New Orleans Republican.

OFFICIAL JOURNAL OF THE UNITED STATES

OFFICIAL JOURNAL OF NEW ORLEANS

AUCTION SALES TO-MORROW.

BY R. M. & B. J. MONTGOMERY, at 11 o'clock, at the corner of Natchez and Camp streets, a general assortment of household furniture, etc.

BY THE UNITED STATES MARSHAL, at 12 o'clock, at the Customhouse, the barge Laura, her tackle, etc.

BY SHERIFF HARPER, at 10½ o'clock, at the store of L. Uter, No. 135 Canal street, contents and fixtures. At 12 o'clock at Merchants and Auctioneers' Exchange, a judgment.

Local Intelligence.

FAIRLY CAPTERED.—James O'Brien, too lazy and proud to work for a living, years ago assumed the style of a parasite, but it was ordained that his career should end properly. While loitering around the French Market early Sunday morning he thought he found a victim in the person of Mrs. Degal, so he quietly slipped his hand into her pocket and pulled out about $3 in small change. One of Captain McCann's officers witnessed the operation, consequently O'Brien was instantly transferred to the third precinct calaboose.

ANOTHER PHASE IN THAT $20,000 CASE.—Lieutenant Joaquin Rodriguez, the Spanish soldier who gave up to his consul, Don Carlos Pie, $20,000 which he acknowledged he had stolen from his government, has apparently relented that he relented, for now he comes to the front of Judge McArthur and makes affidavit that Don Carlos Pie, General Badger and Detectives Pierson and Harris are robbers. Accused were arraigned before Judge McArthur yesterday and were each placed under $20,000 bond to appear and answer hereafter. Thereafter Detective Pierson made an affidavit charging Rodriguez with perjury. There will be lively times before the end is found.

AT THE HIBERNIA RETREAT.—At this table, in St. Joseph's fair, Common street, Mrs. Kelley has visitors as thick as flies on lump sugar, as she has the finest gold watch and chain ever voted for in New Orleans. The aspirants are Messrs. Peck, Stephenson, Donelly and Murphy. Friends of the gentlemen should remember this and drop in tickets as fast as possible.

BRIEF MENTION.—A prettily printed card invites us to attend the annual basket picnic given by the teachers and pupils of the St. Andrew School, on the Fair Grounds, on the seventh instant.

One more invitation from the Carrollton firemen for next Saturday.

Calaboosed twice in one day, and that on Sunday, entitles John Meyers to the horns. He first sailed into Mr. Rogers, on Thalia, near Baronne street, for which he was imprisoned, but was soon released on bail. After that he hunted up Mrs. Rogers and attempted to demolish her, for which he was returned to close quarters.

There is complaint made about Baronne street, next to Canal. In consideration that the railroad company has the almost entire use of that locality, it once agreed to keep the place in good order. That promise has not been well kept.

The Republicans in the rear of the second ward held a lively meeting last Saturday evening at Morton's Hall on Magnolia, near Euphrosine street, for the purpose of organizing a sub-club, to be designated as the Glaudin Guards, in honor of C. F. Glaudin, their State Senator. Mr. A. H. Mason was elected president, and Mr. George D. Geddes secretary, by acclamation. After passing resolutions of support of C. F. Glaudin and the Republican party, the meeting adjourned.

LELAND UNIVERSITY.—The writer happened yesterday at this institution, on St. Charles street, corner of Chesnut street, in the Sixth District, for the purpose of giving our readers some notes of observation as to its character and progress, but found his attention diverted from his main object by the presence of Madame Parque, of Hayti, who addressed the pupils present—some sixty or seventy of either sex—on the subject of the African race, or as she states it, "The negro, past, present and future." The pupils of the school being of African descent and the institution one but recently founded here through the enterprise of the American Baptist Missionary Association, the subject was one of natural and important interest to them, especially, as we understand some of them are being educated for the missionary service of the Baptist church. The speaker, however, seemed to limit her discourse to the occasion by glancing hurriedly at but a few of the many salient points of her theme.

TURNING THE KEY ON THEM.—Mr. F. P. Benedict, a barber whose property was recently seized by the constables of the Third Justice Court, is hot after his captors, and has had three of them arrested, namely: Snear, Callice and Maley, for violating the new law. Judge McArthur will thoroughly investigate the case.

A CORRESPONDENT LIFTS UP HIS VOICE.—Read the following plaint:

DEAR LOCAL—To my surprise I ascertain that there is no person at the Second Street Market whose special duty it is to inspect merchandise offered for sale there. I have several times purchased meat at that market which, when prepared for the table, was unfit to eat. Is this the boasted sanitary measure advocated by the Administrator of Commerce, for the benefit of the anti-free market monopoly, foisted upon us by the last Legislature? If the city government permits this state of things, Mr. Raymond for his interest must stop it, as mutterings loud and deep are heard concerning the quality of meat sold at his market.

A PAIR OF BURGLARS POCKETED—*Officer Reuben Elmore a Perfect Brick.*—An uncommon number of burglaries in the Fourth District, recently, has put the police, in all its branches, on its metal, but it remained for a patrolman to make the first important arrest. Officer Elmore, whose nightly beat takes in the corner of First and Laurel streets, about three o'clock Sunday morning noticed a man loitering in front of Mrs. Patterson's private residence, and seemingly in communication with some one in the yard. Reuben jumped at the conclusion that burglars were about, and that his man was one. He advanced toward the stranger, when the fellow signaled to his partner that there was danger, and the inside man tumbled out.

Just then Elmore called for a halt, but the reply he received was a pistol shot, and the compliment was returned. The burglars moved off at a balloon rate, the officer in hot pursuit, once more unloading one cylinder of his pistol. This drew blood, but did not stop the thief. Elmore not only kept up his pace, but increased it, and succeeded in grabbing one of the men. On seeing this burglar No. 2 returned to assist his pal, and the ugly pair were nearly a match for the officer, and doubtless would have murdered him had not citizens who had heard the noise gone to his assistance, but before they accomplished anything the wounded rascal was off, running down Magazine street, making his escape.

Elmore kept his fingers on one, and when an examination was made, Reuben was greatly gratified in looking at the man he wanted—Dan Eagan. This fellow is one of the worst that ever troubled New Orleans, and is known to our detectives as a confirmed thief. When his name was announced, several citizens there were willing to hang the rascal to a lamp post, but his captor was a policeman and knows his duty; he would not permit such violence, and so saved a great scandal. Elmore took Eagan to the sixth precinct calaboose and chucked him into a strong cell.

As yet it is not known who Eagan's partner is, but as he is badly wounded he may be "turned up." Now the detectives can put in their work and ferret out the villain.

A BURGLAR BROUGHT TO GRIEF.—About three o'clock yesterday morning Officer Gibson saw a man, while standing at the corner of Carondelet and Calliope streets, sneaking along as if up to mischief. Gibson quietly followed, and when near the house of Mr. F. Haslet, No. 251 Carondelet street, heard a noise inside as if men were struggling. Entering, he found Mr. Ley, a boarder in the place, grasping a strange man. The burglar, on seeing his situation, struck Mr. Ley with a hatchet as if to kill him, and nearly succeeded. Gibson then tackled the fellow, and in his turn was assailed, but his club was better than the hatchet, and the thief went under. Just then Officer Connors, of the first precinct, having heard the noise, appeared and took a hand, assisting Gibson to take the burglar to prison. He gave a name, Jack Owens, but not his own, and refused to talk. Judge McArthur will make him open his mouth. Mr. Ley's wound is one that is likely to trouble him for weeks, but he is determined to appear as a witness against the accused. The fellow's pal escaped.

The wholesale stock of spring clothing at retail at cost for cash, at Garthwaite, Lewis & Miller's, No. 100 Common street.

A FOUR THOUSAND DOLLAR BURGLARY.—Very quiet burglars tapped the coffeehouse of Gaspard Weiss, corner of Morgan's railroad and Louisiana avenue, Algiers, Saturday night, for the purpose of stealing $4000 in currency which Mr. Weiss had in the building. So noiselessly was the job performed that no one in the house knew of the operation until they arose Sunday morning. Information was furnished the police, but no trace has been discovered which can point to the miscreants. If Mr. Weiss has suspicion he has failed to give utterance to it. Efforts will be made to secure the rascals and recover the money.

POLICE CHANGES.—Corporal Freitag from the harbor to the fifth precinct; Corporal Kelley from mounted to harbor; Corporal Miller from second to mounted; Corporal Bahncke from sixth to second; Corporal Tolbert from seventh to sixth.

Fancy cashmerette suits, $6 50. Brown Cheviot suits, $7 50; and furnishing goods at retail at cost, at Garthwaite, Lewis & Miller's, No. 100 Common street.

Louisiana Lottery—Single number drawing.
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The twenty thousand dollar prize.
The twenty thousand dollar prize.
The twenty thousand dollar prize.
The twenty thousand dollar prize.
The twenty thousand dollar prize.
It was won in the drawing of April 18.
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MORTUARY.—The number of deaths in this city for the week ending Sunday evening last at six o'clock was 123. The causes of death were as follows:

One of abscess of chest, 1 of abcess of thigh, 1 of aneurism, 3 of apoplexy, 2 of bronchitis, 1 of cancer of breast, 2 of cholera infantum, 1 of cholera morbus, 4 of congestion of the brain, 14 of consumption, 1 of adult convulsions, 1 of infantile convulsions, 1 of croup, 3 of adult debility, 1 of infantile debility, 2 of diarrhœa, 1 of chronic diarrhœa, 2 of dropsy, 1 of dropsy in the chest, 1 of dropsy of heart, 1 drowned, 1 of dysentery, 1 of chronic dysentery, 1 of diptheria, 2 of entero-colitis, 1 of erysipelas, 1 of congestive fever, 1 of remittent fever, 1 of malarial fever, 1 of typhoid fever, 1 of typhus fever, 1 of gangrene, 1 of gangrene of scrotum, 1 of gastro enteritis, 1 of hemorrhage from womb, 1 of heart disease, 2 of valvular disease of heart, 1 of enlargement of heart, 1 of hempligia, 1 of imperforate anus, 4 of inflammation of the bowels, 1 of inflammation of the heart, 1 of inanition, 2 of injuries, 1 of insanity, 1 of disease of kidneys, 1 accidentally killed, 1 of lockjaw, 1 of adult marasmus, 5 of infantile marasmus, 2 of cerebro spinal meningitis, 2 of paralysis, 1 of peritonitis, 5 of pneumonia, 1 of typhoid pneumonia, 1 of premature birth, 15 of small-pox, 1 of softening of the brain, 1 of syphilis, 1 of teething, 4 of tris nascentium, 1 of tabes mesenterica, 1 not stated. In addition to the above 12 were still born.

COURT RECORD.

MONDAY, MAY 4, 1874.

Supreme Court.

Present—All the judges.

The following decisions were rendered:

BY CHIEF JUSTICE LUDELING.

No. 3410. Rudolphe F. Thurer vs. Manuel C. Blasco, appellant.—From Seventh District Court of Orleans. The court had authentic proof necessary for the order of seizure and sale appealed from. Judgment affirmed, with ten per cent damages.

No. 4014. Blanc & Legendre vs. Wallace & Choppin, appellants.—From Fifth District Court of Orleans. The motion to dissolve the sequestration should have been maintained, the requisite oath not having been made, C. P. 275; 4 R. 462; 6 A. 444; 9 A. 535; 11 R. 145; but on the merits the decision is correct. Judgment affirmed.

No. 3412. Peter Markey vs. Daniel Edwards, appellant.—From Fifth District Court of Orleans. Receiving parol testimony to prove alteration of a contract expressly alleged by the plaintiff to have been modified was correct. Judgment affirmed.

No. 5115. State vs. Hamilton Miller.—From Thirteenth Judicial District. Appeal from sentence of imprisonment for life on conviction of murder. Judgment affirmed.

No. 4972. City of New Orleans vs. Louisiana Mutual Insurance Company, appellant.—From Superior District Court. This case is identical with city of New Orleans vs. Salamander Insurance Company, 25 A, 650. Act No. 37 of 1874 can have no effect on this case, which is to collect taxes of 1872. If it is to interpret the acts of 1871 and 1872 it is unconstitutional, because it trenches on judicial functions. Judgment affirmed.

No. 4390. New Orleans Canal and Banking Company vs. City of New Orleans, appellant.—From Fifth District Court of Orleans. Motion to dismiss appeal overruled.

No. 3257. A. D. Grieff vs. Kenner, Blood & Co., appellants.—From Sixth District Court of Orleans. Seizure on execution was enjoined on the ground of discharge by insolvent law, and the facts sustaining the defendant the judgment is affirmed.

No. 3266. H. B. Macarthy vs. Spalding & Bidwell, appellants.—From Seventh District Court of Orleans. Judgment in favor of plaintiff annulled and reversed.

No. 3555. Factors and Traders' Insurance Company, appellants, vs. William J. Johnson.—From Seventh District Court of Orleans. The evidence is satisfactory that the mortgage note sued on was held as security and purchased of the defendant, 25 A., 336. Judgment for $909 69, the mortgaged property to be sold. Judgment annulled.

No. 5064. Fleming & Blackwinet al. vs Scott Watson, consolidated.—From Thirteenth Judicial District. The object of these suits is to fix boundaries. Parol testimony was admitted to prove error in the description of land, and objected to. Ex necessitate rei parol evidence should be received to prove fraud or error. It is not an actual fraud to claim an undue benefit and advantage from a mere mistake contrary to the real intention of the parties; 2 La., 3; 4 A., 441; 9 A., 29; 15 La., 311; 4 Starkie Ev., 10 and 18. Judgment annulled in favor of defendant.

No. 3431. James J. O'Hara vs. John Krantz, appellant.—From Seventh District Court of Orleans. The plaintiff officiously interfered with defendant's construction of a banquet with permission of the city. His contract did not embrace it, and he can not recover. The hardship he suffers in the defendant's enriching himself at his expense is of his own seeking. Judgment reversed.

No. 3394. E. B. Sverts & Co. vs. R. F. Duran, Love & Ludwigsen, garnishees and appellants.—From Sixth District Court of Orleans. Appellants' allegations that they had made advances on the amounts in their hands were traversed, and the evidence sustains the decision against them. Judgment affirmed.

No. 3455. E. C. Patrick vs. Citizens' Bank of Louisiana, appellant.—From Sixth District Court of Louisiana. Judgment amended by reducing it to $680.

No. 3654. Witherspoon vs. C. R. Moulter & Co., L. H. Gardner et al. garnishees and appellants.—The answers of the garnishees were evasive, they knowing who the defendants were, notwithstanding the misspelling of the name. Judgment affirmed.

No. 3262. Ferguson & Clay, appellants, vs. W. B. Johnson & Son, John Williams' sons intervenors.—From Fourth District Court of Orleans. Intervention on attachment of property in the hands of the carrier. There can be no third parties' privileges without registry. It is not necessary to discuss the effect of the railroad receipt for the cotton. Judgment annulled, cotton to be sold to satisfy judgment for plaintiffs.

Justice Wyly dissenting.

BY JUSTICE TALIAFERRO.

No. 5204. State ex rel. F. C. Rapsbury as parish judge of Bossier.—Rule made absolute, the relator having the right to appeal.

No. 3448. Mrs. Josephine H. Ames vs. M. Hyland, appellant.—From Sixth District Court of Orleans. Continued for service on appellee.

No. 5174. Mrs. C. Pickens vs. Thomas Friend, appellant.—From Superior District Court. Judgment affirmed.

No. 3474. Lizzie C. Davis, appellant, vs. Bradley, Wilson & Co.—From Fifth District Court of Orleans. Judgment affirmed.

No. 5203. State vs. William Kelley, appellant.—From First District Court of Orleans. Judgment of imprisonment for fifteen months, on conviction of assault with intent to commit robbery, affirmed.

No. 3420. George W. Holt, appellant, vs. City of New Orleans.—From Fourth District Court of Orleans. Plaintiff's house, "Holt's House," was confiscated, July, 1862, sold, and the proceeds applied to the redemption of plaintiff's shinplasters. He claims to have deposited with the city $73,000 in cash for redemption. The evidence shows he fell behind between $1300 and $1400. The money he deposited was Confederate money. Judgment affirmed.

No. 3389. Michael Duncan, appellant, vs. Mary Duncan.—From Eighth District Court of Orleans. Judgment affirmed, Mr. Justice Morgan taking no part in the case.

No. 5122. State vs. Sam Johnson.—From Seventh Judicial District. Murder. The continuance of a cause is within the sound discretion of a judge. Judgment of imprisonment for life affirmed.

No. 5093. Mrs. Elise Labaure vs. Mrs. Emily Woolfolk.—From Fifth Judicial District. Judgment affirmed.

No. 5122. State vs. Joseph Wilson.—Arson. From First District Court of Orleans. Judgment of imprisonment for life affirmed.

No. 3459. S. L. Langdon vs. New Orleans Insurance Association, appellant.—From Fourth District Court of Orleans. Only one of plaintiff's eleven witnesses sustains his allegation of a loss of $1500. The verdict is not warranted. The loss must have been small. Judgment reduced to $350.

No. 3310. Mrs. Adele Gillum vs. M. Ogiesby, appellant.—From Seventh District Court of Orleans. The wife can only be held liable by adopting the acts of her husband. C. C., 2990, 2278; 5 A., 222; 7 N. S., 22; 3 A., 401; 1 Rob., 145. Judgment affirmed.

No. 3316. Fritz Huppenbauer, appellant, vs. Louis Durbin, appellant.—From Sixth District Court of Orleans. The plaintiff is presumed to have been in court and had notice. 1 Rob., 275; 10 A., 766. On a reconventional demand he is bound to take notice of the trial. 13 A., 395. No bill of exceptions having been taken, the court presumes a jury was waived. 8 A., 376. Judgment affirmed.

No. 4113. Jean Lacaze vs. Francis E. Dumas, appellant.—From Fifth District Court of Orleans.—It is clear the defendant does not owe the amount of both notes sued on. Judgment annulled, and case remanded.

No. 4027. Same vs. same.—Case remanded.

No. 3370. Ed. Denechaud vs. Jean Tusconi, appellant.—From Eighth District Court of Orleans. The defendant had no right to alter the leased premises. His rights were not interfered with. Judgment perpetuating the injunction closing the gate between the Washington Hotel and the Pavilion. Affirmed.

No. 3267. Emma T. Thacker vs. Thomas Dunn, appellant.—From Second District Court of Orleans. Judgment in favor of defendant reduced to $918, the note and mortgage to be annulled and the account as amended homologated and confirmed.

No. 3491. Keep & Caulfield, appellants, vs. Marx Levy & Co.—From Fourth District Court of Orleans. Judgment annulled, the plaintiff to recover $3 006 99, with interest from april 10, 1869.

No. 3414. Henry D. Shepherd vs. heirs T. C. Turchel, appellants.—From Sixth District Court. The succession of Ruloff was opened in the proper court. In both successions there were major heirs who could not be sued in the Second District Court. The court of limited jurisdiction must yield to the one of superior. 10 L. 78; 6 N. S. 521; 2 A. 339; 3 Rob. 29. Judgment affirmed.

No. 3532. Alfred Marchand vs. Franklin J. Pratt, appellant.—From Seventh District Court. Judgment of $1225 in favor of plaintiff affirmed.

BY JUSTICE HOWELL.

No. 3701. New Orleans, Mobile and Chattanooga Railroad Company vs. city of New Orleans, appellant. Charles Morgan intervenor.—Plaintiff enjoined the city from interfering with rights granted by section fifteen of act No. 26 of 1869 to erect depots on the levee, bounded by Canal, Delta and Poydras streets, and by Girod, Water and Calliope streets. They allege purchase of the private property. The answer is a general denial. The intervention has been disposed of. The question is the right of the State to make a grant.

In 1820 the batture was owned by Bertrand Gravier, who, in September, agreed with the city that certain portions should be used only for natural public purposes. In 1836 the city was divided and the compromise confirmed. In 1850 the Legislature authorized the second municipality to lay off two additional streets. June 20, 1851, a municipal committee agreed to lay off three streets, certain squares sold, three reserved for markethouses, and that portion not sold be vested in perpetuity in the second municipality. The city succeeded to its rights and the title of the original owners. A municipal corporation is the investing of the people of a place with the local government thereof. 1 Salk., 153. It has no powers not conferred. It possesses two classes of powers and rights, public and private. In all that relates to one it is the agent of the State, to the other of the people. Once conferred, the rights are to be exercised at the will of the corporation. Dillon on Corp., 2 ed., chap. ii. and iv.; Cooley Const. Lim., 225, 236, 237. They are to be protected as the rights of individuals. 29 Vt., 12. Its private property is guarded by the constitution, securing the inviolability of contracts. 13 Cal. 590. The Legislature must secure its property for the uses of those of those for whom it was originally purchased. Justice Story, in 9 Cranch 336, 52; 2 Kent 285. Dartmouth College case, 4 Wheat. 518; 663. Urban property fronting on a water course is entitled to alluvium. 18 L. 213; 10 A. 54; 7 A. 595. We conclude a municipal corporation may own property over which the Legislature has no control in opposition to its will. We think the squares intended for the depots of plaintiff was acquired in fee simple by the city, and can not be taken by the Legislature while it exists. The ground was said to be a locus publicus in Parish vs. Municipality, 8 A. 145, but that case went off on an exception. Judge Martin, 18 L. 249, said the formations belonged to the city, and claimed to be sustained by 10 Peters 662.

The majority of the court decided in favor of the riparian proprietors who have conveyed their rights to the city. In our opinion the injunction was improperly issued, but as the city has made no claim against the plaintiffs, our former decree was erroneous in granting a demand in reconvention and inhibiting the plaintiffs from occupying the property. Injunction dissolved and judgment reversed.

Mr. Justice Wyly concurred for reasons given in his former opinion.

Chief Justice Ludeling dissenting cites, 10 Peters 722; 5 A. 661; 24 A. 242; 1 A. 167; 3 A. 306; 12 A. 515; 14 A. 406; 27 N. Y. 188; and denies that the city has a fee simple. 4 A. 416; 11 A. 710; 4 Mo. 280. The property in question is a public thing. C. C. 453; 458, 450, and quotes history to show it was dedicated to public use. 6 Mart. 281; 19 La. 239; 12 La. 491; 7 N. S. 36, 626. 1 Wall. 566; 10 A. 54; 13 A. 500; 13 A. 154; 10 Peters 662. The State can control public things, 5 La. 132; 13 La. 326; 18 La. 218; 3 A. 236; 8 A. 149; 4 Peters 232; 45 N. Y. 234; 1 Redf. 260; 22 Miss. 13; 20 Mo. 192; 13 Cal. 590; 13 Ills. 30; 31 N. Y. 164, 202; 2 Dana 50; 12 Ills. 66; 15 Texas 338. I can see no reason to deny to the Legislature the power to grant these lands for depots. 16 Wal. 673; 21 N. Y. 597, 15 Wend. 374; 11 A. 338. The decision depends entirely whether the act granting them is constitutional or not, and there are serious doubts on the subject.

No. 3633. Hypolite Norres vs. Dr. G. S. West, appellant.—From Fifth District Court of Orleans. Judgment reduced from $1500 to $250 and affirmed.

No. 3484 R. R. Hunt, appellant, vs. M. De Courcy.—From Fifth District Court of Orleans. Judgment affirmed, with $50 damages.

No. 3290. Inez Peyroux vs. M. A. Peyroux, appellant.—From Fifth District Court of Orleans. The plaintiff and appellee, in answer to the appeal, declares that she is willing that the judgment of the lower court in her favor be annulled and her suit dismissed. Judgment reversed and suit dismissed.

No. 4856. City of New Orleans vs. Esther Klein, appellant.—From Superior District. The defendant's claim, taxes exceed the authority of the city, the debt being created before the property came within the limits of the city, is disposed of by City vs. Estate Burthe. As to date of ordinance, see City vs. Crescent Mutual Insurance Company, 25 An. 390. There is error in allowing interest for one year before the taxes were due. Judgment amended and affirmed.

Nos. 4797, 4843, 4911, 4949, 4958, 4960, 4979, 4981, 4982, 4956, 4980. City of New Orleans vs. Estate of D. M. Burthe, S. W. Rawlins, Mary A May, Samuel Rawlins, M. J. Zuntz et als., John A. Blatter, Henry Althoff, C. T. Howard et als. and Robert J. Ker, appellants.—From Superior District Court. The judgment in these cases is amended as in the case of City vs. Klein.

No. 4924. State vs. O. H. Schonhausen.—From First District Court of Orleans. The words "paper currency of the United States" comes within the law, R. S. 810, as do the words "promissory note" the value of $300;" R. S. 1051; 10 A. 230. The absence of jurors was a matter in the judge's discretion; State vs. Ballerio, 11 A. 81; State vs. Johnson, 11 A. 422. There was no error in the ruling or in the entry of a nolle prosequi as to the second count; 4 A. 31, 434. Judgment affirmed.

No. 4080. Henry D. Sorrell vs. Victor Laurent, appellant.—From Seventh District Court of Orleans. Plaintiff, a resident of Ohio, sued defendant, a resident of Iberville, and served process personally in Orleans. The court was without jurisdiction. C. P. 162. Judgment annulled.

No. 3465. State vs. John B. Bloom et al., appellants.—From Fifth District Court of Orleans. The defense of a surety on an auctioneer's bond that he had not obtained a license or taken the oath, should not be heard. He complied with the law in other respects. The plea of prescription under act of 1854, page 45, is not allowed as the principal was indebted to the State at the date of the statute. Judgment affirmed.

No. 3446. Succession of L. M. Victor Hebert.—From Second District Court of Orleans. Judgment affirmed.

No. 3910. L. H. Gardner & Co. vs. M. L. Byrne & Co., appellants.—From Seventh District Court. Judgment affirmed with $200 damages.

BY JUSTICE WYLY.

No. 5219. State ex rel. Van Norden vs. Judge of the Superior District Court.—The right of appeal is a constitutional right and should be jealously guarded. Mandamus made peremptory.

No. 5200. State of Louisiana ex rel. D. A. Weber, appellant, vs. C. L. Fisher. From the Seventh Judicial District.—Controversy for the office of tax collector, the Governor having removed the defendant. He has that right. Cases of Dougherty and Davies 25 A. Judgment annulled.

No. 5097. State vs. William L. Bauer. From the Ninth Judicial District.—Judgment condemning appellant to three years imprisonment for stealing, affirmed.

No. 3357. Mrs. Elizabeth Genge vs. Charles Campbell et al., appellants.—From Fourth District Court of Orleans. Judgment giving plaintiff $1000 annulled, the defendant to execute a conveyance to plaintiff on payment of $270 37.

No. 4550. Elias S. Demas, appellant, vs. Charles Carpenter.—From Thirteenth Judicial District. Judgment annulled; plaintiff to recover $4500 and $1500 for each of the years 1869 and 1872.

No. 3401. P. G. Nugent vs. city of New Orleans, appellant.—From Fifth District Court of Orleans. Judgment reduced from $5600 to $5400, to be equally divided between Jotham Potter and John O'Rourke.

No. 3467. A. Marchand, appellant, vs. Loan and Pledge Association.—From Fifth District Court of Orleans. A claim for money expended and time employed before the association was organized, can not be regarded as a debt of the institution. Judgment affirmed.

No. 3944. Stephen L. Guic vs. D. B. Penn, appellant.—From Sixth District Court of Orleans. Judgment affirmed, with ten per cent damages for frivolous appeal.

No. 5108. Henry T. Hezran, appellant, vs. J. H. Jackson.—From Fifth Judicial District. Judgment affirmed. Justice Morgan dissenting.

No. 3473. John A. Stevenson vs. James P. Broadwell, appellant.—From Fourth District Court of Orleans. The court erred. The question of domicile of the plaintiff was an important one, the fate of the reconvention depending on it. Judgment annulled and case remanded.

No. 3391. Guyol & Montegut vs. Duggan & Guyol, appellant.—From Fourth District Court of Orleans. The court below had no jurisdiction. Judgment annulled and suit dismissed.

No. 3419. M. Berwin vs. John Cazey, Sims & Cazey, intervenors and appellants. The judgment for plaintiffs is affirmed.

No. 5120. Succession of Edmund Hogan.—From Second District Court of Orleans. The executor failing to deposit the money of the succession in bank was condemned to pay twenty per cent damages. He has no equity in this court. Judgment affirmed.

No. 5005. Mrs. Mary E. Feltus, appellant, vs. Blanchin & Giraud.—From Second Judicial District. Judgment affirmed.

No. 5406. M. H. Meyer, appellant, vs. A. Fredderick.—From Fourth District Court of Orleans. Judgment affirmed.

No. 5136. Mrs. Dursolia Lester vs. W. P. Harper and Maurice W. Smith, appellants.—From Fourth District Court of Orleans. Appeal dismissed, the court below having set aside the appeal in a proceeding contradictorily between the parties, and the signature on the bond not being good and sufficient.

No. 3482. Edward Mathews vs. Crescent Mutual Insurance Company, appellant.—From Seventh District Court of Orleans. Judgment affirmed.

No. 3434. Thomas C. Payan vs. I. & C. Spetere et al., appellants.—From Seventh District Court of Orleans. Judgment perpetuating the injunction affirmed.

BY JUSTICE MORGAN.

No. 3256. Samuel Ricker vs. Annie C. Digge, appellant.—From Fourth District Court of Orleans. The plaintiff's claim that the property in question belonged equally to his father and mother, and the community was dissolved by the death of the latter, must be rejected. Brown vs. Jacobs, 24 A. 530; Sadler vs. Kimbrough, 24 A. 534; Rusk vs. Warren et al, 25 A. 314; Phelan vs. Ax, 25 A. 379. Judgment reversed.

No. 3949. William J. McLean vs. A. Foster Elliott, appellant.—From Fifth District Court of Orleans. Judgment reduced from $1350 to $444 81 and affirmed.

No. 3394. James B. Taylor, appellant, vs. P. C. Mandall.—From Fourth District Court of Orleans. Judgment reversed.

Nos. 4907, 4791, 4834, 4835, 4833, 4961, 4881, 4909. City of New Orleans vs. R. Marr, R. Lawrence, Leeds & Co, Charles J. Leeds, Archibald Mitchell, New Orleans, Florida and Havana Steamship Company.—From Superior District Court. For the reasons assigned in city vs. Rawlins the judgments in these cases is amended and affirmed.

No. 3692. New Orleans, Mobile and Chattanooga Railroad Company vs. city of New Orleans appellants.—From Eighth District Court of Orleans. The State has the power to grant a right of way through a street of this city. Judgment of this court annulled, and judgment of the district court affirmed. Justice Wyly, Justice Taliaferro with him, says the company can only get the land necessary for tracks and depots by expropriation or purchase, and dissents.

No. 4815. Joseph Raw vs. Moses Katz, appellant.—From Superior District Court. Judgment reversed.

No. 3302. George Wood vs. Charles Harrispe, appellant. From Fifth District Court of Orleans. If defendant is responsible it is because he was plaintiff's agent. If the possession is a wrongful one it was by reason of an offense he committed. The claim is prescribed by one year. Judgment reversed.

No. 3532. Alfred Marchand vs. Henry Bier, appellant.—From Seventh District Court. Judgment affirmed, with ten per cent damages for frivolous appeal.

No. 3823. Succession of F. Ostrander.—From Second District Court of Orleans. Judgment amended and affirmed.

No. 3130. William H. Johnson vs. Canal and Claiborne Railroad Company, appellant.—From Seventh District Court of Orleans. Plaintiff was run over and lost his leg by car No. 18 of defendant, while walking on the track of the road, November 12, 1869. Where the conduct of the plaintiff has been negligent he can not recover, even though the defendant be in fault. 23 A., 462. Two roads were open to him, one safe and the other full of danger. We think he was negligent. The case does not conflict with 23 A., 130. Judgment reversed. Justice Taliaferro, Justice Wyly with him, dissenting.

No. 3454. Fatjo, Marks & Co., appellants, vs. L. E. Baker et al.—From Fourth District Court of Orleans. Judgment affirmed, the plaintiffs having suffered no damages.

No. 3281. D. R. Carroll vs. New Orleans, Jackson and Great Northern Railroad Company, appellant.—From Fourth District Court of Orleans. Cotton shipped in defendant's cars was burned and the insurance company paid the loss. They can not recover from defendants as there was no contract between the two companies. Judgment reversed. Justices Taliaferro and Wyly dissenting.

No. 3396. African Methodist Episcopal Church vs. S. A. Norega et al., appellants.—From Eighth District Court of Orleans. Injunction dissolved.

No. 3461. Frank Corsery vs. Preston Work, appellant.—From Sixth District Court of Orleans. The action is a revocatory one and the petition discloses other parties than those made defendants. Judgment reversed and suit dismissed.

No. 3480. Grover & Baker Sewing Machine Company vs. Silas Dailey, appellant.—From Fifth District Court of Orleans. Judgment affirmed.

No. 3470. Leon McCarthy vs. George Baze, appellant.—From Fifth District Court of Orleans. Judgment amended.

No. 5099. State vs. Jackson Turner.—From Fourteenth Judicial District. The defendant was not injured by refusal of a continuance, the sheriff having made no return. Judgment affirmed.

No. 4853. Mutual National Bank vs. W. G. Smith, C. T. Buddecke, garnishee and appellant.—From Fourth District Court of Orleans. The garnishee should have answered the question. Judgment affirmed.

No. 5164. State vs. E. B. Finney.—From Fourth Judicial District. Judgment condemning appellant to seven years' imprisonment on conviction of manslaughter affirmed.

No. 3037. Abraham Vandine et al., appellants, vs. Ehrman et al.—From Seventh District Court of Orleans. Other parties, not made defendants, being disclosed, the judgment is annulled.

Superior District Court.

L. Placide Canonge vs. W. P. Harper et al.—Injunction perpetuated.

T. Bailley Blanchard, Jr. vs. L. Placide Canonge.—Injunction dissolved.

Superior Criminal Court.

On the examination of the jurors drawn the following gentlemen claimed exemption:

Non-Citizenship—Leopold Christ, of Germany; David Wallace, of Scotland; Peter R. Middlemis, of Canada East; Joseph Gandolpho, of Spain.

Active firemen—E. J. Hart, Florentine Black, M. Garcia, Alfred Moulton, William E. Fitzgerald.

The following gentlemen were impanelled to form the jury for May: George Alces, Ernest Chevarre, A. G. Barnes, Jules Aldige, Charles W. Fox, Etienne Dubois, E. V. McCarthy, R. M. Montgomery, Hypolite Rey, Victor Valois, John Mason, Columbus H. Allen, Jules Tuyes, J. V. Richards, William Shelly Gideon Townsend.

Attachments were ordered for those not appearing who were served personally and subpenas for those served at domicile. An additional drawing of forty-eight names was ordered.

First District Court.

PLEADED NOT GUILTY.

Petty larceny—Oliver Carr, John Williams, alias White, Martin Bowers, Dan Kane, John Shehan, Martin Johnson, H. W. Allen, Joseph Alexander, alias Martens.

Assault and battery—Jean Tribut.

Unlawfully keeping private market—J. P. Ronede, F. Lamarque, B. Poute, M. Bergason.

INFORMATIONS FILED.

Unlawfully keeping a private market—Bruse, Jo Leeds, Joseph Faps, T. O'Neal William T. Redmond, Jean Dufeau, Adam Generes, Simaul L. Smith, D. Broderieu, G. Shlemar.

Assault and battery—Peter Colfax, Lucy Ward, Joe Bennett.

Petty larceny—Charles Green.

Obtaining money on false pretenses—John Kienan.

ARRAIGNED.

State vs. Charles Earle.—Assault and battery. Plea of guilty of assault.

Second District Court.

Successions of John Rahdus and Magdalena Schlacter opened.

Fourth District Court.

Judge Lynch decided the following cases:

A. P. Dumas vs. Aristide Marie.—Injunction perpetuated, except as to the sum of $351 60, and costs of suit No. 38,254 of the docket of this court. Reconventional demand dismissed.

A. D. Doriocourt vs. John Hussion.—Judgment for plaintiff for $971 61, with interest at eight per cent, from February 10, 1874, $5 costs of notarial act, and costs, with vendor's privilege and mortgage.

J. J. Gidiere vs. Bierman et al.—Judgment for plaintiff, against Mrs. Marie Bierman and William Winkleman, her husband, in solido, for $500, with interest, with privilege on property seized.

M. Goldman vs. Richard C. Bond.—Judgment for plaintiff for rent of property, at $30 per month, from November 15, 1873.

Mrs. M. L. H. Lastrapes vs. Dr. Alexander Landry, her husband.—Judgment in favor of plaintiff for $11,921, amount of her paraphernal property, with legal interest from judicial demand, and the dissolution of the community of acquests and gains, with costs of suit.

E. Marqueze & Co. vs. S. Fernandez & Co.—Judgment for defendants.

John K. Renaud & Co. vs. F. R. Southmayd.—Rule herein taken on R. H. Benners & Co. as garnishees discharged.

Merchants and Traders' Bank of New Orleans vs. Jesse R. Powell.—Opposition dismissed, the costs of the said oppositions to be paid by Lunts, Horsiendahl and Bertron in equal proportions,

The Weather and Rivers.

OFFICE METEOROLOGICAL OBSERVER, New Orleans, May 4, 1874.

The following is a report of the weather and rivers at 3:43 P. M. to-day, local time:

Place.	Ther.	Wind.	Weather.
Cairo	55	N. W.	Cloudy.
Cincinnati	56	N.	Cloudy.
Davenport	52	N. E.	Cloudy.
Dubuque	55	N.	Cloudy.
Galveston	68	N.	Clear.
Keokuk	52	N.	Cloudy.
Lacrosse	60	N. E.	Fair.
Leavenworth	63	N.	Fair.
Louisville	65	N. W.	Cloudy.
Memphis	58	N. W.	Cloudy.
Nashville	69	N. W.	Fair.
New Orleans	69	N. W.	Fair.
Omaha	58	N.	Fair.
Pittsburg	45	N. E.	Light rain.
Shreveport	60	W.	Cloudy.
St. Louis	55	N. W.	Cloudy.
St. Paul	60	N.	Clear.
Vicksburg	65	W.