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COURT RECORD.

SATURDAY, MARCH 28, 1874.

United States Circuit Court.

N. N. Frisbie, Esq., is appointed United Commissioner.

The following decision was rendered by Judge Woods:

Charles Case, receiver of Crescent City National Bank of New Orleans, vs. Citizens' Bank of Louisiana.

The fifty-second section of the currency act (13 Stat., 115) declares "that all transfers of the notes, bonds, bills of exchange and other evidences of debt owing to any association or of deposits to its credit, all assignment of mortgages, sureties on real estate or of judgments or decrees in its favor, all deposits of money, bullion or other valuable thing for its use or for the use of any of its shareholders or creditors, and all payments of money to either, made after the commission of an act of insolvency, or in contemplation thereof, with a view to prevent the application of its assets in the manner prescribed by this act, or with a view to the preference of one creditor to another, except in payment of its circulating notes, shall be utterly null and void."

Relying upon these provisions of the statute, the complainant, Charles Case, the receiver of the Crescent City National Bank, files this bill against the Citizens' Bank of Louisiana.

The bill, after averring the appointment of the complainant as receiver, alleges in substance that between the first day of December, 1872, and the sixth of February, 1873, the Crescent City Bank drew bills of exchange on F. DeLizardi & Co., of London, amounting in the aggregate to £26,501 5s 7d cash, being payable in sixty days after sight, and sold the same to the defendant, the Citizens' Bank.

That afterward, about February 26, 1873, the said Lizardi & Co., having, after the acceptance by them, and before the maturity of the bills, failed, the defendant demanded from the Crescent City Bank indemnity against loss on said bills, and for the purpose of such indemnity the the Crescent City Bank transferred to the defendant promissory notes, bills and evidences of debt amounting to $150,000, which were then and there the property of the said Crescent City Bank. That at the time of said transfer the Crescent City Bank had drawn and had negotiated for value bills of exchange on said Lizardi & Co. to an amount largely exceeding its capital stock; that the bank had provided Lizardi & Co. with funds to meet the same at maturity; that by the failure of Lizardi & Co. the said bills would be dishonored and the said bank held liable therefor, and that the funds provided for the payment of said bills had been then lost to the bank by reason of the failure of Lizardi & Co., and that by reason thereof and of other losses the bank was then insolvent; that its insolvency was known to itself and the defendant; that said notes, bills and evidences of debt were transferred to the defendant in contemplation of the insolvency of the Crescent City Bank and with a view to give a preference to defendant over other creditors. The bill prays that the transfer of said assets be declared void and the defendant may be compelled to account for them to the complainant.

The answer of the defendant, the Citizens' Bank, which is given under the common seal of the corporation, denies all the material averments of the bill, except that the Crescent City Bank had provided Lizardi & Co. with funds to meet the bills drawn on them; that by the failure of Lizardi & Co. the said bills would be dishonored and the bank held liable therefor, and that the funds provided had been lost to the bank at the time of the transfer to the defendant of said assets.

The complainant files the general replication.

In passing upon the case it is material to consider what it is necessary for the complainant to establish in order to render void the transfer of the notes, bills, etc., to the Citizens' Bank.

The transfer must have been made after the commission of an act of insolvency, or in contemplation of insolvency, and with a view to give a preference to one creditor over another, or with a view to prevent the application of the assets of the bank in the manner prescribed by the currency act.

I know of no reason why a different meaning should be given to the word insolvency as applied to banks in the currency act from the meaning given the same word in the bankrupt act, as applied to traders:

"Insolvency, as used in the bankrupt act, when applied to traders, does not mean an absolute inability of the debtor to pay his debts at some future time, upon a settlement and winding up of his affairs, but a present inability to pay in the ordinary course of his business; or in other words, that a trader is insolvent when he can not pay his debts in the ordinary course of his business, as men in trade usually do; and such must be the conclusion, even though his inability be not so great as to compel him to stop business." Wager vs. Hall, 16 Wall 599.

This definition of insolvency, in my judgment, is the meaning of the word in the currency act.

It is only necessary that the insolvency should be in the contemplation of the bank making the transfer. The party to whom the transfer is made need not know of or contemplate the insolvency of the bank which makes the transfer.

Thus it was held by Mr. Justice Story, under the bankrupt act of 1841, that to constitute a conveyance "in contemplation of bankruptcy" it was not necessary that the professed creditor should know of the debtor's insolvency or should co-operate with him to obtain a priority of payment. Peckham, assignee, vs. Burroughs, 3 Story, 544.

The facts clearly established by the evidence, and about which there seems to be no dispute, are as follows: Between the second of December, 1872, and the sixth of February, 1873, the Crescent City Bank had drawn bills on F. DeLizardi & Co., of London, which had been sold by the bank and which were held as follows:

By the Citizens' Bank, £19,400; by the Canal bank of New Orleans, £5500; by the State National Bank of New Orleans, £50,000; by Eugene Kelly & Co., £35,000; by Edward C. Palmer, £10,000; by Mr. A. Carriere, £4000; by Duncan, Sherman & Co., £5000; and other bills held by other persons. So that at the time of the failure of the house of Lizardi & Co. there were bills outstanding drawn by the Crescent City Bank on Lizardi & Co. to the amount of £111,000.

The failure of the house of Lizardi & Co., the drawees and acceptors of these bills, took place on the fourteenth of February, 1873, before the maturity of any of the bills, and was positively known to Sumner, the president of the Crescent City Bank, on the sixteenth instant.

By the transfer of notes, bills, and other evidences of debt, on the twenty-sixth of February, by the Crescent City Bank to the Citizens' Bank, the latter was fully secured for the bills held by it drawn on Lizardi & Co. by the Crescent City Bank to the amount of £19,400. On the thirteenth of March, in consequence of the failure of Lizardi & Co., the Crescent City Bank went to protest on its circulation, and has since been put in liquidation.

The Citizens' Bank lost nothing by the failure of the Crescent City Bank, having been fully secured by the bills held by it on Lizardi. The Canal Bank, Eugene Kelly & Co., Palmer and Carriere received no security on or payment of the bills held by them, amounting to £54,500. The capital stock of the Crescent City Bank was $500,000.

These facts show the commission of an act of insolvency by the Crescent City Bank—the insolvency of the bank, the transfer of notes, bonds, etc., and the preference of one creditor to another.

These facts alone do not, however, make the transfer void. It is necessary to the complainants' case to establish two additional facts:

1. That the transfer was made in contemplation of the insolvency of the Crescent City Bank; and 2. That it was made with a view to give a preference to the Citizens' Bank over other creditors, and to prevent the application of said assets in the manner provided by the currency act.

If the complainant has established these facts in addition to those already stated, he has made out the case annexed in his bill.

In passing upon the first point it is obvious to inquire, was the Crescent City Bank really insolvent at the time of the transfer of the notes, bills, etc., to the Citizens' Bank, on the twenty-sixth of Febraray, 1873?

We have in evidence a report of the condition of the bank on the fourteenth of February, 1873, the very day that Lizardi & Co., of London, failed.

On that day the resources are stated at $1,545,854 51, in which is included an item of $561,958 01 under the head of "other cash assets." This item is shown by the testimony of John Davis, the book-keeper of the bank, "to consist of a class of bonds, stocks etc., which bonds amount to ninety per cent of the capital, which is $564,000. The bonds are $500,000; so that on account of $564,000 there were $500,000 bonds.

It is evident from this statement that this item of $561,958 01 consisted mainly of the bonds of the United States to secure the circulation of the bank with the premium thereon. It was not, therefore a cash item; it was not available for the payment of the liabilities of the bank. The exhibit in which this item occurs, and the same item is found in the exhibit made on February 24, February 28 and March 7, was not a fair statement of the condition of this bank. This is made apparent by the fact that among the liabilities of the bank the capital stock is not set down as a liability, to offset the bonds deposited to secure circulation, with the premium thereon.

The item, therefore, of $561,958 01 should be stricken from the statement of the resources of the bank. This leaves the resources at $983,896 50 on February 14. On the same day the liabilities of the bank are stated at $973,303 12, showing an excess of resources over liabilities of $10,593 38 only. But on the fourteenth of February Lizardi & Co., of London, failed. On that day, as shown by the evidence of Mr. John Davis, the exchange clerk of the Crescent City Bank, the amount of the bills outstanding, drawn by the Crescent City Bank on Lizardi & Co., of London was £111,000, which reduced to dollars at the current rate of exchange at that time would be about $604,000. The bank had sent forward about $606,000 to cover these drafts. These remittances were misappropriated by Lizardi & Co., and none of the $604,000 of exchange drawn by the Crescent City Bank on Lizardi & Co. was paid by them.

Here, then, is a bank which on February 14 shows resources over liabilities to the amount of only $10,593, and on that day by the failure of Lizardi & Co. has withdrawn from its available resources for an indefinite period the sum of $606,000, with the prospect of losing in the end a large portion thereof. This statement makes perfectly clear the "inability" of the Crescent City Bank "to pay its debts in the ordinary course of business"—in other words makes clear its insolvency. This loss or suspension of assets by the failure of Lizardi & Co. was greater than the available resources of the bank added to its capital stock by more than $95,000.

Summers, the president of the Crescent City Bank, must have known of this condition of affairs before the twenty-sixth of February. In fact he must have known it; it is impossible he should not have known it, as soon as he heard of failure of Lizardi & Co.

Mr. Reynes testifies "that on the fifteenth of February he received a despatch from Eugene Kelly, of New York, who held bills of the Crescent City Bank on Lizardi & Co. to the amount of £35,000; that the acceptances were due that day, and that they were unpaid; and that such dishonor was virtually the failure of the bank; and that he expected no preferred payments. Reynes showed the telegram to Summers, the president of the Crescent City Bank, and insisted on his acting according to it."

Mr. Faurie, the cashier of the Crescent City Bank, testifies that the remittances sent by the bank to Lizardi & Co., of London, to pay the bills were misappropriated, and therefore the bills came back. "When we found the remittances were misappropriated we thought it would break the bank."

"Some of the directors thought that if the remittances had been properly appropriated they would come out all right, but if they had not been properly appropriated they knew the bank had gone under. They said so. As soon as we were advised of the misappriation of the remittances made by Lizardi & Co of London, every officer of the bank knew that it was broken."

George Jonas, the president of the Canal Bank, testifies that as soon as it was known that the house of Lizardi & Co., of London, had failed, the credit of the Crescent City Bank was materially impaired; its business was diminished; there was urgency and anxiety among its creditors to obtain security. As soon as it was known that Lizardi & Co. had failed every creditor wanted security if he could get it. He, Jonas, went to see Summers, the president, several times to get security. Summers made an appointment to meet him on February 23, and said he would bring bills receivable of a sufficient amount the cover the bills held by the Canal Bank. He failed to keep the appointment, but sent Jonas word the next day that his board determined to make no further preferences and declined to give any security whatever." He further testifies "that upon the failure of Lizardi & Co. the stock of the Crescent City Bank ran down rapidly, and he heard of parties who were anxious to get rid of it for nothing, on account of their liability as stockholders in case of a failure."

Edward C. Palmer testifies that he is in commercial business in New Orleans, and was director in a national bank at the time of the failure of Lizardi & Co. He says that upon that event there was but one opinion expressed that it could not do anything else but ultimately break the Crescent City Bank. This was the general opinion among financial men that he talked with.

L. F. Generes, who has often been director of banks in New Orleans, testifies that immediately on the failure of Lizardi & Co., of London, there was great anxiety here about the Crescent City Bank, from its relations with Lizardi & Co. It manifested itself some days after the failure was known. At first there was no anxiety, but still it grew up and became very urgent.

The result of this evidence is that upon the failure of Lizardi & Co., of London, the Crescent City Bank was insolvent. As soon as it was known that Lizardi & Co. had misappropriated the funds sent to pay the bills drawn on them by the bank, the insolvency of the bank was known to its cashier, its directors, and was currently rumored and suspected by the interested public. The board of directors as early as February 22, had "determined to make no further preferences." Here is the official act of the board of directors which in effect implies the insolvency of the bank. Is it possible that Summers, a member of and president of the board of directors, and who himself reported this action of the board to Jonas, did not know of the insolvency of the bank? The "contemplation of insolvency" is in my judgment clearly established.

It remains to inquire whether the transfer of notes, etc., made on the twenty-sixth of February, to the Citizens' Bank, in contemplation of insolvency, was made with a view to the preference of one creditor to another.

The fact is beyond dispute that the Citizens' Bank, was preferred because it was paid in full, while other creditors similarly situated, were not paid any part of their claims.

Did Summers, in making the transfer of notes, etc., do it with a view to a preference? The law presumes he had in view the natural result of his acts. But defendant claims to have shown that the transfer was made to provide means to pay the bills drawn by the Crescent City Bank in London, and thus save the credit of the bank. Why, then, were not all the holders of the bills applied to to discount paper from the portfolio of the bank, and thus furnish the means to each to take care of his own bills? This arrangement was made with a part, but not with all.

It was made with the Citizens' Bank and others. They were secured, and the bills held by them paid. The bills held by others were left unsecured and were protested. How was the credit of the bank to be maintained by such a course?

E. C. Palmer, who held £10,000 of the bills of the Crescent City Bank drawn on Lizardi & Co., heard of the failure of the drawers on February 15, and within two hours went around to the bank. He saw Mr. Faurie, the cashier, who told him to go and see Mr. Summers, the president. He found him talking with three or four of the directors. No offer was made to Palmer to transfer to him assets from the portfolio of the bank, in order to secure him. Doubtless he would have been willing to take care of the £10,000 of bills of exchange which he held, drawn by the Crescent City Bank on Lizardi & Co. if he could have been made secure out of the porffolio of the bank. So would the Canal Bank, and Eugene Kelly & Co., and Carriere. But no such opportunity was afforded them. These favors were reserved by Summers for the Citizens' Bank and others.

The truth is, as is evident by the testimony, that one at least of the purposes of the transfer of assets to the Citizens' Bank by the Crescent City Bank was to secure the Citizens' Bank on the bills which it had purchased from the Crescent City Bank on Lizardi & Co. The pretense that this transfer was only to sustain the credit of the Crescent Bank is too transparent to deceive any one.

I am of opinion, therefore, that after a review of all the evidence in the case that the transfer by the Crescent City Bank to the Citizens' Bank of the notes, bills, etc., mentioned in the bill of complaint was made in contemplation of insolvency, with a view to the preference of one creditor to another, and is, therefore, utterly null and void. Let a decree be entered as prayed for in the bill.

Superior District Court.

Crescent City Gaslight Company vs. New Orleans Gaslight Company.—State of Louisiana and city of New Orleans, intervenors. Arguments continued.

First District Court.

INFORMATIONS FILED.

Breaking and entering a dwelling house, etc.—John Bruningham.

TRUE BILLS.

Assault and battery—Susan Landry, Corporal Miller, Thomas Donohue.

False imprisonment—Corporal Miller.

Larceny—Henry C. Ball, two charges.

Falsely altering a public record—William H. Seymour, Philip McKenna.

SENTENCED.

Assault and battery—Henry Forchter, George Meyers, Caristian Russell; each $5 fine or one day in Parish Prison; Pat Burk, $2 50.

Larceny—James Rheinhardt, alias Flash Coon; six months in the Penitentiary.

PLEADED NOT GUILTY.

Larceny—Frank Paul.

Assault and battery—Frank Hitch, Sam Mitchell.

Second District Court.

Successions of Charles Baumgarten, Mrs. Barbara Young, Henry Graham, Mrs. Rosana Dorman, wife of Felix Delaney and Marie Celeste Bernard, wife of Pierre Theodal Olivier opened.

Third District Court.

Judge Meunier rendered the following decision:

State of Louisiana, ex relatione Henry Lagardere, administrator of the succession of Annie Christman, vs. John L. Lareseche, third justice of the peace for the parish of Orleans.—Application for a writ of mandamus. This controversy arises from the refusal on the part of the third justice of the peace to try two suits pending before the court wherein he exercises his judicial functions, and entitled Henry Lagardere, administrator, vs. William Schaffer. The relator alleges that on the —— day of March, 1874, at A. M., the two cases of Henry Lagardere, administrator, vs. William Shaffer, Nos. 964 and 1222 on the docket of the third justice's court, were duly called for trial, the parties being represented by their respective attorneys then present in court, when, then and there, the court being in session, the Hon. John Lareseche, judge of said justice court, *ex proprio motu* announced his intention not to try said causes, and decided that they should be submitted for determination to any other justice of the peace acting in his stead, alleging, as his reasons for not trying said cases, "that the same had already been up and tried before him; that he had such an intimate knowledge of the matters from that circumstance, and had such fixed opinions of the questions likely to be again brought up and discussed, that he felt he must and would be inclined against the defendant, fearing he could not hear the cause with any hope of doing justice to said defendant; and would, therefore, refuse, and did refuse, to try the same." To this relator alleges that he objected, on the ground that said justice had no legal or just cause of recusation; that without a just or legal cause of recusation no other justice might try said cause in his place, stating at the same time, however, that if it was simply disagreeable and repugnant to said justice to try the said cases, he (relator) could consent and agree with defendant to transfer the same to any other justice's court of competent jurisdiction; that counsel for defendant declined in open court to give such consent; and also stated, in answer to an inquiry, that he would not, if requested, consent to the substitution of any other justice of the peace in the place of Judge Lareseche; and that, notwithstanding this, said Justice Lareseche refused to try said cause. Wherefore, the relator, Henry Lagardere, in his capacity of administrator of Annie Christman's succession, alleging that the refusal on the part of the third justice of the peace to try the two causes above mentioned is injurious to him and amounts to a denial of justice, prays for a writ of mandamus, directing and commanding the Hon. John Lareseche, third justice of the peace for the parish of Orleans, to try and decide without delay said two cases, Nos. 964 and 1222 of the docket of said third justice court. The justice, Lareseche, in his answer to the application of the relator, admits as true and correct the allegation contained in relator's petition, and on the day of the trial of this case he appeared in court in *propria persona*, and stated, as his reason for refusing to try the two causes above mentioned, that "he thinks the defendant's witnesses are unworthy of belief; that he would not believe them under oath, and that said cause having already been tried before him, he was familiar with the facts and circumstances connected with the same, and he feared to be inclined against the defendant."

The only question presented by the pleadings is whether the reasons assigned by Justice Lareseche constitute a just or legal cause sufficient to authorize him to recuse himself.

A judge can recuse himself, but he can do so only where parties would have the right of recusing him. C. P. art. 340, 2 A. p. 46 and 52. The just causes expressed by law for which a judge may be recused are the following ones: 1. His being interested in the cause; 2. His being related to one of the parties within the fourth degree; 3. His having been employed or consulted as advocate in the cause; 4. His being the father-in-law, son-in-law or brother-in-law of one of the parties; C. P., arts. 337, 338, 339. Considering the provisions contained in the articles above quoted of the Code of Practice, considering also and weighing the reason assigned by the said justice of the peace for his refusal to try the two causes of Henry Lagardere vs. William Schaffer, I am satisfied that said reasons, though sufficient to create and justify some conscientious scruples, do not come within the provision of the Code of Practice defining the just or legal cause for which a judge may be recused, and that the parties to said cause could not invoke these reasons as giving them a legal right to the recusation of the said justice of the peace. The parties to said suits having, therefore, no right under the construction of the rigid provision of the Code of Practice to recuse the justice, Lareseche, and, under the article 340 of the same code, a judge having authority to recuse himself only where the parties could, I am of opinion that said justice, Lareseche, has no strict legal right to persist in his refusal to try the two suits above mentioned.

I will here remark that the conclusion arrived at by me in this case has been prompted not only by the prescription of law, as above quoted, but also by the allegation contained in the relator's petition, "that the defendant, William Shaffer, stated before the lower court that he would not consent, if requested, to the substitution of any other justice of the peace in the place of Judge Lareseche."

For these reasons it is ordered and decreed that the writ of mandamus, herein issued, be made peremptory, directing and commanding the Hon. John L. Lareseche, third justice of the peace for the parish of Orleans, to try and decide, in due course of law, the two causes entitled Henry Lagardere, administrator, versus William Schaffer, Nos. 964 and 1222 of the docket of the third justice court for the parish of Orleans.

Fourth District Court.

Milton Robinson vs. J. B. Patton.—On petition for writ of habeas corpus the prisoner was remanded to prison.

Minutes of the Republican Meeting Held at Thibodaux, Lafourche, March 21, to Commemorate the Death of the Hon. Charles Sumner.

The meeting was called to order by the chairman of the committee on arrangements.

The exercises were opened with singing and prayer by the Revs. W. Murrell and F. James.

Introductory remarks were made by the chairman explaining the object of the meeting.

The meeting then proceeded to the election of officers. On motion Hon. Oscar Crosier was elected president.

On motion the following gentlemen were elected officers:

Vice Presidents—J. S. Belden, T. A. Cage, H. Keyes, T. P. Sherbon, F. R. Wright, General Lyon, Ames Sims, J. Wright, Hon. W. Murrell, C. Nicols, H. Franklin, L. J. Commeaux, L. Langman, D. H. Reese, M. McCoy, J. Coabon, Wesley Staffer, S. Bayur, M. A. Ladet, L. Jolissaint, J. M. Wade, R. Higginbottom, Enoch Dunn, John Nicols, C. J. Braxton, A. Brown, E. Adams, Laban Brown, Vic. Gaignard.

Secretaries—A. Panale, B. A. Curtis, G. E. Miller, Gustar Schmeats.

Chaplains—Rev. W. Murrell, Rev. F. James, Rev. J. Rhodes, Rev. S. Osborne, Rev. W. Whitly, Rev. N. Taylor, Rev. H. Grimes.

The officers being elected, Hon. W. Murrell was then called upon to address the meeting. The purport of his speech was as follows:

Ladies and gentlemen—The occasion that has brought us together is a sad one. It is to express our regrets at the death of Hon. Charles Sumner, of Massachusetts, who, being the great promoter of liberty, should excite our sympathies for the loss our nation has sustained by his death. Never was there such a light in the firmament of American history as that reflected by Charles Sumner. He lived nearly sixty-four years, and his entire life was consumed in trying to ameliorate the condition of humanity, and what he has consummated will be received as a blessing to posterity for coming ages.

His civil rights bill, which occupied a prominet place in his memory even at his death, will be remembered, and the words he uttered will be evermore repeated and reflected along the ages. "Take care of my civil rights bill" is engraven on the rocks of ages, over which the hand of time may rub, the torrents may roll, but which eternity itself can not efface.

Several other gentlemen addressed the meeting, and spoke of the grandeur and truthfulness of the life of the departed.

Hon. W. Murrell submitted the following resolutions:

WHEREAS, It has pleased Almighty God to remove our beloved friend, Hon. Charles Sumner, of Massachusetts, from his sphere of usefulness; and

Whereas, It is our desire to put on record the esteem and appreciation that the people of the parish of Lafourche, and especially the colored people, entertain of his distinguished services in the cause of universal liberty; therefore be it

Resolved, That this meeting most sincerely regrets the sudden death of the Hon. Charles Sumner, and that we realize the mournful fact that in his death liberty has lost a staunch and true friend, the Republican party an able defender and the colored people one of their oldest and dearest friends and benefactors; and be it further

Resolved, That the president and secretary of this meeting be requested to transmit a copy of these resolutions to the General Assembly of the State of Massachusetts, and that a copy of the same be published in the New Orleans REPUBLICAN and all other Republican papers in the State of Louisiana, and they be respectfully requested to publish the proceedings.

Resolved, That Hons. B. F. Buller and O. P. Morton be requested to use their powers to consummate the unfinished work of the deceased Senator.

Hurrying Up the Honeymoon.

[Correspondence of the Courier-Journal.]

WASHINGTON, March 9.—And now it is rumored that Miss Grant's wedding is to be hastened and the names of her five bridesmaids are given. These are the Misses Borie, of Philadelphia, nieces of the ex-Secretary of the Navy; Miss Drexel, daughter of the Philadelphia banker; Miss Kitty Cooke, daughter of the ex-banker, Henry D. Cooke, and Miss Anna Barnes, daughter of the Surgeon General. I have not yet heard the names of the groomsmen. Of course, Colonel Frederick Grant will be Miss Cooke's groomsman; she s his fiancee. It has been thought est, since the arrival of Mr. Sartoris, allow the marriage to take place xt month, instead of waiting until October. The secret of the engagement was well kept, until the arrival in Philadelphia of Miss Fanny Kemble, who is Mr. Sartoris' aunt. She mentioned the fact first. When the elder Mr. Sartoris and his son met Miss Grant on the steamer coming from England last October year, they were on their way to Michigan, where Mr. Sartoris owns lands, and he intended to locate this, his second son, in that State, for him to earn his own living. The sudden death of the eldest son took place while they were traveling in the West, and a telegram was sent to President Grant to learn their whereabouts, and inform them of the sad news. Of course they returned to England immediately upon the receipt of this intelligence.

A Denial.

The Washington correspondent of the St. Louis *Republican*, of the twenty-third, says:

President Grant, in conversation yesterday with a leading Western Republican Senator, said the statement in a Washington special dispatch to the New York papers published yesterday morning, that any legislation tending to inflation must run aground of his veto was wholly without foundation, that he had conversed with no one on that subject at all, and that if he were himself a member of Congress he should regard an intimation of a veto in advance of legislation as an unbecoming threat.

HORSE AND RIDER.

My foot I have put in the stirrup,
Go quickly my fleetest of steeds,
Thy master's best will and intentions
Are weak as the quivering reeds!
No matter what highway thou takest,
The better the farthest that leads.

She thought that she held me in bondage
So smiling—that little blonde girl!—
Fly, fly thee away from the siren,
As back my defiance I hurl!
Put the long, weary marshes between us,
Else I yield to her fluttering curl!

Every day I have ridden so gaily
To meet but her laughter and scorn:
Take care!—thou art finding a pathway
That leads 'neath the blossoming thorn!
Thou knowest it well, but avoid it;
Go seek a desert forlorn.

Her cheek like the palest white roses,
Her voice like the waves on the shore,
Those eyes like the heaven above us!
False gods! whom in vain I adore!
Such love songs my fancies are singing—
Go quickly, my steed, I implore!

My soul is resuming its courage—
Brave horse! thou hast gallantly sped—
Anathemas fly from me freely
But my heart is as heavy as lead;
My lips, which I laden with courage,
But whisper, "I love her," instead.

Ah! beauty, capricious and cruel,
Disdainful, yet keeping from me
The power to love others as truly
As now I am sighing for thee!
If but we had hearts without feeling
How easy a lifetime would be!

My steed, mend thy faltering paces!
Each evening she watches alone;
Thou must run from these dangerous places
Where the nightingale utters her moan.
A tear may drop down on thy fetlock—
Why lingerest thou like a drone?

Thou seest the lane 'neath the branches
Where the sunbeams but enter and die!
Ha! there is the tuft gemmed with daisies,
And the road we attempted to fly!
Oh! feeblest of horses and riders,
Who can not get lost if they try!

But on! we must on with our journey;
Ah, no! wait a moment and see—
Perhaps the white hand in the window
Is waiving a signal to me;
We must make our adieus my brave courser,
To-morrow our journey shall be!

[—From the French, by Gustave Nadand.

CHARLES SUMNER.

Tribute to His Memory by Rev. Myron W. Reed.

He that followeth after righteousness and mercy findeth life.—Proverbs, twenty-first chapter, twenty-first verse.

The theme is Charles Sumner, and the text is as read.

It is increasingly difficult to become a great man, for greatness is relative and presumes an average littleness. Socrates is seen across the centuries, a lonely figure, the one visible of millions. Plutarch has to be patient and search diligently, and wide, and long, to recruit his battalion of heroes. But now the earth is getting flat. Every valley is exhausted, and it seems, and perhaps is, that the mountains are brought low. Doubtless it is a leveling up, a raising of the grade. Our common people are not the common people of Judea, or of Greece or of Rome. A man might be as tall to-day as the tall man of the old time, but you could not see him so far. The printed word, and steam and lightning tend to make an uneven world a plain. The swamp being drained lifts itself to the sun, and the tops of the mountains, blown against by the free wind, are worn away. Who is the great man of to-day? It is an idle question. There are a great many candidates; not one would fail to get a complimentary vote; no one would receive a majority. No man now has all eyes upon him in the Senate or on the street. I think one might well despair henceforth of becoming the great man. What remains then! Let every man make the most of himself. The result will be a peculiar difference and an excellence of kind, a new man in the world.

To be that is perhaps ambition enough. To be excellent in his own place and way is within the power of every creature that has life. That is the best he can do, and it is enough. One may easily fail in that. We are all men of whom more might have been made. We have been waiting for some workman to come along to draw us out and fashion us. Whereas the sufficient workman and only one able has been, and is now, close by, coiled lazily in the breast of him who waits. So I have seen a man hunting for his spectacles, wondering where they were, when he had them on.

Now and then we see a man who makes the most, finds early what his faculty is, listens to it as the call of God, which it is—power to do a thing which ought to be done is election and predestination—and so girded for his errand goes right along and does it, and so pleases God and his neighbor and himself and is not afraid to die.

God says to every man as He said to Cyrus, "For this purpose I have raised thee up." No voice in the night, nothing mysterious. He gives him a faculty and says nothing, hopes he is bright enough to train and use the power that is given him. You give a child a drum you, don't need to tell him to drum. Even blind Tom, almost an idiot, finds out what he was made for—creeps toward a piano as soon as the parlor door is open. Thomas Nast early knows what he can do. So did Agassiz—he had an ear for harmony in the revelations of God, and he sat himself down to make us hear them too.

Says Emerson, "The main difference between men is whether they attend their own affairs or not."

So, however, it may for a minute or two seem to Paul a man is never "born out of due time," but exactly in season, and there is no untimely death.

Of course I assume that there is God. He equips his workman and sends him into the world, and his equipment prophesies his task and that it is waiting for him. When the man with the saw arrives the wood is at the door.

Along from 1850 to 1860 something had to be done—Heaven was weary of the complaint of the slave, it came up continually. This Ishmael—child of the bondwoman—was not to be and remain a slave. The plan of Calhoun was not the plan. He could not be colonized in any desert place out of the way of the fair-faced Isaac. The plan of Henry Clay was not the plan. God heard the voice of the child where he was and said "Arise, lift up the lad for I will make of him a great nation."

That was the plan. That was the time when there must be some men to help about this thing. The hour and the men came together.

It needed men who believed in the "joint interest which binds humanity together, in the duty of respecting every man's part in life, and of doing justice to his efforts to fulfill that part"—men who would say, "we believe in the rights of every man to have what every man has, and to become what any man is, on the same terms." He shall not be hindered except by himself, and in as much as he has been hindered by others, he shall now be helped by others. If we have delayed him with fetters, now we will hasten him, lift him along, give him special attention, never cease give him special attention, until he is up with the column and can stand fair with the rest of us. Then, if it is in him, he will keep up, and if it is not in him, if he is elected to straggle and fall behind, then——. That is as much as was then, or is now, necessary for the men to believe whom God wanted to attend to the job of American slavery.

There were such men—men of conscience themselves and the occasion of conscience in others.

The old-fashioned conscience, I mean, the "voice of God in the breast." Not this new-fangled Darwinian conscience. Nor this other new one of the doctors, lying *perdu* in the grooves of the brain, or morbid in the liver. Not these, but the old one of John Knox, the one that will not down by diet, the one that troubled Cain and made him feel as if he ought to be killed. The one that was quick in Paul. The one by virtue of which the world swings around God, and without which stars will wander and fall off into the blackness of darkness. There were men who had this old fashioned monitor. Whittier was singing and Theodore Parker was quoting the imprecatory psalms with a relish, warming up the American church by telling how she christened the negro: "Thy name is Slave I baptize thee in the name of the gold eagle, the silver dollar, and the copper cent. Amen!"

He meant to draw the blood to the surface from the congested heart and he held the mustard on till there was a permeat glow on the cheek, at any rate.

Wendell Phillips flashed like a sabre, no parries, but all thrusts.

Lovejoy made his voice to be heard. The crusade against slavery was preached by men of original gifts, and these gifts were cultivated by mobs. Anybody can speak to a favoring audience, but against an audience, it is like rowing up a cataract. It takes a live fish indeed, to go up the falls. These men had to be orators in order to beat against Church and State. They were orators.

Think of Wendell Phillips demonstrating to a house full of Jackson Democrats, that Touscaint L'Overture, of San Domingo, was greater than Cromwell, and would have his name written in blue, above the name of Washington, making them believe it—for an hour or so.

I can not stop to call the roll of these men who knew the old answer to the question in the catechism, "What is the chief end of man?" and refused to repeat the popular answer of the time, which was "To save the Union."

The conscience of the nation, excepting the fanatics, seemed to be torpid on the question of slavery. Many men wished that the evil tree was down, but hesitated to chop, for fear it would snatch the State and the Church in its fall.

It seemed impossible to take it out by the roots without spoiling the bottom of the country; men were bewildered with constitutional scruples, hunting the Bible to get comfort out of the sins of the patriarchs, quoting Paul, sending back Onesimus, leaving out Paul's words, "Onesimus a faithful and beloved brother." They did not want that, and in those days they did not see anything in the Bible that they did not want to see.

It seems almost incredible that Burns and Sims were sent back to slavery from Boston. But people feared men so much that they could not fear God. The higher law had no visible marshal or prison to enforce it. Men are more afraid of a jail next door than of a hell in the next century.

Something had to happen beside speech-making in order to shock the people into sense. It needed a blow. Flogging was going on in the Gulf States, but you could not hear the swish of the lash in Massachusetts. The average man is not much touched by the suffering of his neighbor a thousand miles away; we could not hear the hounds after the fugitive; we read of a slave auction, but we thought the report was made by the Oriental mind.

In 1856, I think, Mr. Sumner made the great speech on "the Barbarism of Slavery," showing that the chain of the slave went around the neck of the master and the heart of the mistress, that as one member suffered all the members suffered with it. That slavery was not a local pain confined to the blacks, but a poison in the circulation, from the cotton picker up to the statesman who owned him. That it dehumanized in the cabin and in the Senate. Now few would have believed that north of the Ohio.

So the wrath of man in the shape of Preston Brooks with a club praised God by making a demonstration. That cowardly blow finished what the argument of Sumner had attempted.

Proof of barbarism before many witnesses. The news of that going over the wires tingled. The timid deprecating palm of the Northern spirit began to double into a fist and the dough face to wrinkle.

Paul gloried in his infirmity; his chained wrist gave him freedom to get at men's hearts. What happened to Sumner lifted his cause and him. It became him to suffer into fame for himself and reality for his idea. It is the old sure way. The world to-night looks up for inspiration and life to the hand that was nailed to the cross. We love what we suffer for, I believe, be it child, or cause, or country. As the blood drips from the color-bearer, his hand stiffens about the staff. You shall find him dead by and by, with his hand frozen in the grip of duty fast to the splintered symbol.

So with Sumner. Those blows upon him from the elected crucifier, nailed him to his principles. From that time on until dying, he said, "take care of my civil rights bill." This man has been true and steady, in season and out of season to the theme of his discourse, viz: Equality of men before the law. He always held the principle; for the eighteen years since Brooks came behind him, the principle has held him. He was, like Paul, apprehensive of it. We have often been tired of it, wanted a change. He made it his business until he closed his eyes.

I take delight to look back at his straight wake, as he was following his "one idea." ONE—but a mighty one.

The conscience of the nation never slept again after his speech; became a little drowsy perhaps, and then John Brown went down past the Senate Chamber a little further into the enemies territory; that he might also suffer and fill up that which was behindhand. He said nothing, but made himself of no reputation, became one with the slave; was found in fashion, as a slave; entered into their state—went down—not that they should suffer with, but that they should rise by him into life; also, that we henceforth might glory in the gallows.

back of them, the conscience of the North. Millions against him; seventeen men with him; and behind that God, watching to see what it would do about it, to see if it would know the New Testament when it saw it.

It was enough; it served. The assault upon Sumner, and hanging of John Brown, amounted to a revival in this country—put everybody on the anxious seat.

The jar of that body descending shook down the avalanche; when that pendulum ceased to vibrate the clock that kept the time of slavery stopped. The death of John Brown ripened the wrath of the righteous.

I need not remind you of the course of Sumner in the war that followed.

It is a straight path, a following after righteousness; and when the war was done a following mercy also.

There were those who, when the war was going on, sat by a hot stove and wondered "why the army did not move." It is so easy to move your finger southward on a glazed and shining map. Easier than to move an army wagon in Tennessee mud. Since the war, some of the same theorists, sitting still by the same hot stove, have wanted to hang all the white people, with a few exceptions, south of the Ohio; would like to have a national poorhouse filled with the widows and orphans of the victims, but would not like to support them.

Herein Mr. Sumner showed the width of his principle. It was wide enough to include mankind. He was not so eager in upsetting slavery as to roll it bottom side up, whites under. He wanted to get rid of slavery, not simply the color of it—put white and black side by side before the law. He had to pull lately in some directions, as well as push. The principle of Sumner takes in not only Africans, Indians, Chinamen, but white men.

The trouble in the Gulf States now is the question of color. The white candidate for an office in Louisiana feels that his complexion is against him, and so looks as black as he can, and openly and in unmentionable ways expresses his preference for that color.

The fact is, I think that if we must have slavery, the old kind is the least bad. A black master or a white New England master, are not to be thought of and live.

Here is this battle flag resolution! Some people, chiefly those who were not in a battle, took offense at it and censured Sumner.

Consider the question a little. I used to see lithographs of the battles of Mexico, done in yellow and blue and red, and wondered how it happened that all the killed and wounded seemed to be Mexicans.

A Yankee on a horse would ride right over a wide ditch and a high bank and butcher the garrison without any hesitation—hair not even getting out of curl. Every American seemed to be prodding a prostrate Mexican with sharp iron.

Now if North and South were two nations it would still be a question whether the first Bull Run in letters of gold would be pleasant reading to us.

Then there is the campaign up Red River after cotton, and finding something not so soft; Pope's battle too, and Butler's. I don't believe we want to keep them.

The war of the rebellion was not as the war with Mexico in any sense. We did our own share of the getting beaten and killed. We are one more truly than a neighborhood is one; more certainly than a family is one, at any rate an Indiana family. No divorce possible with us. Shall we, then, keep in memory the family jar? Sparta decreed that the monuments to civil wars should be of wood, something that would rot.

Celebrate the courage of our war if you please but don't call it Southern or Northern, call it American and be proud. Take off the blue and the gray from the dead soldiers and lay them side by side in the sunshine and on the grass and they look like brothers—in the sky they have met as brothers—that call them henceforth for ever. One monument serves for Wolfe and Montcalm. I will make only one exception, the graves of the perpetrators of Andersonville and Libby. The grave of any man who ever abused a prisoner of war. If nature in her blind way persists in making the turf green above these let salt be sown upon it.

It is poetry, and it seems too good to be true, that the latest words that Mr. Sumner listened to as a Senator were the words of the repentance of Massachusetts for her censure of her son. That was a fine arrangement, and who was the manager? "There is a power not ourselves that makes for righteousness."

It is an ungracious thing to find fault with Mr. Sumner; he had, as the French say, "the defects of his qualities." Do men love him? Not so much as they would perhaps if he had been less good. He was a reproof to the average politician, and even Christian statesman. It isn't altogether pleasant to have a man who is incorruptible sauntering around in Washington. A few vices would have made him more popular. He was upright and he knew he was upright, was perhaps too self-conscious. A Southerner came home to New Orleans from Washington, and said: "Cursed old ——, I'll never forgive him, he has made me respect him."

He was rather cold, bowed at the foot of ideas, and did not go out much, to men considered apart and as men merely. Men warmed towards him in the temperate way that they do to an abstract truth.

He was not a man of genius, except that he had a genius for duty.

There was nothing extempore in what he did. His work was all premeditated. Lacked the charm and spring of impulse. Such a man does not capture the heart like Henry Clay. Perhaps we love the generous better than we do the just.

As an example, his life is a telling sermon in behalf of righteousness. Men have always admired it, but found fault with it, because there was not time enough in this life for it to win, cunning was quicker. It has seemed as if we should have to wait till eternity, in order to see the Sermon on the Mount prove itself. But wickedness ripens sooner than it did in David's time. Now, he must be a very spry rascal who can get out of life and into his coffin before he is weighed. The drama is in three acts instead of five, and the play doesn't drag as it used to. Tweed gets into stripes, and Sumner among the stars early, while we can see.

Fine thing for morals to have the last act here, and so see what becomes of villains and the haters of villainy.

Even a child can discern that "righteousness tendeth to life." We are indebted to the reporter and the swift press for early news concerning men. Senator Pomeroy is too smart for the days of the stage coach, but not quick enough for the day of lightning. It is a pleasant thought that honesty is a good working hypothesis here and now.

I suppose that we shall now hear the question that is asked whenever a good, great man dies, "was he a Christian?"

"By their fruits you shall know them" says the best authority. "I will show thee my faith by my works" says respectable authority.

I do not know that Mr. Sumner said that he would go into the vineyard—we have seen that he went—Was he a Christian? He did the will of God concerning his poor, and kept himself unspotted from the world. That will do.

Murray on Speed in a Horse.

The Rev. W. H. Murray, in his book, "The Perfect Horse," thus gives his views on speed in a horse:

A horse was made for speed as truly as a bird was made to fly; and flight and speed become, therefore, standards of appreciation and value. If a man objects to speed, then why drive a horse at all? Why not take a donkey, or a cow, and have done with it? If piety is compatible only with slowness of motion, then a horse is no animal for a Christian to own, any way; for the nearer a horse approaches, as I conceive, to the original type, and also the divine intention as embodied in it, the more speedy he becomes. Beauty and speed are, therefore, as I conceive, legitimate objects of desire and admiration; and since the horse embodies these two characteristics in a greater degree than any other domestic animal, it is a proof that the man is of sound judgment, and lacketh not wisdom, who desires to own a beautiful and fast horse. Indeed, a man who does not love and desire such a creature seems to me to be lacking in some essential elements of human nature. Something was omitted in his construction, which, being possessed, would have made him larger and better. I do not object, therefore, either to fast horses, as the phrase is, or to driving them fast within proper restrictions, such as common sense and humane impulse will naturally suggest; nor do I see any reason why gentlemen owners and breeders alike of fine horses should not exhibit their paces and their rate of speed at our annual fairs, when the people come together to inspect and compare, to buy and sell, the vegetable and animal products of the country. If it is right to offer and receive a prize for fairness of swine and stoutness of oxen, and fleece bearing capacity of sheep, and even fancy kinds of hens and pigeons, then I do not see why prizes should not be offered and contended for in respect to the comparative speed of rival horses. No one has a right to condemn an honorable rivalry among honorable men in honorable things."

Excursion and Picnic.

We learn that next month Captain Wood, of the Hensley, will make an excursion from the city with his elegant packet Bradish Johnson, for the purpose of giving his many friends and citizens of New Orleans, and along the lower coast, an opportunity to enjoy, together with a pleasant trip, a picnic party. Our information is that the beautiful live oak grove surrounding the old homestead on Harlem plantation, thirty-eight miles below the city, has been selected as the place for the picnic. Certainly no more sylvan, no more beautiful retreat could have been chosen for such a gathering. Those majestic oaks look to the home of the Dryades, and the green sward beneath them the dancing place of the fairies, and where the horns of Elfland might be heard sweetly blowing.

Captain Wood in affording an opportunity for such pleasureable enjoyment, evinces that spirit of consideration for his friends and the public, which has ever marked him as the generous and courteous gentleman.—*Plaquemines Sentinel.*

The Fort St. Philip Canal.

Referring to the proposition now before Congress on the subject of the outlet of the Mississippi river, the Washington correspondent of the Cleveland *Leader*, of the twenty-third, says:

The second proposition before the committee is from two of the largest contractors in the nation, Messrs. Dull & Williams, the former, J. J. Dull, being of Harrisburg, Pennsylvania, and George Williams being of Iowa. This firm built the great Chicago tunnel under the lake for waterworks, the canal at Keokuk, cut the channel at Rock Island Rapids, etc., and it is said of them they have not failed in a contract in thirty years. Their proposition to the government through the committee, is to cut and complete the Fort St. Philip canal, at the engineers' estimates—some $10,000,000—to commence within fifteen days after being authorized, having all the implements, men and money at immediate command, and to finish the job within three years.

The Rev. Dr. Porteous, in a lecture in New York on the "Attitude of the Church toward amusements," was candid and bold enough to give the legitimate drama and well conducted theatres proper places in our world of improvements, as educators and promoters of healthful and necessary amusements. He considers them not only allowable, but necessary, and intrinsically he regards the theatre as neither wicked vicious nor bad. "Acting is an instinct of human nature. This instinct has gathered around it a literature that is imperishable, and its influence has been equal with human progress. It is one of the fine arts. If it is an achievement to paint on canvas representations of the emotions, how much better is it when it takes living forms."