New Orleans Republican.

OFFICIAL JOURNAL OF THE UNITED STATES

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AUCTION SALES TO-MORROW.

BY VAN SOLINGEN & CARPENTER, at 11 o'clock at warehouse No. 1, Customhouse building, unclaimed goods—cotton machinery.

BY PLACIDE J. SPEAR, at 11 o'clock, at No. 112 Dauphine street, household furniture.

BY SHERIFF HARPER, at 12 o'clock, at Merchants and Auctioneers' Exchange, a tract of land on Bayou St. John, near the toll-gate.

Local Intelligence.

FIREMEN'S FESTIVAL.—The grand festival to be given by the Firemen's Charitable Association for the benefit of the widows and orphans' fund, which has been for some time on the tapis, is now formally announced to come off on the first and second Sundays of next month. The committee, of which Mayor Wiltz is chairman, is busily engaged in making such arrangements as may be necessary to make the affair pass off with eclat, and there is a prospect of having the most brilliant attendance that has been witnessed on the Fair Grounds this season. The programme is advertised in to-day's paper.

PELICAN FOUR'S FESTIVAL.—This is the day set apart by the members of Pelican Hook and Ladder Company No. 4 for their grand festival and tournament, and the Fair Grounds is to be the scene of the several contests, to which the public is invited.

As will be seen by reference to the published programme, there will be racing in all its forms, a base ball match, a pigeon shooting match, dancing and other amusements, to prevent the time from dragging heavily.

A large number of tickets have already been sold, and a big crowd will be in attendance, but there are still a few tickets left, which may be had on application to any of "the Pelicans."

John P. Collins, charged with the murder of Peter Rodriguez, on Customhouse street, on the nineteenth of April, 1873, was tried yesterday before Eugene Staes, judge of the Second Municipal Police Court, and sent to the First District Court.

The case of the State vs. Charles Wilson, charged with setting fire to the house corner of Ursulines and Royal streets, is fixed for trial on Wednesday next, the eighteenth instant, before the Second Municipal Police Court.

The case of Norman Whitney, charged with arson, is fixed for trial Friday next, the twentieth instant, before the Second Municipal Police Court.

DROWNED.—Squire Smutta and Edwin Shaw were drowned on Friday evening by being upset from a skiff near Morgan's railroad ferry landing. A strong current struck the little vessel and swept them away before assistance could be afforded.

CELESTIAL.—Thomas Erwin, a follower of Confucius, has been arrested in the Second District for trying to send one of his countrymen named Paw on a premature journey to the Flowery Kingdom by shoving a knife into him. Paw was not ready to make the trip.

SMALL-POX.—Mrs. Charles Spain and her child are reported down with the small-pox at Gretna, and are the only cases known of on the left bank. They are doing well.

Unless repairs are soon made, somebody will get hurt by the broken flagging around the fire plug in Magazine Market.

Ann Madden, eighty years of age, died suddenly at No. 90 Baronne street, on Friday night, of general debility. Coroner Folwell held an inquest.

AN EPIDEMIC OF FIRES.—The fire epidemic is now full upon us, and no less than four cases of incendiarism are reported to have occurred Friday night.

First a fire broke out about half-past nine o'clock in a dwelling near the corner of Poeyfarre and Tchoupitoulas streets, which did about $200 damage, the presence of coal oil, when it was discovered by the police, clearly indicating its origin.

About eleven o'clock the steps of the residence Nos. 314 and 316 Claiborne street, near Esplanade, were found by Sergeant Moore saturated with kerosene and all ablaze. Luckily the discovery was made in time to prevent damage.

About two o'clock the one-story frame building owned by Mrs. Hays, and occupied as a millinery and residence, on Craps, between Mandeville and Victory streets, was discovered to be on fire, and was partially consumed, as was also an adjoining building occupied as a dwelling by Messrs. J. Friall and G. Ruer. Mrs. Hays loses $1500, insured for $3000. The adjoining building was damaged about $200; fully insured.

While the firemen were on their way to the last named fire, an alarm from the third precinct station summoned a portion of the department to the corner of Bourbon and Ursulines streets, where a building owned by Mr. A. Socola, and occupied as a grocery and doggery by Mr. Frank Clisi, was also discovered to be in flames. The fire broke out near the show-case, where was a five gallon can of kerosene oil, but how it originated is an unexplained mystery. The entire building was destroyed, involving a loss of $6000, upon which there was a full insurance. The adjoining property was seriously threatened, and only saved by the herculean efforts of the firemen.

HOGGISH.—Frank James is in hot water about his hogs. He has a good crop of them, and they are a nuisance to his neighbors, especially to one J. P. Hicken. The latter says they are given too much liberty, and availing themselves of their privileges, run over his grounds, root up his property, and do other mischief. He wants them restrained, and to accomplish this end has had their owner arrested. This is a Carrollton item.

MURDER AND ARSON.—A telegraphic dispatch was received from New Iberia yesterday, stating that the country store of Mr. Alexander J. Snaer, six miles east of that place, was destroyed by fire the night before, and Mr. Snaer and his clerk, a Mr. Francis Lanet, fifty years of age, a native of France, murdered. Excepting that an additional dispatch says that there was in the store a stock worth $8000 uninsured, no further particulars are given.

Mr. Snaer is a native of this city, a young man about twenty-four years of age, and his parents reside here. He was a justice of the peace for the second ward of Iberia parish, and was held in high estimation by the people in the neighborhood of where he lived. He and his clerk slept in the back part of the store, and as no reason for the atrocious crime is known, the belief prevails that the building was fired and the murder committed with a view to robbery. No clue to the murderers.

WHAT DID IT.—It was a piece of wood with which Richard Thompson was knocked down, and two women, Fannie Colton and Nellie Nelson, are the parties who wielded the weapon. Thompson has made affidavit charging the Amazons with assaulting, battering and dangerously wounding him, and Judge Gernon will listen to the sad tale on the nineteenth instant.

TO THE FIRST DISTRICT COURT.—Nibsy Davis, for carrying around a razor and a deringer concealed, and Stephen Blue, for larceny of $2 50 worth of brass from M. Kaufman, have been sent to the First District Court by Judge Gernon.

Three juvenile newsboys have been hauled into the first police station for gambling on the banquette. Gamblers of a larger size, who operate on a heavier scale, go undisturbed.

A MONEY EATER.—Some time yesterday morning the residence of Willis Henderson, on Dorgenois street, was entered, a trunk in one of the rooms broken open, and $18 35 in currency and a five cent silver piece stolen therefrom by one John Wallace, who lives next door. Wallace was seen to enter the dwelling, but the robbery was not discovered until some time after, and the fact that he had committed a theft at the same place on a former occasion at once fastened a suspicion upon him as having made the visit with no good purpose. A warrant for his arrest was therefore obtained, and about six o'clock in the evening he was hauled in to the first police station, charged with entering a dwelling in the day time without breaking and larceny. Upon making the usual search "Pappy Lynch," the veteran turnkey detected the prisoner in the act of chewing up two fives and three one dollar bills with a quid of tobacco. Wallace was made to disgorge his valuable food, when it was identified as part of the stolen property.

FELINE ATTACHMENT.—They have at the Harbor Police Station a cat that was rescued from drowning by one of the officers about three years ago, and has since taken up his home with them, to whom he is indebted for the prolongation of his existence. No tempting bit will seduce Tommy from the home of his adoption, and neither can he be carried off without a severe struggle. An unlucky wight tried the experiment the other day, to his sorrow. Tommy was taken up in the arms of the party in question, and submitted to having his back rubbed down with commendable patience, as long as this was done in the station house. The man thinking "Tommy is all right now," started out on the levee with him, when such a caterwauling followed as is rarely heard in those parts. Tommy's paws and teeth were soon in motion, and in less time than it takes to tell it, the man's face was full of scratches, his shirt was torn in two or three places, his finger was bleeding from a bite, and Tommy was home again.

KNIGHTS OF PYTHIAS.—At the annual session of the Grand Lodge, held on the thirteenth instant, J. M. G. Parker was elected Grand Chancellor and A. Sambola Grand Scribe. At a meeting of Ivanhoe Lodge, recently held, Mr. C. C. Haley was elected Chancellor.

Richard Thompson has gone to Charity Hospital from the effects of the cutting he received on Friday at the hands of Jennie Wilton and Nellie Nelson, on Dryades street.

LARCENIES.—Lizzie Jones, from Burgundy street, for larceny of $30 from one of her lovers; Oscar Grayer, for larceny of a pair of shoes from George Lazane; A. Davis, for attempting a larceny and failing, and also carrying concealed weapons, and Armand Pellevin, for breach of trust and embezzlement at the expense of Felix M. Duannoy, are among the arrests noted yesterday on the police reports.

THAT OLD WOMAN AGAIN.—A correspondent who claims to be informed on the subject, sends us a note concerning that crazy old woman who makes Canal street her headquarters and is all the while knitting, in which he attempts to reconcile the discrepancies in her history as given to the world by three different chroniclers. He avers to the truth of the story that she was engaged to be married to a fellow who went off to sea and abandoned her; that she goes daily to the wharf to welcome his return, etc., and accounts for the gaudiness of her dress in the fact that she decks herself in her Sunday best that she may appear as attractive as possible to him who she loved beyond all things else. The mixing her up with the Barker bank failure, our correspondent states, is merely confusing her with another crazy woman who may be seen walking up and down the street in front of the State National Bank ever since that institution moved into its new quarters.

OUT ON BAIL.—O. H. Shaunhausen, who was charged with the robbery of the man Daly, some time ago, was yesterday admitted to bail in the sum of $2500. W. J. McCall, George Saddler and George Devezan are his sureties.

WANDERED OFF.—The lad Arthur Becker, who was taken into the Carrollton station as an estray about a week ago, tired of his keeping and wandered away; so that his present whereabouts are not known. The mayor of Carrollton directed that he be turned over to the Superintendent of Police. It is thought that he took the cars for the city, in the hope of finding his relatives.

DECAYED MEAT.—Administrator Brewster made the discovery that the contractor to furnish fresh meat to the House of Refuge was supplying that institution with unhealthy material—meat that was flyblown and spoiled—and canceled the contract until the matter could be properly investigated by the City Council. As a sequel to this action, the contractor, Mr. V. Cistat, has applied for and obtained a mandamus to prevent the Administrator from making other arrangements. Dr. Cooper, the City Physician, has presented a certificate to the effect that the meat furnished by Cistat is unwholesome.

MATT. A. MILLER.—We are glad to notice that the newspaper department of the New Orleans postoffice is conducted with such marked ability by our young friend whose name heads this article. He has been in the employ of the Postoffice Department for the past six years, and he has worked both early and late. We have found him both attentive and polite in his official intercourse with the public. The general public does not recognize this so much, perhaps, as the press. We must not withhold our praise from Mr. C. T. Butler, his able assistant. Mr. Miller and his assistant discharge their duties with credit to themselves and accommodation to the public and press and Postoffice Department.

DROWNED.—Daniel Garvey, thirteen years old, was accidentally drowned while bathing in the old basin, between Rocheblave and Dorgenois streets, about six o'clock yesterday afternoon. The body was recovered and a notice sent to the coroner.

RUN DOWN BY A STEAMER.—A skiff, in which were Godfrey Wolf, Edward Ryder and Bernard Regan, was run into by the steamer Henry Tete, about six o'clock last evening, opposite Felicity street, and the trio thrown into the river. Wolf, a young man twenty-two years of age, who lived on St. James street, between Religious and Tchoupitoulas streets, was drowned. The other two swam ashore.

Unveiling the Statue.

The ceremony of unveiling the statue of Benjamin Franklin, in Lafayette square, will take place on Wednesday afternoon, when the history of the Franklin Association will be related by E. E. Parmele, Esq., and Judge Howe will deliver an oration on the life, character and virtues of the great statesman, patriot and philosopher. A general invitation to witness the ceremony is extended by Colonel J. B. Walton, chairman of the committee of arrangements.

At the Varieties.

On Friday evening, the twenty-seventh instant, there is to be a dramatic entertainment at the Varieties Theatre, when the grand Hebrew tragedy of "Esther" will be performed by a party of well known amateurs. The proceeds are to be devoted to a charitable purpose, and the entertainment will be found worth the admission price.

Fourth of July.

The anniversary of American Independence will be celebrated in this city this year with more than usual ceremony. Salutes will be fired at sunrise, noon and sunset. The First Division of Louisiana State militia consisting in the main of General Badger's Metropolitan Brigade, will be inspected by Governor Kellogg and General Longstreet.

Harmony Club.

Carrollton gardens are to be enlivened next Saturday night by a summer night's festival, to be given by the Harmony Club for the benefit of the Touro Infirmary, one of our noblest charities. It will be a rich affair.

Stone china dinner sets, 100 pieces, for $14 50, at Navra & Offner's, No. 174 Canal street.

COURT RECORD.

SATURDAY, JUNE 14, 1873.

Superior District Court.

Richard Prichard vs. Charles Clinton, Auditor, and Antoine Dubuclet, Treasurer. Plaintiff alleges in his petition that he is the holder of two warrants amounting to $1666 66, signed by James Graham; that the Auditor refuses to authorize the Treasurer to pay the warrants; that they are anterior in date to other warrants now being paid illegally by the Treasurer. Injunction prayed for and granted, returnable June 14.

State ex rel. J. J. Hayes vs. city of New Orleans.—The court dissolved the injunction restraining the defendants from allowing small-pox patients to be sent to the hospital of Dr. Autoux and paying for the same.

First District Court.

State vs. Gaston Larch.—Assault and battery. Sentence $2 fine or twenty-four hours in Parish Prison.

State vs. Edward Shannon.—Larceny. Sentence, eleven months' hard labor in State Penitentiary.

State vs. Margaret Sullivan.—Larceny. Nolle prosequi entered.

State vs. Louis Volter.—Knowingly receiving stolen property. Plea of not guilty.

State vs. Aleck Harrison.—Assault and battery. Plea of not guilty.

State vs. John Holliday.—Assault and battery. Plea of not guilty.

State vs. John Miller.—Assault and battery. Plea of not guilty.

State vs. Hannah Florence and Annie Sullivan.—Assault and battery. Plea of not guilty.

State vs. John Lewis.—Assault and battery. Plea of not guilty.

State vs. Louisa Wilson.—Assault and battery. Plea of not guilty.

State vs. Celestine Walker.—Assault and battery. Plea of not guilty.

State vs. L. Taylor.—False imprisonment. Plea of not guilty.

State vs. S. Shutz, Charles Vincent and C. Thibodeaux.—False imprisonment. Plea of not guilty.

State vs. Henry Madison.—Entering a dwelling-house, and larceny. Plea of not guilty.

State vs. Charles Wilson and Francis Martin.—Feloniously entering a store and larceny. Plea of not guilty.

Fourth District Court.

Jacob Hawkins vs. New Orleans Printing and Publishing Company.—Jury empanelled, and documentary evidence of the plaintiff opened.

Fifth District Court.

Judge Cullom has rendered the following important decision:

Josephine Decuir vs. Joseph G. Benson.—The plaintiff in this case is a lady of color, genteel in her manners, modest in her deportment, neat in her appearance and quite fair for one of mixed blood. Her features are rather delicate, with a nose which indicates a decided preponderance of the Caucasian and Indian blood. The blackness and length of the hair, which is straight, confirm this idea. She was never a slave, nor is she the descendant of a slave. Her ancestors were always free as herself. She has always been respected by those who knew her. She left this city on or about the twentieth day of July, A. D. 1872, for the purpose of returning to the parish of Pointe Coupee, where she has resided in wedded life for many years, taking passage on board the steamer Governor Allen, then engaged in the business of common carrier of passengers and freight, and plying between this city and the city of Vicksburg. There is no dispute about these facts. Mrs. Decuir appplied for and was refused a cabin passage. A cabin or sleeping apartment was offered her in what is called and known as the bureau, which on the Governor Allen, is situated below the berths and floor assigned to the white passengers. The evidence shows that this bureau is kept exclusively for people of color, and that there is not so much comfort, nor so many facilities for seclusion as on the cabin floor above it. Indeed, that it is very uncomfortable for a lady, particularly. Mrs. Decuir declined to accept the accommodations offered her, and passed the night during which she was on board, sitting in her chair in the rear part of the boat, in what is known as the recess. A lady's cabin was asked for, but the defendant peremptorily refused to permit her to occupy one. He says that if half the rooms in the ladies' cabin had been vacant, she could not have had one. On her arrival at the Hermitage, her point of destination, she paid for a first class cabin passage. She now institutes this suit, alleging these facts, and saying further, that the defendant did on that trip of his said boat, refuse to her, on account of her race and color, and for that reason only, the equal rights and privileges accorded to the white passengers on the boat. That she suffered for want of rest from inability to sleep, and from exposure. She also alleges that the mortification and mental anguish which she was thus compelled to undergo, justly entitle her to exemplary damages in the sum of $75,000. It is useless to examine the exceptions separately, as they may be passed upon in connection with the merits of the case. It will suffice to say that the Supreme Court of this State, in the days of Judge Martin, has declared that the "law law gives compensation for mental suffering occasioned by acts of wanton injustice," and that this opinion had not only been proclaimed by Judge Story, but has latterly been reiterated by the present Supreme Court of Louisiana. The United States courts in admiralty have nothing to do with this case. See 20 An., 432, case of Averill vs. the steamer Alabama Belle and owners. Roach et al. vs. Chapman et al., 22 How. Reports, p. 244. "A contract between a passenger and the master of a vessel for the passage is a personal one, not cognizable in the admiralty." Brightly's Dig., vol. 1, p. 11, art. 128. On other points raised by the exceptions, the case of Keene vs. Lizardi, 5 L., 431, and 6 L., 319-320, will be found pertinent; and also the case of St. Arnaud vs. Lizardi, 4 L., 244. For the purposes of this investigation the constitutions of the United States and of this State, and the laws enacted in obedience thereto, having fixed the unlimited citizenship of the colored race in the United States, I must examine its merits, as if Mrs. Decuir were a purely white lady suing for her rights. Courts can not make distinctions where the law does not, and availing myself of the strong language of Lord Kenyon, "they are bound and shackled by certain rules, from which they should not depart." Counsel has furnished a lengthy brief, in which he endeavors to show that if the plaintiff was not treated as the white ladies were, she can not complain, because she did "not make a tender in advance of the amount of money" which white ladies paid. This is a mere technicality which can not be permitted to defeat a legal right, and more especially where, as in this class of cases, the law does not require it to be done. The statute of 1869, first section, declares that "when such person shall, on demand, refuse or neglect to pay the customary fare," etc. It was, therefore, the duty of the defendant to first make the demand of the customary fare before he could, under the law, deny to her the rights and privileges accorded to white ladies on board his boat. But again, it would have been entirely useless to make a formal tender of the "customary fare" when the defendant and his clerk had persistently declared that they would not treat her otherwise than as they did. She was thereby saved the necessity of putting the defendant in default, even had the requirements of the law been the reverse of what they are.

The second reason assigned by counsel begs the question at issue, for when called upon to interpret an express and positive law, it is a matter of very little importance what existing customs are, if they plainly contravene both the letter and the spirit of that law.

No association of men whatever can create or establish a custom for their convenience, and vitalize it with a power paramount to the authority of an express and positive statutory enactment. 12 M., 26; 4 N. S., 497; 6 N. S., 571; 2 L., 365; 3 L., 391, and 4 R., 381. Courts, from time immemorial, have been aided by customs in construing statutes of ambiguous meaning, but their judgments can never be properly influenced by them where the law is plain and easily understood without the aid of them. Cooley's Con. Lims, 69. Custom, in this case, is clearly opposed to and subversive of the plainest meaning and spirit of the law, and can be recognized neither as the law of the land nor as a guide to the courts. Foley vs. Bell, 6 A., 760, and Bonham vs. Overton, id., 765. To enforce it in contravention of the act of 1869, No. 38, and of article thirteen of the constitution of this State, would be to disregard these laws, and to deny to persons those rights and privileges they were designed to establish and to secure the enjoyment of.

Further still, it would be an emphatic and practical denial to a large class of persons which the general government, in the exercise of its political omnipotence (*quoad them*), and of its sovereign wisdom, has seen proper to invest with all the attributes of citizenship; of "the equal protection of its laws." Fourteenth amendment of the constitution of the United States. Meeker vs. Klemm, 11 A., 104. With what reason or propriety can the courts, which are but the creatures of the law, refuse to yield obedience to the requirements of that constitutional power upon which alone they must depend for existence, and without which they would possess no authority whatever? The constitutions are the supreme laws of the land, and good government requires that every officer and every citizen should act accordingly. It is true that whenever mere legislative enactments are unconstitutional, the courts should so declare them, and that judge would be unworthy of his ermine who would shrink from such a duty. But the constitution is the only limitation to legislative power, and I am not aware that customs ever have, in any country, been deemed of such high authority as to supersede the behests of even the common law. See Winder vs. Blake, 4 Jones, N. C. Reports 332; Knowles vs. Dow, Fost. N. H. Reports, p. 387.

Illegal customs can have no weight and courts can not recognize them, however long they may have been established. See Peirce vs. United States, Nott & Huntingdon's R. 270. They are obligatory on parties only when the law does not provide for the case. The Lucy Ann, 23 Law Reports, 545. And when they are opposed to the provisions of a statute they are not binding. The Forrester, Newberry's Reports, 81. I have thought it prudent to collate authorities on this point to a greater number than is ordinarily deemed necessary, by reason of the generally prevailing impression concerning some personal rights that customs are laws, legislation to the contrary notwithstanding. Counsel has laid much stress on the fact that the plaintiff knew all about the rules and regulations which steamboats had established when she went on board the Governor Allen. This is doubtless true; but it is equally true that Captain Benson knew of the existence of the laws whose authority had superseded those rules and regulations. If, then, it is fair to argue that plaintiff should have been governed by those rules and regulations, when they had been swept away by legislation, it is far more just to insist that he should have been quieted by the imperative requirements of the laws. A systematic disregard of them furnishes no argument to excuse their violation, but, on the contrary, should admonish courts to vindicate their authority the more promptly, the more impartially. It is the peculiar province of the Legislature to enact laws, and of the courts to interpret, construe and administer them. Viewed rightly, they are the special ministers of that science which Hooker speaks of as having "her seat in the bosom of God; whose voice is the harmony of the world, unto whom all things in heaven and earth do homage; the very least as feeling her care, and the greatest as not exempted from her power."

Whether laws are adapted to the present state of society or not is an important matter, it is true, but it is one with which courts have nothing to do. Cooley's Con. Lims., p. 167, last sentence, and pp. 168 and 171. Social necessities and enlightened opinions are often in advance of legislation, but whenever the "supreme power of the State" speaks out in the definition of what it considers right, and the prohibition of what it is pleased to term wrong, society must pause and the people obey. It is the duty of courts to declare what the law is, not to prescribe what it should be. States are possessed of all power not prohibited by the constitution. Counsel for defendant cites the case of Day vs. Owen, fifth Mich. Reports, p. 520, where the court held that the right to be carried was one thing, the privilege of a passenger on a boat quite another, both being subject to the reasonable rules and regulations of the boat. Can a rule or regulation be judicially declared reasonable, which supersedes express law and bids defiance to its authority? A fair analysis of that case will show that it does not favor the conclusion which he deduces from it. The rule established by law, may give rise to personal or private injuries, and it will no doubt do so in this case, but, while it is the duty of government to protect the right of each individual, however humble or obscure he may be, private interests are never insuperably set up as a barrier to public necessity.

Again counsel cited the case of Jenks vs. Coleman, 2 Sumner, p. 221, in which Judge Story said that the right of passengers on steamboats was not unlimited, but was subject to such reasonable rules and regulations as the proprietors may prescribe for the accommodation of passengers. That they are not bound to admit passengers on board who refuse to obey the reasonable rules and regulations of the boat." Here again the question recurs, can courts say rules are reasonable which are contrary to and subversive of positive law?

It is not pretended that boats may not establish regulations, but they are prohibited from making discriminations on account of race or color.

The next point urged by counsel in argument is that any interference by a State with the rules and regulations of vessels is in substance an attempt to regulate commerce. The government of the United States is one of enumerated powers. These powers are expressly delegated by the constitution, and the government can rightfully claim none which are not granted by it. They are such as are actually and expressly given, or such as are given by necessary implication. See opinion of Chief Justice Marshall, in Martin vs. Hunter's Lessee, 1 Wheaton, 326; see also 7 Cranch, 32; 1 Wh., 415; 7 Pets. 243; Cooley's Con. Lim., 11. The tenth amendment to the constitution of the United States provides that the powers not delegated to the United States by the constitution nor prohibited by it to the States, are reserved to the States respectively, or to the people. Now, what are the powers of Congress as established by the constitution with regard to this matter? "To regulate commerce with foreign nations and among the several States, and with the Indian tribes." Chancellor Kent said of this section: "The power was restricted to that commerce which concerned more States than one, and the completely internal commerce of a State was reserved for the State itself." 1 Kent, 436; Cooley's Con. Lim., 584, 585.

It will hardly be denied that inspection laws relative to the quality of articles to be exported, quarantine laws of every description and such as were designed to regulate the strictly internal commerce of a State, formed and are component parts of an immense mass of legislation, which was never surrendered to the general government. See 1 Vol. Kent, pp. 436-7. See also the celebrated case of Gibbon vs. Ogden reported in 9 Wheaton. In the late Slaughterhouse decision, the Supreme Court of the United States expressly recognized the fact that notwithstanding the convulsions that have shaken and endangered the permanence of the fabric of the American Union, and despite the amendments added to its constitution, the States still have certain sovereign rights which they may lawfully exercise. The cases referred to by counsel in support of the proposition now under consideration, are not in point, first, because the plaintiff was traveling from one point to another within the limits of this State, and second, because they antedate all the recent changes in the constitution of the United States, establishing and providing for the regulation of the status of the colored race in America. As well might he invoke the decision in the Dred Scott case as authority for the denial of the black man's citizenship.

It is useless to dwell at greater length on these questions. The laws under which this action is brought are, first, article thirteen of the State constitution, which reads as follows: "All persons shall enjoy equal rights and privileges upon any conveyance of a public character," etc. Now, is a steamboat a conveyance of public character? It has been made the subject of special legislation by the General Assembly of Louisiana, and I am not aware that the power of the State to enact laws affecting steamboats was ever seriously questioned. It has enacted laws imposing penalties in cases of accidents; for regulating the carrying of gunpowder; to compel the use of iron chains as a substitute for the formerly used tiller ropes; for carrying lights, and several other matters. Was it ever pretended that this legislation was an unlawful interference with commerce, or that it deprived steamboats of the right to make reasonable rules and regulations for the management of their business? The act of the Legislature under which this suit is brought is as follows: "All persons engaged within this State in the business of common carriers of passengers, shall have the right to refuse to admit any person to their railroad cars, street cars, steamboats or other water crafts, coaches, omnibuses or other vehicles, or to expel any person therefrom after admission, when such person shall, on demand, refuse or neglect to pay the customary fare, or when such person shall be of infamous character, or shall be guilty, after admission to the conveyance of the carrier, of gross, vulgar or disorderly conduct, or shall commit any act tending to injure the business of the carrier, prescribed for the management of his business, after such rules and regulations shall have been made known: provided, said rules and regulations make no discrimination on account of race or color; and they shall have the right to refuse any person admission to such conveyance when there is not room or suitable accommodations; and except in cases above enumerated, all persons engaged in the business of common carriers of passengers are forbidden to refuse admission to their conveyance or expel any person therefrom whomsoever." Counsel insists that the provisions of these laws extend only to cases in which a State or other license is paid, and that as steamboats do not pay a license, the law does not affect them. The constitution just cited and quoted, says: "All persons shall enjoy equal rights and privileges upon any conveyance of a public character." There is no mention here of a license to be paid by such public conveyance, as a prerequisite to its obligation to afford equal rights and privileges. The act already quoted makes no reference to any such necessity. The provisions of law requiring licenses to be paid, and to be forfeited in certain cases, relate entirely and exclusively to places of public resort, such as public inns, hotels, coffeehouses, theatres, etc. Whatever may be thought of the wisdom, propriety or policy of the foregoing constitutional and legislative provisions, one thing is clear to my mind: it is, that they are laws, and that the courts of this State must recognize and declare them to be such. If they operate injuriously to private interests, it is to be regretted; but if experiment should successfully prove that they promote the general prosperity and the welfare of the public, then, according to the well-recognized and wholesome principles of government, they should be respected.

Having reviewed, as far as it is deemed proper, the arguments and authorities offered by counsel, it only remains for me to fix the quantum of damages which the defendant should be condemned to pay. In doing so, it is necessary to remark that I do not think it proper to award exemplary damages in this particular case. The public in general is not sufficiently apprized of the existence and validity of the laws which govern such cases, to be severely punished for their violation. When it shall have become a settled theory in the State's jurisprudence that these laws exist by constitutional authority, and that they will be enforced, and when the people, who have been taught to condemn them as unjust, and consequently unwise, shall have learned that there is nothing unconstitutional in them, it will be time enough to inflict punitory damages for withholding the rights and privileges which they are designed to secure.

The plaintiff was entitled under the laws to such rights and privileges as were accorded to the white passengers. It is not pretended that she refused or neglected to pay the customary fare, or that she was of infamous character, or guilty of disorderly conduct, or that she committed any act tending to injure the business of the steamboat Governor Allen. The evidence is positive and conclusive that she was denied those rights and privileges for no other reason than that she was a colored woman. She was, therefore, forced to institute this suit for the judicial establishment and vindication of her rights under the laws. She had to employ counsel as a necessary means of having her case properly made up and presented to the court, and I think that whatever sum it may fairly have cost her to do so should be awarded her as damages. I can not think it just or prudent to do more under all the circumstances.

It is the imperative duty of courts, whether it be pleasant or not, to declare fearlessly what the law is, whether it be wise or not, and to make themselves the impartial mediums through which rights may be enforced and wrongs repressed. They are not for these reasons to be used as stepping stones to fortunes. This court will impartially interpret and enforce the laws of every description, found to be in consonance with constitutional authority, but it will never, under any circumstances, suffer itself to become a medium of pecuniary speculation. The Supreme Court has already been called upon to interpret the act of 1869, already quoted, and in the case of C. S. Sauvinet vs. J. A. Walkers et als., reported in the twenty-fourth annual, recognized it as law, entitled to full force and effect. Guided by the decision in that case also by the doctrine laid down by this court in J. K. Bell vs. Thomas Leathers, and for the reasons assigned in the foregoing opinion, I think the plaintiff should have judgment for one thousand dollars, with legal interest from the date hereof, and for the costs of these preceedings. I can not conclude without expressing the fond and sincere hope, that the time may speedily come when a fostering government may by wise laws and a mild administration, aided by an independent judiciary, venerable by its gravity, its inflexible integrity, its benign dignity, profound wisdom and official independence, supported by a willing, patriotic people, inspired by a unity of political purposes, and striving for the general welfare, may submerge and do away with every necessity for investigations of causes like this, and when all distinctions germinating in prejudice and unsupported by law, may be finally forgotten, and when the essential unity of American citizenship shall stand universally confessed and sincerely acquiesced in by the national family.

Amateur Theatricals.

The Orleans Dramatic Association had a meeting last evening, and they have determined on playing "The Fool's Revenge" and "Going to See the Amateurs."

We must, in advance, applaud the selection of the club, and we confidently predict for the Orleans that their next performance will be an unprecedented success.

To those of our readers who do not know, we would state that the play of the "Fool's Revenge" is an adaptation of the opera of "Rigoletto." The play is sensational, it is true, but it gives room for fine histrionic display.

Sports' Social Club.

This society gives a picnic at the Eastman Park to-day, which promises to be a *recherche* affair. O. P. Miller, who is the president of the society, is chairman of the committee of arrangements, and is assisted in the duties by J. S. Wilson, C. Reilly, J. Larkin and J. McLaughlin. Base ball match, foot racing and jig dancing are named as part of the amusements.

SAINT PATRICK'S CONVENT OF MERCY. By reference to a notice in another column it will be seen that a grand vocal and instrumental concert will be given at Odd Fellows' Hall on Sunday evening, the sixth proximo, for the benefit of this institution. We learn that some of the most talented amateurs of the city have volunteered their services, and that the programme for the occasion will be one of the most pleasing of the season. We have no doubt but that the Odd Fellows' Hall will be filled to repletion on the evening of the concert. Tickets fifty cents.

The Canby Meeting.

The meeting of officers and soldiers of General Canby's command, which was to have taken place at Mechanics' Institute last night, in postponed, for unavoidable reasons, to Saturday next.

Messrs. R. M. & B. J. Montgomery request us to call the attention of their numerous patrons and the public in general to the fact that they have secured that eligible store located on the corner of Camp and Natchez streets as their auction mart. Having put it in thorough order, they are now prepared to receive all kinds of furniture, pianos, merchandise, etc., for sale at auction. This being the best located auction mart in the city for the removal to and sale of furniture for account of parties living in the suburbs of the city, we bespeak for them full success in their new departure.

FOR THE SUMMER.—Persons going to live over the lake can buy their outfits very cheap at present by going to Navra & Offner's, No. 174 Canal street.

SPECIAL NOTICES.

Poisoning the Sick.—There never was a specialty in medicine that was not pirated. Hostetter's Stomach Bitters is no exception to the general rule. Fraud follows in the track of the great vegetable restorative as it makes the circle of the world, and offers its pernicious imitations to the sick at every turn, anxious to drench the public with their trash. The imitators and counterfeiters offer it by the gallon, the barrel, the hogshead, as well as by the bottle. Beware of this deluge of abominations. Bear in mind that the true article is sold in bottles only, and the impress of genuineness is to be found upon the glass itself as well as upon the finely engraved government stamp and the elegant label. The great vegetable tonic prevents and cures all bilious disorders and complaints of the digestive organs and the nervous system, maladies upon which the vile imitations produce no more effect than the Pope's bull upon the comet.
je11 3teodW

Knights of Pythias—Ivanhoe Lodge No. 1.—A meeting will be held at Union Hall, corner of Camp and Commercial place, on FRIDAY, June 20, at 7:30 P. M., for the conferring of degrees and other business. Every member is particularly requested to attend, as there is business of importance to transact.

C. C. HALEY, Chancellor Commander.

V. MULLY, Scribe. je15 2t

Passengers to Liverpool.—The magnificent clipper ship MATAURA, 1309 tons register, Henry L. Townsend, commander, will be dispatched for Liverpool on or about TUESDAY, the first of July; has first class accommodations for eight or ten cabin passengers. This vessel is the favorite California clipper, formerly known as the Neptune's favorite, and is expected to be in Liverpool inside of twenty-five days. Parties wishing to have a pleasant sea voyage will find her a most comfortable conveyance. Fare $125 in currency.
For freight or passage apply to
A. K. MILLER & CO., Agents,
je5 1m No. 29 Carondelet street.

Batchelor's Hair Dye.—This splendid Hair Dye is the best in the world. The only true and perfect dye. Harmless, reliable and instantaneous; no disappointment; no ridiculous tints or unpleasant odor. Remedies the ill effects of bad dyes and washes. Produces immediately a superb black or natural brown, and leaves the hair clean, soft and beautiful. The genuine, signed by W. A. Batchelor. Sold by all druggists.
CHARLES BATCHELOR,
oc3 1y Proprietor, New York.

OFFICIAL NOTICES.

PROPOSALS FOR SQUARE BLOCK STONE PAVEMENT.

DEPARTMENT OF IMPROVEMENTS, New Orleans, June 13, 1873.

SEALED PROPOSALS ADDRESSED TO THE UNdersigned, will be received at this office until MONDAY NOON, June 23, 1873, for making square block stone pavement on Poydras street, from Front to Delta streets, in accordance with specifications on file in the office of the City Surveyor.

The city reserves the right to reject any and all bids.

All parties making proposals for this contract are required to deposit with the Administrator of Finance, as evidence of their intention to abide by the adjudication, the amount of two hundred dollars in cash, which shall be forfeited to the city in case of failure to sign the contract.

Bidders to whom contracts are not awarded shall have their deposits returned to them on the day the adjudication is made.

No bid will be received unless accompanied by the certificate of the Administrator of Finance certifying that the required cash deposit has been made.

Proposals to be indorsed "Proposals for paving."

JAMES LEWIS, je13 td Administrator.

ONE THOUSAND DOLLARS REWARD.

MAYORALTY OF NEW ORLEANS, City Hall, June 12, 1873.

By authority of the City Council, I offer a reward of

ONE THOUSAND DOLLARS

for such evidence as will convict any person, hereafter arrested, of the atrocious crime of arson committed within the limits of this city during the current year, to be paid in each case on the certificates of the Prosecuting Attorney and the Judge of the Criminal Court.

je11 taw1m LOUIS A. WILTZ, Mayor.

PROCLAMATION.

Five Hundred Dollars Reward.

STATE OF LOUISIANA, Executive Department, New Orleans, May 17, 1873.

Whereas, it has been made known to me that a small boy named EDDY KAUFMAN, aged about nine and a half years, was kidnapped in the city of New Orleans, about the sixth of May, and no tidings of his whereabouts can be obtained.

Now therefore I, W. P. Kellogg, Governor of the State of Louisiana, in conformity to the power vested in me, do by these presents offer a reward of FIVE HUNDRED DOLLARS to any person or persons who may arrest the person or persons who may be guilty of said offense, or give the necessary information which may lead to the arrest and punishment of the offender. And I do hereby enjoin upon all sheriffs and police officers to make diligent search and inquiry for said boy, so as to restore him to his father.

W. P. KELLOGG, Governor.

P. G. DESLONDE, Secretary of State. my18

EXECUTIVE ORDER.

State Officers Ordered to Military Duty.

STATE OF LOUISIANA, Executive Department, New Orleans, May 17, 1873.

Under the provisions of the militia laws of the State of Louisiana, it is hereby directed that all employes in the several offices of the State of Louisiana, in the city of New Orleans, liable to military duty, forthwith enroll themselves in some military organization in the First Division, or immediately form military companies, to be assigned to that division.

Blanks and necessary information can be obtained at the office of the Adjutant General of the State.

WILLIAM P. KELLOGG, Governor.

HENRY STREET, Adjutant General. my24 2p

NOTICE TO HOLDERS OF WHARF IMPROVEMENT BONDS.

DEPARTMENT OF FINANCE, City Hall, New Orleans, June 7, 1873.

PROPOSALS FOR THE SALE TO THE CITY OF twenty wharf improvement bonds, will be received by the undersigned until WEDNESDAY, eighteenth instant, at 11 A. M.

The right to reject any or all proposals is reserved.

LOUIS SCHNEIDER, je7 td Administrator of Finance.

NOTICE.

TREASURY DEPARTMENT, Office of the Controller of the Currency, Washington, March 21, 1873.

NOTICE IS HEREBY GIVEN TO ALL PERSONS who may have claims against the Crescent City National Bank of New Orleans, Louisiana, that they are called upon to present the same and to make legal proof thereof to Charles Case, receiver, at the office of said receiver, No. 36 Natchez street, New Orleans, Louisiana.

JOHN JAY KNOX, mh21 3m Controller of the Currency.

CITY TAXES OF 1873.

DEPARTMENT OF FINANCE, New Orleans, May 17, 1873.

A DISCOUNT OF TWO PER CENT ON THE cash portion of the bill will be allowed to all persons who pay their city taxes for 1873 on or before June 15, 1873.

LOUIS SCHNEIDER, my17 tje15 Administrator.

WANTED.

WANTED—BY A LADY OF UNQUESTIONABLE family a position as lady's maid, nursery governess or such like position either in the city or elsewhere. Address S., at this office. je8

OFFICIAL NOTICES.

PROPOSALS

For Furnishing Rations and Fuel for Light Vessels, Lighthouses and Tenders in the Eighth Lighthouse District.

LIGHTHOUSE INSPECTOR'S OFFICE, No. 12 Conti street, New Orleans, La., June 7, 1873.

SEALED PROPOSALS WILL BE RECEIVED AT this office until twelve o'clock M., FRIDAY, the twentieth day of June, 1873, for furnishing and delivering any Rations and Fuel that may be called for by the inspector for the tenders, light vessels and lighthouses in the Eighth Lighthouse District, for one year from the first day of July, 1873, to the thirtieth of June, 1874, inclusive.

The rations to be of good and approved quality; to be delivered alongside of the lighthouse tender or other vessel provided for the purpose at New Orleans, Louisiana, in good and sufficient packages, barrels, boxes and cases, and in good order, for the number of persons which will be specified by the inspector for each vessel and lighthouse once a quarter, or when required, free of all expense to the United States, agreeably to specifications and tables attached thereto, which will form a part of the contract, copies of which may be had by applying at this office.

All bids must be sealed and indorsed "Proposals for Rations and Fuel for light vessels," etc., and then placed in another envelope, and left at or directed to this office, prepaid, if sent by mail.

By order of the Lighthouse Board.

ROBERT BOYD, JR., Commander United States Navy and Lighthouse Inspector. je7 3t eod

NOTICE.

THE PUBLIC ARE HEREBY NOTIFIED THAT it is the intention of the Council of the city of New Orleans to cause Poland street to be widened on the lower or north side from Peters street to Dolhonde street, in accordance with the following petition:

NEW ORLEANS, July 3, 1872.

To the Mayor and Administrators of the city of New Orleans:

The undersigned, owners of property fronting on Poland street in the Third District of this city, respectfully represent that, in consequence of the existence of a double railroad track on the said street, and the said street being only twenty-two feet wide, the same is almost impassable and inaccessible for vehicles; that it operates greatly to the injury of property fronting on the said street and proximate thereto; that inasmuch as the lower portion of the Third District has few wide avenues, and the property required being nearly all unimproved, the undersigned respectfully petition your honors to cause the said Poland street to be widened on the lower or north side to a width of not less than sixty nor more than ninety feet, in addition to the present width from Peters to Dolhonde street, with banquettes not less than twelve nor more than fifteen feet wide on each side.

Inexpensive as the ex-appropriation will be to the city, the property being almost entirely unimproved, the enlargement of said street will largely stimulate building and improvements, and permanently beautify that portion of the city, and annually yield increased returns to the city's budget, for which reason your petitioners pray that your honorable body will grant the necessary ordinance and relief.

Respectfully yours,

F. WINTZ, President City Railroad, 290 feet;
PATRICK IRWIN & CO., 6214 feet.

je6 10t

LEGAL NOTICES.

STATE OF LOUISIANA.

FOURTH DISTRICT COURT FOR THE PARISH OF ORLEANS.

CAROLINE JULIE DOMARD, WIFE OF EMILE Felix Boumard, vs. her husband—No. 41,774.

I HEREBY CERTIFY THAT ON THE THIRTEENTH day of May, 1873, judgment was rendered in this court, in the following entitled suit, in the words and figures following, to wit—

Caroline Julie Domard, wife of Emile Felix Boumard, vs. her husband—No. 41,774.

In this case, submitted to the court for adjudication, the court considering that all the facts and allegations contained in plaintiff's petition have been substantiated by evidence taken in open court and on file, and that the same, as well as the law, are in favor of plaintiff—

It is ordered, adjudged and decreed that there be judgment in favor of plaintiff, Caroline Julie Domard, wife of Emile Felix Boumard, and against defendant, Emile Felix Boumard, her husband, decreeing a separation of property between them, and dissolving the community of acquests and gains which existed between them, and authorizing and empowering plaintiff to manage and control her property separate from defendant, her husband, and to transact and carry on business in her own name and for her separate account as a public merchant; and it is further ordered, adjudged and decreed that there be also judgment in favor of plaintiff, Caroline Julie Domard, wife of Emile Felix Boumard, and against defendant, Emile Felix Boumard, her husband, for the sum of $5000, amount of plaintiff's dowry, which she brought in marriage, as per marriage contract executed before Amedee Ducatel, notary public in this city, on the eighteenth day of May, 1870, with interest at the rate of five per cent per annum from the said eighteenth day of May, 1870, until paid, and with the privilege granted by law to married women to secure their dotal rights, and that the defendant pay the costs of this suit.

Judgment rendered May 13, 1873. Signed May 17, 1873. B. L. LYNCH, Judge.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court, at the city of New Orleans, on this seventeenth day of May, in the year of our Lord one thousand eight hundred and seventy-three, and the ninety-seventh year of the independence of the United States.

je4 15 29* OSCAR ARROYO, Deputy Clerk.

THE STATE OF LOUISIANA.

FIFTH DISTRICT COURT FOR THE PARISH OF ORLEANS.

MRS. BARBARA WEGMANN VS. HER HUSBAND—No. 4095.

I HEREBY CERTIFY THAT ON THE TWENTY-eighth day of March, 1873, judgment was rendered in this court, in the following entitled suit, in the words and figures following, to wit:

Mrs. Barbara Wegemann vs. her husband, No. 4095.

This cause came on this day for trial. Wenck & Huff for plaintiff. Defendant and intervenor absent and not represented, when after hearing pleadings and evidence, the court considering the law and evidence to be in favor of plaintiff. It is ordered, adjudged and decreed that there be judgment in favor of plaintiff, Mrs. Barbara Wegemann, and against defendant Peter Wegemann, her husband, decreeing a separation of property and a dissolution of the community of acquests and gains heretofore existing between the said parties. It is further adjudged and decreed that the said plaintiff do have and recover of defendant, her husband, the sum of five hundred and twenty-five dollars, with eight per cent interest per annum thereon from July 25, 1864, until paid and costs of suit, with lien and privilege as allowed by law to married women on the property of their husbands.

It is further adjudged and decreed that the intervention of Schmidt & Ziegler herein be dismissed.

Judgment rendered March 28, 1873.

Signed April 2, 1873.

E. NORTH CULLOM, Judge.

In testimony whereof I have hereunto set my hand and affixed the seal of the said court, at the city of New Orleans, on this fifth day of April, in the year of our Lord eighteen hundred and seventy-three, and the ninety-seventh year of the independence of the United States.

EDWARD KEENA,
my18 je1 15* Deputy Clerk.

THE STATE OF LOUISIANA.

SIXTH DISTRICT COURT FOR THE PARISH OF ORLEANS.

MARIE ELIZABETH MARTIN VS. JOHN DAWSON—No. 4627.

I HEREBY CERTIFY THAT ON THE TWENTY-sixth day of April, 1873, judgment was rendered in this court in the following entitled suit in the words and figures following, to wit:

Marie Elizabeth Martin vs. John Dawson—No. 4627.

In this case, the court considering that the law and the evidence sustains plaintiff's demand, it is ordered, adjudged and decreed that the judgment by default herein entered on the twenty second instant be now confirmed; that there be judgment in favor of plaintiff Marie Elizabeth Martin, and against defendant, John Dawson, her husband, decreeing a separation of property between the said parties, and that plaintiff do recover of defendant, her said husband, the sum of sixty-seven hundred and seventy-two dollars and twenty-five cents, with legal interest from judicial demand until paid, with the mortgage and privilege accorded by law to married women, dating from the twenty eighth of February 1867, and that plaintiff have the control of her dotal and paraphernal property. It is further ordered that defendant be condemned to pay the costs of this suit.

Judgment signed May 9, 1873.

A. SAUCIER, Judge.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the city of New Orleans, on this fifteenth day of May, in the year of our Lord one thousand eight hundred and seventy-three.

EDWARD H. GANNON, Deputy Clerk.

my20 je1 15*

THE STATE OF LOUISIANA.

SIXTH DISTRICT COURT FOR THE PARISH OF ORLEANS.

HENRIETTA PREUSS VS. A. HEYMAN—No. 4706.

I HEREBY CERTIFY THAT ON THE SEVENteenth day of May, 1873, judgment was rendered in this court in the following entitled suit in the words and figures following, to wit:

Henrietta Preuss vs. A. Heyman, No. 4706.

In this case on motion of Cotton & Levy, attorneys for the plaintiff herein, upon producing to the court due proof in support of her demand, by reason of the law and the evidence being with plaintiff, it is ordered, adjudged and decreed that the judgment by default herein entered on the ninth instant be now confirmed; that plaintiff, Henrietta Preuss, have judgment against defendant, Abraham Heyman, decreeing a separation of property between the said parties, and a dissolution of the community of acquests and gains existing between said plaintiff and Abraham Heyman, her husband, and that she be authorized to conduct business in her own name as a public merchant. It is further ordered that defendant pay the costs of this suit.

Judgment signed May 22, 1873.

A. SAUCIER, Judge.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court, at the city of New Orleans, on this twenty-third day of May in the year of our Lord one thousand eight hundred and seventy-three.

EDWARD H. GANNON,
my24 je1 21* Deputy Clerk.