors, and if in their judgment, on sending for persons and papers, the board determine the nature of the case and pronounce a verdict, you are asked to enjoin us from performing an administrative (18 La., 480) function. This stops the entire machinery of the State. If it were possible for one side to enjoin by a State court the other by a federal court, then there is not in existence to-day a legislative power in the State. This mode seizes on the right to arrest all the machinery of the government; seizes on the right to return the officers elected. The law provides that officers may contest the election in the federal courts where the remedy lies. This does not stop the machinery. (Edward 12, N. S. N. Y., 230.) In this decision the court said: "We will not issue an injunction to stop the party de facto from exercising the duties of the office, as the duties of the office are a necessity to the public welfare." Had you the right to issue the injunction, what is the result? That the machinery of the State is stopped until, by an appeal in the courts of three years, the case will be settled. Then everything that is to be abhorred, to wit: the possession and the administration by the fraudulent executive of the government until the determination of the case. This is the result to be abhorred, according to the station of the complainant. The post on a returning board is not an office, for the constitution especially provides that no one can hold at the same time more than one office of trust or profit. It is a post for which there is no emolument; it is a special court, from the decisions of which there lies no appeal. An office is held by one who permanently exercises the duties; here, then, is not the case. The position is merely that of a commissioner; it is not a franchise, for this is a grant. I hold this question to be entirely beyond the jurisdiction of the court, for the Governor is recognized by the President as chief executive of the State. It has been held by the Supreme Court (4 Ballou, 8; 5 Dallas, 173; 1 Howard, 21 Howard, 482) "that there is no presumption of jurisdiction in the United States Circuit Court; it must be established affirmatively." Also, that "the court will not enjoin the duties of any public officer." A number of cases cited show that the court will not interfere to enjoin the duties of any public officer.

Your honor must refuse to issue the injunction because the only board against which the writ may be directed is *functus officio* by the repeal of the old, the promulgation of the new law. That law was signed with no other object than to throw the result of the election into the hands of those who were charged on neither side with fraud, and that law was approved by my advice and counsel, that we might settle this controversy in peace and quiet. But the peaceful offer is rejected, and it is intimated that it was merely to gain a political advantage over an opponent. Then, since the peaceful offers were rejected, let your honor determine who is right. All that we ask now is, that your honor stay the arm of the court, that we may have a new board appointed representing all parties in contest. That the (13 An. 503, 14 An. 586, 22 An. 548) Governor has the right to sign the law in vacation is settled in these decisions. The repealing clause abrogated the old law, and the new one provides for the board of canvassers who are to be selected by all parties in the field. In every return of election this law contemplates a fair return of the votes and a fair count.

Why is it this law does not repeal the old? Its provisions may be said to have substituted the provisions of the old, and enforced them where they were alike in the new. It is set up that the Legislature could not go on and appoint the canvassers, but that the old law is in force; that the old law is an indivisable unit and is not repealed, and that the General Assembly can not go on and settle the controversy. [Counsel read extensively from authorities, showing points concerning the repeal question and the nature of the board, closing with "Smith on Statutory Construction."] In this work an opinion was cited that the effect of the repeal is to obliterate the statute from the parliamentary books and make it as if the law had never been passed. If I am right in adopting this, then this litigation is at an end, because there is no one to enjoin, because the defendant is dead and likewise the plaintiff, and gone where the woodbine twineth.

Who brings this suit? W. P. Kellogg, a Senator of the United States at the time. If ineligible at the time of the bringing the suit he has no interest in it. There are two kinds of ineligibility—one to defeat him for all time, the other affects his *standi in curia*. The constitution says: "No member of Congress or any person holding office under the government of the United States shall be eligible to the office of Governor or Lieutenant Governor." Does the article apply at the time the election is held, or to the time when he is to enter his office? It is a physical impossibility for him to hold both offices at the same time. That clearly was not in the minds of the framers. I can imagine the idea was adopted, in the framing of this article, of the picture presented of a Customhouse surrounded by Gatling guns, and exacting five per cent from its employes to secure the election of a Governor to prevent the joining together of the tremendous power of the United States government with that of a State. This was the idea, and this is the construction put upon this by all. (15 Cal. 118.) The word eligible means capable of being chosen. Kellogg has no right under this decision to say to the people of this State, vote for me at your election and if I choose I will take it. There are decisions which go further and say that votes given for a person unqualified, are votes thrown away; others, where votes cast for a person having notice of his ineligibility are void. If this be true it is immaterial how many frauds Governor Warmoth and his board may commit. The ground I take is that the complainant must show, before he is entitled to the equitable remedy of the court, he must show that he is capable of holding the office; show that he has an interest in the action. (1 Wallace, first case.)

What I have to say in conclusion is this: that upon a rule for injunction the court will not interfere by injunction merely upon an allegation that fraud is intended to be committed (7 Rob.) without specific allegations and proof. Here we have the bare allegation that a contract had been made with every supervisor in the State to perpetrate fraud impossible under the law. The frauds could not have been committed except by the commissioners, and there is not one affidavit among the five thous nd tendered which asserts that any man was refused to vote on account of race, color or previous condition. But the affidavits were made that they were refused registration; then in this case the court should have been called on to sit there. The very votes in these parishes (Caddo and Rapides), as published in the papers, will show the affidavits to be false, even where refusal to register is sworn to. Then there is no affidavit supporting the bill, saving the affidavit of the complainant himself.

On stating that one of his objects was the vindication of a man who, whatever his errors in the past, now was not complained of, the counsel closed, and the case went over until to-day at eleven o'clock.

The Epizootic.

Within the last few days this malady has really made its appearance in this city in several localities. In one stable on Batonne street some three or four cases are reported, although the disease is of a mild type, and some of the animals are already convalescing. Up to this time there have been no deaths, and good judges apprehend no danger. In one of the city railroad stables the disease has made its appearance, but here also in a mild form. The disease seems to attack horses and mules with equal impartiality, although the most of the public stables are so far free from the epidemic.

Yellow Fever.

There are now no cases of yellow fever under treatment in this city. The last death occurred on the nineteenth instant, and all other cases have recovered. This year there have been eighty cases, of which forty resulted fatally. In 1871 there were fifty-four deaths, and in 1870 the bills of health show 587 deaths from this disease.

CHEAP JAPANNED WARE, LAMPS, ETC.—At the store of the Septoline Oil Company, No. 64 Camp street, they are offering some of the cheapest and best japanned ware we have ever seen. Unsually the bedroom sets which they are selling for $3 75 sell for $6 50, and all the other goods offered there are proportionately cheap—say a little over half price. And it is not because the goods are any way defective—on the contrary, we have seldom seen a better or fresher stock than is at this store. But Mr. Cross, the manager of the company, is a driving business man and would rather make a very small profit on a dozen different transactions than one large gain on only one sale. We think that his head is set right on his shoulders, and from the way he has pushed the business of the company since its organization, the public thinks so too. The beautiful stock of lamps and bronzed goods in this store is also worthy of the attention of the public. It is comprehensive, fashionable and cheap.

MAGI'S CIGARS.—How true it is that the merchant whose merchandise can be relied upon will assuredly be patronized by the intelligent portion of the public! Mr. Magi opened his retail cigar store only a few days ago, but such was the public confidence in his intention to keep only the best, that already the first connoisseurs of the city have enrolled themselves among his customers. His stock is so large, so varied and so good that it would be strange if smokers did not patronize him.

The President has telegraphed General James F. Casey that Lieutenant Frederick Grant is in Chicago. Mr. Casey, yesterday, telegraphed General Sheridan to know if Lieutenant Grant would pass through this city. Preparations are making for a hearty welcome should the answer prove in the affirmative, and several pleasant excursions are projected.

The German steamship Vandalia, Captain Franzen, sails this morning for Hamburg via Havre and Havana, with a full freight and the following passengers:

For Hamburg—Mr. Guillermo Langenscheidt, and two in steerage.

For Havre—Mrs. Adel Fortineau, Henry Fortineau, Miss Ferzire Fortineau, and eight in steerage.

For Havana—Miss A. Callier, A. Cruzado.

The Philadelphia Postoffice.

The Washington *Republican* says:

G. W. Fairman was to-day appointed by the President postmaster at Philadelphia, vice H. H. Bingham, resigned. This appointment was not unexpected here. Under the civil service regulations the President may select postmasters from the employees of the postoffice only, unless there are no competent persons to fill the position among the clerical force. In this instance there were two prominent candidates for the postmastership among the clerks. Mr. Wonder, the chief clerk, had many recommendations, but the most solid recommendations were those made in favor of Mr. Fairman, who was supported by Drexell & Co., Jay Cooke & Co., and many others, representing the leading business interests of Philadelphia. The bond of the new postmaster was prepared at the Postoffice Department to-day, but as the appointment does not take effect until the first proximo, it will probably not be executed until about that time. The bond is in a penalty of $300,000, and the sureties are required to be worth $200,000.

Northern Pacific Railroad.

The Secretary of the Interior has modified his instructions to the commission to examine the Northern Pacific railroad, so that they may make their report without further delay for maps and specifications, which will hereafter be filed with it. Commissioners Sadds, of Cincinnati, and Underwood, of Lafayette, Indiana, have been telegraphed, and the commission will meet in this city in a day or two and prepare their report at once, which will entitle the company to a portion of its land grant. The company will probably seek legislation next session for a change in the location of the western portion of their line, but will not, as has been stated, ask for a subsidy to aid in the construction of the road.

BY TELEGRAPH.

LATEST NEWS FROM ALL POINTS

ROUGH DRAFT OF THE MESSAGE

INDIAN COMMISSIONER ALVORD

THE SITUATION IN FRANCE

PREDICTIONS OF TERRIBLE REVOLUTION

TERRIFIC GALE AT SEA

THE NORTH CAROLINA SENATOR

BUYING THE INDIANAPOLIS RAILROAD

A MEMPHIS JOURNALIST DEAD

REPORT ABOUT DIAMONDS AND RUBIES

WASHINGTON.

Rough Draft of the Message—Its Reading to the Cabinet—French Spoliation Claimants—Santanta and Big Tree—Report from Special Indian Commissioner Alvord.

WASHINGTON, November 26.—The rough draft of the President's annual message, though not yet quite finished, was read to the Cabinet to-day, all the members being present. It will be somewhat (perhaps one-fifth) longer than last year's message. In addition to the copies to be sent to Congress, five will be made in manifold for the use of the city press and for telegraphing. In response to a question asked by the writer of this dispatch, the President remarked he had no objections to saying that the message would not show a change of policy on his part, as his endeavor now, as it had been in the past, would be to perform his entire duty to the extent of his ability and in such a manner as would best serve the interests of the country. He was not certain that he would recommend to Congress an extension of amnesty to the 200 or 300 persons excluded by recent legislation, but if he should it would be with a proposed condition that the beneficiaries merely take an oath to support the constitution of the United States. Congress, however, had ample authority in the premises and could act with regard to the matter without a repetition of his views upon the subject, contained in his former annual message.

He saw no more necessity, as had been asserted, for making a declaration of a more friendly policy toward the South than for such a declaration toward the North, as he sought as President, under the obligations of his oath, to execute the duties of his position without favor or partiality, in accordance with law. He would, in his message, indorse such recommendations of legislation as may be presented by the heads of the several departments and which experience had shown to be necessary, and he would recommend to Congress that action be taken with regard to the award made by the Geneva arbitrators.

The money will be paid by Great Britain to the Department of State, and deposited in the treasury. Of course it can not be drawn therefrom except in accordance with law for the purposes specified. In the course of the conversation on the subject of civil service reform, the President said that, while competitive examinations were desirable, he did not think it right that offices should be given to enemies of the administration to the exclusion of its friends. He was now engaged in examining applications for pardon, taking up the cases singly, with a view to conclusions upon them. He intended to pardon Colonel Bowerman who, about eighteen months ago, was convicted of embezzlement while he was an officer in the Baltimore customhouse. He added that, in addition to other reasons, Colonel Bowerman was a brave and faithful officer during the late war.

The French spoliation claimants met at Baltimore yesterday, and adopted a memorial to Congress asking for a settlement of their claims.

Special Indian Commissioner Alvord says before he left St. Louis arrangements were made with the United States marshal at that city to send back to Texas Santanta and Big Tree, these chiefs having been sentenced to death, but the punishment was subsequently commuted to imprisonment for life.

Governor Davis had, at the request of the Indian authorities, permitted them to be taken to St. Louis to see their old Indian companions on their way to Washington, and which served a good purpose. The importance to the government in bringing to Washington and sending to the principal Eastern cities a party of wild and sometimes hostile Indians, is confirmed by the following facts gathered from official source: The last large delegation which came East was composed mainly of Kiowas, Comanches, Apaches and Arrapahoes from the Indian Territory, in charge of Captain Henry E. Alvord, special Indian commissioner.

They have now reached their homes, and that gentleman has returned and submitted his report. The Arrapahoes and the Caddoes, Witchitaws and affiliated bands fully sustain their delegations in their negotiations here regarding their lands by which those tribes accede to the propositions of the government for their location upon considerably diminished reservations.

The Kiowas, Comanches and Apaches had been informed of the substance of the recent address by the commission to their delegates while in this city, in advance of the return of the latter, and this, in conjunction with Colonel McKenzie's timely attack upon the still implacable Comanches roaming in Texas, has borne its first fruits.

The tribes named have promptly surrendered to their agent the last of the captives held by them, and declare their intention to give up the stolen animals in their herds, and otherwise fully comply with the demands of the government. Already Marowi, or Shaking-Hand, the most important of the disaffected Comanche chiefs, with his band, and Kicking Bird, with nearly all of the Kiowas, have come again to their reservation and camped near the agency and Fort Sill. A few well known Kiowa braves, with a small band following, express their determination to continue to defy the authorities, but this was expected. The men had long been outlawed, and their own chiefs disclaim all responsibility for their deeds, and assure their agent that the government will be sustained by the tribe in any action it might take in regard to this faction.

NEW YORK.

Horace F. Clarke Must Testify.—Vanderbilt and Jay Gould—The Louisville Merchant an Absconder—Tweed on Three Indictments—Nitro-Glycerine Explosion—Mr. Greeley's Health—Steamship Foundered—All on Board Saved.

NEW YORK, November 26.—The Supreme Court orders Horace F. Clarke to give testimony regarding the Erie Company and Jay Gould.

Commodore Vanderbilt, in a card, denies any connection with Jay Gould in the northwestern corner.

The police believe that Mr. Peay, of Louisville, has absconded with considerable money. Search in this vicinity has been suspended.

William M. Tweed will be compelled to answer to their indictments in the Oyer and Terminer on Monday.

Arrived—Steamers Clyde, Montgomery, Champion, Oriental, Europa and Glasgow. The latter reports having encountered terrific gales on the eighteenth.

Sixes of 1881, 116½; five-twenties of 1862, 112⅜; 1864, 112⅜; 1865, 112¾, new 115⅛; 1867, 115⅜; 1868, 115¼; new fives, 109½; ten-forties, 108¼. Tennessee sixes, 76, new 75½; Virginia sixes 47, new 52, consolidated 51½, deferred 15¾; Louisiana sixes, 53, new 50, levee sixes 50, eights 60; Alabama eights, 80, fives 57; Georgia sixes 50, sevens 86; North Carolinas 35¼, new 21; special tax 13½; South Carolinas 50, new 23¾; April and October 30.

Money active; stringent during the early hours of the day at 1-32 to 1-16 on call, but became easier in the afternoon and closed at 5 to 6 ⅌ cent. Exchange quiet on the basis of 8¾ for prime bankers' 60 days. Gold dull and steady throughout the day at 112¾ to 113. Loans were 1-32 to 2 for the use, then 2 to 5 for carrying. Governments opened firm at about ⅛ advance on last nights' prices, were firm through the day, closing strong, but with five-twenties of 1865, and old 1867, off about ⅛.

Stocks opened excited, but soon weakened. Seven thousand shares of Northwestern, sold under rule, brought $140@150. It is believed Drew settled his outstanding accounts.

City estimates show that it will require over $10,500,000 for the municipal expenses of 1873.

The Ryle Silk Manufacturing Company has failed. Liabilities $300,000. The principal of the incorporation, John C. Ryle, is missing.

A nitro-glycerine explosion in Yonkers blew two persons to atoms and fatally hurt several. Some young men in playfulness threw stones at the can containing the nitro-glycerine, causing the explosion.

The *World* says: Reports of an alarming nature regarding Mr. Greeley are utterly without foundation. His friends have the utmost faith in the belief that rest and a short exhuberation from the cares of business will entirely restore him.

The ship Assyria was water-logged. Her crew was brought here by the Baltic.

It has been snowing since 2 A. M.; sleet since nine o'clock; wind east.

A steamer, with a canal boat in tow, collided with an unknown steamer. Both sunk; crew swam ashore.

Arrived—Steamer Metropolis, from Galveston, and Empire, from Fernandina.

Steamship Carolina, Captain Maegar, from Baltimore for Liverpool, October 26, was picked up in a sinking condition by the bark Magnus, and the captain and twenty-five men were brought to this port.

Allen C. Bush, clerk and junior partner of the house of Kidd, Pearce & Co., Broad street, is reported a defaulter. The amount is stated at from seventy to ode hundred thousand dollars.

Judge Fancher to-day granted an order to examine William R. Travers. His testimony is to be used in the motion to vacate the order of arrest against Jay Gould at the suit of the Erie railway.

The same judge issued an attachment against the property of Thomas C. Fields, a member of the late Tammany ring, who has left the city, in a suit to recover damages due on real estate transactions.

William W. Watson, of the firm of Ingersoll, Watson & Co., has commenced suit against the president of the Atlantic Mail Steamship Company to recover $23,078. An attachment has been granted against the property of the president. This action is brought on a bond and mortgage on real estate in Elizabeth, New Jersey, which was assigned by Ingersoll to plaintiff in September, 1872.

The government has seized King's distillery, in Brooklyn, to secure $31,447 taxes and interest due.

Mrs. McAlpine and Mrs. Fimmeny quareled to-day at their residence in Brooklyn. The latter struck the former on the head with a pitcher, inflicting a fatal wound.

The jury in the Emil Andre wife murder case found a verdict this evening of manslaughter in the third degree. Andre will be sentenced to-morrow.

Arrived — Steamship Europa, Captain Campbell, from Glasgow November 9. She reports encountering on the eighteenth a terrific hurricane, with the sea fearfully high and confused, the ship laboring heavily and shipping large quantities of water. The ship hove to seventeen hours, split sails, etc. On the twenty-first she passed a large steamship, bound west, with the loss of her foremast, boats, etc.

FOREIGN.

Riot in Santanda Suppressed—Spain Under Martial Law—Troops to Andalusia—Excitement in Paris and the Provinces—Majority Report Read in Assembly—The Right and Centre Support the Committee—French Radical Journals—Terrible Revolution to Follow Thiers' Overthrow—The Khedive's Expedition—Hepworth Dixon's Libel Suit—Riot at Salvador.

LIVERPOOL, November 26.—Arrived—Ship Belgrave, from New Orleans, with 3331 bales cotton and 6000 pieces staves.

PARIS, November 26.—There are no indications this morning of a compromise between the executive and legislative departments. Both parties adhere to their respective positions. The situation is regarded as serious. There is great excitement here and in the provinces.

The majority report of the committee on address in reply to the President, was read in the Assembly this afternoon. It is a strong indictment against the radicals and insists on the establishment of a responsible ministry as a means of fighting radicalism. A majority of the committee wanted immediate consideration of the report, but the minority moved postponement until Thursday. The motion was carried. The result is considered as favorable to the government.

The minority of the committee on address who disagree with the report made by the majority have adopted a resolution to propose to the Assembly to nominate a committee of sixty-five, with instructions to present a bill establishing a ministerial responsibility, embodying the constitutional reforms necessary to secure the regular working of republican government.

This resolution has been submitted to Mr. Thiers, and he expresses his entire approval.

A reception, which was largely attended, was given at the executive mansion last evening. Marshal McMahon was present, and the greeting between him and President Thiers was marked by the utmost cordiality. General L'Admirault, military governor of Paris, who was present, said in conversation that the city of Paris supported the President in the present contest with the Assembly.

The motion to postpone the consideration of the majority report of the committee on address till, Thursday was carried by 356 yeas to 321 nays. The President's supporters in the Assembly believe this vote virtually ends the crisis, and that a similar majority is sure for the government next Thursday.

VERSAILLES, November 26.—It is announced that the right and centre have determined to support the committee appointed to draft a reply to President Thiers.

LONDON, November 26.—Paris specials say that the Radical journals violently declare that a terrible revolution will follow the overthrow of the Thiers' government. The same journals accuse the Legitimists, Orleanists and Imperialists of having formed a coalition to work for the downfall of the present government. General Chargnier is also charged with aiming to secure power.

The Khedive's expedition consists of five thousand men, and is commanded by Bendy Bey, an American. It goes to Zanzibar in transports, with the ostensible intention of joining Dr. Livingstone and of co operating with him, if agreeable; otherwise to act independently in solving the problem of the sources of the Nile under Egyptian colors.

The Marquis of Londonderry is dead.

Queen Victoria has sent £2000 to Italy for the benefit of the sufferers by the late inundations.

The case of Hepworth Dixon vs. the proprietors of the *Pall Mall Gazette*, for libel, was opened to-day, Justice Bovill presiding. The judge was suddenly taken ill, and was obliged to leave the bench. Judge Brett succeeded him, and the hearing was resumed. Dixon went on the stand, and gave an account of his American experiences, showing that he was well received everywhere in the United States.

MADRID, November 26.—The riot in Santanta was easily suppressed.

The province of Garcia has been placed under martial law.

Additional troops have been sent to Andalusia.

Senor Zorilla, president of the Cabinet Council, made a statement in the Cortes to-day of the condition of affairs in the provinces. He said troops had been sent to Andalusia where roving bands were committing depredations, and others would soon follow.

There had been disturbances in Velez, Malaga, but they were soon suppressed. Marcia had been declared in a state of siege, and placed under martial law. In the city of Salvador a riot occurred yesterday, which was suppressed by the National Guards, and four of the rioters arrested. There had also been slight disturbances at Gijon, in the province of Oviedo.

There were indications of disorder in Almeris and troops were concentrating at different points in that province. Zorilla said but little importance was attached by the government to these demonstrations.

BERLIN, November 26.—The lower house of the Prussian Diet has passed the country reform bill by 288 to 91.

HORSE DISEASE.

Its Appearance at Vicksburg—Inconveniences and Fire in Memphis—Mrs. Oates Drawn by Negroes—A Bride in an Ox Wagon.

VICKSBURG, November 26.—The horse malady appeared here two or three days ago, but no serious cases have occurred.

MEMPHIS, November 26.—The weather cleared off nicely to-day, and quite a number of vehicles were seen on the streets, but were drawn principally by oxen, while many horses and mules at work showed unmistakable signs of disease.

The malady has assumed a more severe form since the wet and cold weather of the past forty-eight hours. Business is seriously embarrassed by the inability of shippers to get their goods to the depots.

Mrs. James A. Oates was drawn to the Grand Opera House last night through the rain in a hack drawn by eight negroes, and a public spirited young citizen went for his bride in an ox wagon.

CENTRALIA, Pa., November 26.—Five horse died here of the malady.

MISCELLANEOUS.

Balloting for Senator in North Carolina—Indianapolis Railroad Bought—South Carolina Legislature—Death of an Editor—The Alabama Legislature—Fire in Sandusky—Escaping from Squatters—San Francisco and New York Commercial and Mining Company—Reports from Geological Survey—Diamonds and Rubies.

RALEIGH, November 26.—Both houses balloted for Senator to-day. Full vote 169, Vance 78, Merrimon 18, Poole 73. No choice. Both houses adjourned. All parties are working earnestly for to-morrow's contest.

INDIANAPOLIS, November 26.—D. W. McLaren has bought the Indianapolis railroad for $1,000,000.

COLUMBIA, November 26.—The Legislature organized to-day. Mr. Lee was elected Speaker of the House. The present is better than the last Legislature. It shows a disposition to reduce expenses.

MEMPHIS, November 26.—James H. Cox, of the *Avalanche* editorial corps, died last night of small-pox.

MONTGOMERY, November 26.—It is rumored that the Legislature, which meets at the court-house, had appointed a committee of ten to meet a similar committee of the Conservative Legislature.

CLEVELAND, November 26.—The Sandusky Wheel Company works destroyed by fire; 250 men thrown out of employment. Loss $100,000.

PARSONS, Kansas, November 26.—The chief of the land department of the Missouri, Kansas and Texas railroad escaped from fifty Osage land squatters by jumping on an engine and turning on