New Orleans Republican.

OFFICIAL JOURNAL OF THE UNITED STATES

OFFICIAL JOURNAL OF NEW ORLEANS

AUCTION SALES TO-MORROW.

BY CONSTABLE JOHN McCORMICK, at 12 o'clock, at Merchants and Auctioneers' Exchange, a lot with buildings in square bounded by Burgundy, Mandeville, Dauphine and Marigny streets.

BY CONSTABLE JOSEPH CONTRERAS, at 12 o'clock, at No. 7 Frenchman street, wagon, horse and harness.

BY SHERIFF WAGGAMAN, at 12 o'clock, at Merchants and Auctioneers' Exchange, half of square bounded by Nayades, St. Patrick and Edmund streets and Henry Clay avenue; the square bounded by Benjamin, Calhoun and Hurst streets and the Foucher property; two lots on Delta and Front, between Julia and St. Joseph streets; half of lot in same square; a judgment.

Local Intelligence.

IN FRONT OF THE OFFICE.—Last evening there was something like a row in front of the Central Lottery Office, St. Charles street, and quite a crowd gathered to see who had drawn a big prize. It was nothing but a drunken man, who was anxious to walk off with a policeman, but the officer would not have it, and he finally took his prisoner to jail. Accused was Bailey Vincent, a lively gentleman not altogether unknown in the Teche country. He simply had too much New Orleans sour mash.

BROKERS TAKEN IN.—Two money brokers, both very well known, were yesterday arrested, charged with being in some manner implicated with J. W. Fowler, who bested the Louisiana Lottery Company several days ago. It is believed that Fowler is still in this city, yet detectives have gone abroad to hunt for something.

A BOLD ATTEMPT AT ARSON.—Early yesterday morning the police and insurance agents were made aware that preparations had been made to burn a fine double two-story dwelling house at the corner of Delachaise and Magazine streets. An inspection of the premises disclosed the fact that combustibles were arranged in such a style that, had success met the incendiary's intentions, a building, and perhaps several persons, would have been blown to kingdom come. The corner tenement has been unoccupied for a considerable time, but the other half of the house is occupied by Mr. Charles Theodore, who keeps a grocery. Friday Mr. Theodore's suspicion was aroused by seeing some liquid dripping through the ceiling, and his mind was so exercised that he instantly entered the unoccupied portion of the house. He then discovered extensive preparations not only to burn the building, but so extensive that had fire ever been touched the entire structure must have gone skyward in a hurry. At the bottom of the stairs was placed a fuse leading to the upper rooms, where powder, coal oil and other combustibles were placed in useless profusion. The fuse was attached to these things, and as if to make assurance doubly sure, matches were placed at short distances, so located that in case the fuse burned fuel would have been added; the powder and oil were mixed and separate, and the arrangements were doubtless made by a person who had but a faint idea of what he was doing.

The man who owns the building is named Antonio Suchitano, and had recently insured the property in the London, Liverpool and Globe insurance office for $5600, although the structure is not worth that sum. The owner has a mortgage for $3500, which is held by Mr. R. Painslow. Had Suchitano's building been destroyed the insurance would have been sufficient to pay the mortgage and left something to pay expenses. Suchitano left here last Wednesday, but it is not known where he went. This fortunate discovery saved much valuable property, and probably human life.

LAST OF THE REGULATORS.—Last Friday two gentlemen, Captains Flood and McDonogh, of General Ogden's staff, visited the regulating schoolboys and advised them that it would be for the best to desist from further action; that is, it was advisable for them to cease their visits to schools to warn off colored children. This visit has called out the following:

NEW ORLEANS, December 18, 1874.

We, the undersigned, constituting the committee appointed by the pupils of the Boys' Central High School, do hereby protest against the action of certain members of a crowd of men and boys, who, on Friday, took upon themselves the right to visit Franklin Girls' School, representing themselves to be the boys of the High School, with the intent of removing such colored scholars as they might find there.

The action we pronounce ungentlemanly in the extreme, and calculated to bring us into disrepute. We also state that the boys took no part in the disturbance at the Keller school; and furthermore, that the REPUBLICAN was greatly mistaken in its statements in regard to that affair. We should like it to be understood that our committee did not visit any schools on Friday but that of the Lower Girls' High School.

General Ogden will please accept the thanks of the committee for his kind advice, which we intend following.

H. Mercier, J. H. D'Meza,
J. Lichstenstein, M. Gutheim,
E. L. Streams.

Our reference to the boys of the High School visiting the Keller School on Thursday was based on general information, such as press reporters are in a manner bound to accept. Now that the schools are closed, so to remain until after the holidays, it is believed that there will be no more excitement in that direction.

THE RETIRING BOARD.—The following is a list of convicts to be transfered to the State Penitentiary, in charge of Captain Pegram:

Breaking and entering—John Hicks, thirteen years.

Burglary—Edward Zephur, fourteen years; John Williams alias Parker, six years; Harris Williams, two years.

Grand larceny—Robert Boon, ten years and months; Joseph Williams, four years; Mary Jones, two years; Virginia Davis, two years; Jack Rooney, three years; Owen Carpenter, six years; Albert Henderson, four years; Fwrane Brown, two years.

Robbery—Joseph Bibb, seven years.

Embezzlement—Vivian Fletcher alias Joe Frazier, five years; Contriwinski alias Barrett, three years.

Entering—William Hameneyer, thirty months.

Petty larceny—Fanny Walker, two years; George Stevens, two years; Isaac Brown, two years; Rosa Johnson, two years; Madison Matcoff, two years; John Johnson, two years; Leon Davis, two years; Touisant Johnson, one year; Emanuel Watkins, one year; Thomas Harris, one year; John Mathews, one year; Charles Henderson, one year; Charles Moadler, one year; Isaac Frazier, eighteen months; Victoria Jones, nine months; James Bunn, nine months; Elsie Brown, eight months; George Davis, six months.

Assault with intent to rob—Edgard Conway, two years.

Entering, etc.—Abraham Thomas, two years.

Entering in night time—Thomas Banks, eighteen months.

VESSELS IN PORT.—There are nine steamships, sixty-one ships, sixty-one barks, eight brigs and fifteen schooners in port. This does not include vessels in the basins.

PAYING CITY TAXES.—A number of real estate owners called at the City Hall yesterday and settled their taxes. The total did not amount to much, but every drop helps just at this juncture.

THE EAGLE'S BALL.—Members of Eagle Fire Company No. 7 had an enjoyable time at their ball last night. The music, dancing and dressing were very fine indeed, and if the guests did not pass pleasant hours it was their own fault. The committees placed us under everlasting obligations.

BURGLARS LIKE CIGARS, TOBACCO AND TEA.—Some time during Friday night burglars entered the store of Messrs. John T. Moore & Co., on Peters, between Lafayette and Poydras streets, and stole away half a load of cigars, tobacco and tea. A panel of a rear door had been cut out by the burglars, and after they entered they ranged around promiscuously, examining every nook and corner. Only a few dollars in cash were found, but the rascals tackled a lot of goods which can be easily disposed of to almost any of the "fences." For some unexplained reason the thieves did not carry off more than a hundred dollars worth of truck.

Capital prize is twenty thousand dollars.
Capital prize is twenty thousand dollars.
Capital prize is twenty thousand dollars.
Only ten thousand numbers.
Only ten thousand numbers.
Only ten thousand numbers.
Only ten thousand numbers.
Tickets only ten dollars.
Tickets only ten dollars.
Tickets only ten dollars.

LA HARPE SCHOOL EXHIBITION.—The annual exhibition of La Harpe School was given on Thursday evening last at the Roman Street Baptist Church, and was largely attended. It was the verdict of all that the pupils acquitted themselves remarkably well. Among those worthy of special mention are Alice Castillo, who recited "The New Church Organ;" Albert and Joseph Pratt, in a dialogue, "The Way to Windham," and John Baptiste, reciting "The September Gale." In addition to these and many other pieces, the pupils gave the operatta called the "Little Orphan," and showed remarkable dramatic and musical talent. The exercises were quite lengthy, but were attentively listened to throughout.

RECENT PUBLICATIONS.

Among the beautiful new books for the holidays, we have received the following, all published by Harper & Brothers, New York, and for sale by George Ellis & Brother, No. 82 Camp street, New Orleans:

THE LIFE AND HABITS OF WILD ANIMALS. Illustrated from designs by Joseph Wolf, with descriptions by Daniel G. Elliott, F. L. S.

This is one of the most beautiful books of the season, of royal folio size, printed from large clear type on cream-tinted paper. It is a book of 122 pages, gilt edged and elegantly bound, and has twenty full page engravings, of remarkable delicacy and finish. The work is a rich contribution to zoology, and will prove an ornament to parlor or library.

ISMAILIA. A Narrative of the Expedition to Central Africa for the Suppression of the Slave Trade. By Samuel W. Baker.

Ismailia is a remarkably handsome and entertaining book of 542 pages, with sixty fine engravings and a number of valuable maps. The distinguished explorer who has written this book is not a stranger to the reading world, for he has already given graphic accounts of the country of the Upper Nile. With his pen and the pencil of his artists he has unrolled that strange land as in a panorama. The death of Livingstone added a melancholy interest to the wild regions of Central Africa, and it will soon be better known. It is the intention of Sir Samuel Baker to transport a steamer to Lake Albert Nyanza early in 1875, and waters that are now a hidden mystery almost, will yet become dotted with the marks of civilization. Ismailia will be read with interest.

POLITICS FOR YOUNG AMERICANS. By Charles Nordhoff.

Mr. Nordhoff is one of our clearest and best writers. He has long been the right hand man of Mr. Bryant, on the New York *Evening Post*, but has lately accepted the position of *Herald* correspondent at Washington. His book is an attempt to teach, in simple language adapted to the comprehension of boys and girls, the meaning and limits of liberty, law, government and human rights, and the principles upon which our system of government in the United States is founded. Our boys perhaps take too much interest in politics, but it is desirable that they should learn well what they have occasion to talk about, and this book is admirably adapted for the purpose. Questions in dispute are discussed more than is necessary for a text book or history, but they are fairly treated. The book grew out of an attempt by the author to instruct his son, in a series of letters, on the duties of citizenship, and it will do the same service for other boys.

THE LITTLE LAME PRINCE. By the author of "John Halifax, Gentleman."

This is a beautiful little red and gold covered book that might go in a Christmas stocking. It is a fairy story which has appeared in *Harper's Bazar*, and is such a tale, pure and simple, as Miss Mulock is capable of writing. In it are about twenty-five pictures; the first being one of a sunny-haired girl of some eight summers; she wears a medal for being the best child at school, and many little girls like her should get this book.

NURSERY NOONINGS. By Gail Hamilton.

The authoress of this book has in part taken the place of Fanny Fern. She says as many sharp words, but lacks the pleasant, fanciful sweetness. Much learning hath made her mad about some things, and she can hardly write down to the trusting innocence of childhood. "Nursery Noonings" is a series of essays, pungent and full of wit, one of which is entitled "Bringing up Parents." It will do.

More Good Words.

It seems that the President has not for a long time made an appointment which has elicited more favorable comment than that of Judge Pardee. We copy the following from the Baltimore *American* of the sixteenth:

The President has done something that pleases everybody in the appointment of Hon. D. A. Pardee as judge of the United States District Court of Louisiana in the place of Durell. Mr. Pardee is a native of Ohio, but since the close of the war has resided in New Orleans. In the beginning of the late war he entered the army, was a major in General Garfield's regiment, and was finally promoted to a Brigadier Generalship. On settling in Louisiana he resumed the practice of the law, and has been twice elected judge of the Second Judicial District of that State. In the discharge of his duties on the bench he has won the respect and confidence of all classes and of both parties.

Chatterbox.

This is the name of a toy or book of some description. It is on exhibition at the stores of Mr. George Ellis, where are also lots of other things suitable for Christmas gifts to the little folks. Lots of games of all kinds, toys, building blocks, story books and all kinds of puzzles may be bought at Ellis' cheap. Presents suitable for grown folks are there also, such as writing desks, the latest novels, finely bound editions of all the standard authors.

On the fifteenth instant the Secretary of War sent a letter to the House of Representatives, inclosing a letter from General H. G. Wright, president of the board of engineers for the examination of the mouth of the Mississippi river, stating that the report required by law can not be submitted until about the first proximo.

Parties, says the cynic of the *Vie Parisienne*, are like women; they appreciate our fidelity to them, but they rejoice over our infidelities to another in their favor.

The Returning Board.

There was little or nothing done by this body yesterday, excepting what was accomplished in executive session. The board met as usual, and after adopting the minutes of the previous day went into secret session, during which time the contests in the parishes of Red River, Natchitoches and Avoyelles were settled, and the returns of those parishes ordered to be compiled.

The board adjourned to meet again to-morrow at eleven o'clock.

Governor Wells yesterday submitted the following reply to the protest of Mr. Arroyo:

Hon. Oscar Arroyo, a member of the board, has entered a protest against the decision of the board in the Carroll parish case, which the majority of the board do not think gives a full statement of the case, and it omits to give the grounds on which it was decided, consequently we deem it our duty to place our decision and the reasons for it properly on record.

The supervisor of registration returned a statement of the votes and the tally sheets from the several polls in this parish to this board, in proper legal form, when they were opened by the board and examined. Mr. Gla, a Republican candidate for the Senate, and the attorneys for the Democratic party entered for objection to the returns substantially two reasons:

1. That the election in this parish was not fair, free and peaceable; that the voters had been intimidated, and forced to vote contrary to their wish.

2. That the returns of the commissioners from the several polls made by the supervisor to this board were forgeries, or had been changed.

Much evidence, in the shape of affidavits, was filed in the case by the parties in interest.

A careful examination of the evidence on both sides satisfied us that the election was fair, free and peaceable, and that on the day of election there was nothing unusual that affected the voters at any of the polls. It is true there was some such evidence as that alluded to by Mr. Arroyo, at poll No. 1, where it is charged that Benham, one of the candidates for the Senate, intimidated voters and caused them thereby to vote for him. It is proved that Benham did procure colored voters to change their ballots, but there is no such evidence as will justify the conclusion that he exercised any violence or threats to induce them to do so.

At poll No. 2 it is charged that the ballot box was made so inaccessible that ballots had to be put on the ends of canes to hand them up to the commissioners; this evidence is not sustained by the commissioners; even Mr. Shaw, the Democratic commissioner at this box, does not corroborate this statement; but even if it were so, as commissioners of both political parties presided at this poll, and there is no proof that the ballots actually voted were not put in the box, it can not invalidate the election.

The whole evidence satisfies us that up to and on the day of election there was no intimidation or other unlawful act that should invalidate the election at any poll in this parish, but that the election was as fair, free and peaceable as usual, and that the voters very generally exercised their right to vote. There were 2530 voters registered and 2263 voted. In fact, it is not attempted to be proved that any one was prevented from voting from any unlawful cause.

It is clear that all was fair, free and peaceable up to the close of the election in this parish. If anything transpired to deprive the voters of this parish from having their votes properly returned and compiled, it was after the election; and under the law it is the duty of this board, and it has the power, to inquire into any such fraud, and, if found to exist, to ascertain the facts and make the proper correction and compilation. This the board proceeded to do. In the absence of intimidation or other acts that would improperly influence the election on or before the day of election, the law authorizes us to take evidence and even send for persons and papers where corrupt influences have been used to offset the election. Fraudulent changing the commissioners' returns comes under this head. Now, in canvassing the returns under this authority, it is the duty of the board to ascertain the true state of the vote, and to so compile it; not to reject it altogether, as Mr. Arroyo contends in his protest. If the returns should be found to have been changed they are to be corrected so as to show the true state of the case, and not be altogether rejected.

The main contest in this case was between Mr. Benham and Mr. Gla, both Republican candidates for the Senate, and both claiming to be regularly nominated. There was, also, a Democratic candidate for the Senate, Mr. Brigham.

There is no evidence that the return from poll five had been, in any particular, changed.

There is no evidence there was any changing of the returns of the commissioners from poll two, except as to Benham and Gla.

The evidence shows that the returns of the commissioners of election, from polls one, three and four had been changed as to the candidates for Treasurer, Congress and Senate, and the real number of votes received by each candidate are detailed in the evidence, but the change in the number of votes for Treasurer and Congress is too small to offset the result of the election for either of these offices.

The evidence satifies the majority of the board that the appended affidavit of Mr. Blosch, United States supervisor of election for that parish, appointed on the recommendation of the Democratic party, gives the true state of the vote between Mr. Benham and Mr. Gla. This testimony is supported by the Democratic commissioners at these three boxes, which stand as follows:

	Benham.	Gla.
Poll 1	394	196
Poll 2	427	282
Poll 3	360	164
Poll 4	114	56
Poll 5	43	129
Total	1338	827

We predicate this altogether on the testimony from Democratic sources.

The evidence does not satisfy us that the commissioners' returns are forgeries, but that they have been changed in the above particulars.

It has been our purpose in this investigation to give the voters of Carroll parish the real benefit of their votes, honestly and without fraud or intimidation cast at the election.

Our colleague, Mr. Arroyo, has, in his protest in this case, departed from the equitable and just rule that ought to govern in such cases in insisting in throwing out the entire vote of this parish, thereby depriving the voters of their inestimable privilege when they are in no manner at fault, the effect of which would be the counting in a number of his party friends, and deprives him of that high position he has assumed throughout of being altogether impartial.

J. MADISON WELLS,
President Returning Board.

State of Louisiana, parish of Carroll.—Before me, the undersigned authority, personally came and appeared W. A. Blount, United States supervisor of registration and election in and for the parish of Carroll, duly appointed, commissioned and sworn by the United States circuit judge, Hon. W. B. Woods, and the said Blount being duly sworn by me, declared and said that the registration of the parish of Carroll closed on Friday evening, October 23, 1874, R. M. Lackey, supervisor, W. W. Benham and James Mulligan, clerks; and that the total registration of the said parish was, as shown on the registration books, 2530 names; that on the second day of November, 1874, the vote cast in the said parish of Carroll, for State Senator, was 2263, being 265 less than the actual registration, and that vote so cast was for the persons named, as follows: George C. Benham, 1348; J. A. Gla, 827; J. H. Bringham, 98; giving George C. Benham a majority of 509 votes in the parish of Carroll over J. A. Gla. That I have this knowledge from a personal inspection of the tally sheets of the first, second and fifth wards, and that my knowledge of the vote of the third and fourth wards is received from the commissioners of election and deputy United States supervisors stationed at those wards on the day of election. And this appearer further swears that he was present in person at the second ward in said parish in his capacity of United States supervisor of election, and that after the count of the votes was made in said ward and the tally sheets folded up on Tuesday evening, November 3, 1874, the said tally sheets were not signed at as late as ten o'clock on said evening, being twenty-eight hours, at least, after the closing of the polls; and that the said tally sheets and ballot box were carried away from the voting place without being signed by the commissioners of election; that W. W. Benham had the said tally sheets and ballot box in possession when last seen by this appearer; and that this appearer has repeatedly been refused permission to examine said tally sheets after they were conveyed away from the voting place when he applied to Mr. Lackey and W. W. Benham, clerk, to examine them in his capacity of United States supervisor of registration and election for the said parish of Carroll; and that the said tally sheets were conveyed away from the said parish without having been examined by this appearer after compilation.

That no duplicates of said tally sheets can be found by me in said parish after repeated application at the office of the clerk of the court for transcripts from them.

That this appearer verily believes that an evasion of the election laws of this State is being consummated in the improper and illegal control of the election returns of the parish of Carroll by R. M. Lackey, supervisor, and W. W. Benham, his clerk.

W. A. BLOUNT,
United States Supervisor of Registration and Election for the Parish of Carroll.

Sworn to and subscribed before me on this twenty-sixth day of November, 1874.

S. D. OLIVER, Deputy Clerk.

COURT RECORD.

SATURDAY, DECEMBER 19, 1874.

Supreme Court.

Adjourned until Thursday, December 24, when opinions will be read; and then stand adjourned until January 4, 1875.

Superior District Court.

Rufus Waples vs. George S. Lacey.—This case, where the City Attorney and assistant attorney, both salaried officers of the city, claim ten per cent commission on $60,000 drainage taxes, and wherein the city denies the right of either party to the claim, was argued, and the argument continued to January 5.

Superior Criminal Court.

In the case of Thomas North, charged with the murder of James Collins on the twenty-second of October, in front of No. 95 St. Charles street, bail was refused, with permission to renew the motion.

In the case of Richard Bell and John Jones, murder, convicted last week of killing Louis Farn on the seventeenth of June, 1873, the motion for a new trial was refused.

VERDICTS.

Harriet Syfax, embezzlement; not guilty.

Robert Philips and Charles Harris, burglary and larceny at Samouni's shoe store, at the corner of Bourbon and Customhouse streets; guilty of grand larceny, and recommended to the mercy of the court.

Horace Westley, grand larceny, stealing six calves on the seventeenth of October; guilty.

NOLLE PROSEQUI ENTERED.

John Smith, grand larceny, stealing a gold chain, etc., $150, from J. Destour on October 17.

William Warren, stealing three cows and one calf, October 17, from Oliver Pierre.

ORDER OF COURT.

Judge Atocha has issued the following order:

The judges of the municipal police courts and justices of the peace having criminal jurisdiction, are directed in all cases within the jurisdiction of this court, wherein members of the Metropolitan Police force attend before them as witnesses, to have the exact residence of such witnesses noted in the papers, instead of the precinct stations, as has been the custom heretofore.

First District Court.

SENTENCES.

Celestine Johnson, assault and battery, $45 or one month Parish Prison.

John Williams and Henry Johnson, larceny, two years, hard labor.

Joe Joseph, larceny, one year, hard labor.

Fifth District Court.

Judge Cullom delivered the following decision, interesting to depositors in banks and business men in general:

Louisiana Ice Company vs. State Bank of New Orleans.—The petitioning corporation alleges that on the fourth day of October, A. D. 1873, it was the holder and owner of a certified check, No. 71, of the State National Bank for the sum of $1000, drawn by the New Orleans Mutual Insurance Company, dated as above, and payable on demand to the order of Samuel Averons, who indorsed it in blank. That it deposited said check for collection only, with the New Orleans National Banking Association on the fourth day of October, A. D. 1873. That the only duty of said corporation was to collect the check and place the proceeds to the credit of the petitioner. That when it was presented to the State National Bank of New Orleans for payment, it gave a check, through Charles L. C. Dupuy, its cashier, to the New Orleans Banking Association, through its cashier, — Blache, in payment or exchange for said check on the State National Bank of New Orleans. That said association was not authorized to receive the same in payment, and that petitioner has never sanctioned nor approved its acts in relation thereto. That at the time said check was given the New Orleans National Banking Association was known to defendant to be insolvent, and that it had been so publicly declared. That the defendant has reaped the full benefit of the credit of said check by debiting the drawer with the amount thereof in its account with the drawer. That defendant knew that the check it received in lieu of that deposited by plaintiff, and which was good, was worthless; that plaintiff had previously instituted an action in the Superior District Court, No. 9238, to arrest the efforts of defendant to get rid of the worthless checks of the New Orleans National Banking Association; that petitioner has by the illegal acts of the defendant, suffered damages to in the sum of $1000, for which sum judgment is asked, with legal interest from judicial demand and for trial by jury.

The defendant sets up the exception of no cause for action, and the general issue. I think the petition does disclose a sufficient cause of action, and will, therefore, proceed to dispose of the cause on its merits, the prayer for trial by jury having been dismissed on motion of plaintiffs' attorneys.

The facts are, that on the sixth day of October, 1873, the present petitioner filed a petition in the Superior District Court of this parish, praying for a writ of injunction to issue for the purpose of restraining the trustees and managers of the New Orleans Clearing House Association and the New Orleans Banking Association, through its president, from receiving, certifying and delivering the checks belonging to petitioner (and among them the one now in question) to the banks on which they were drawn, or permitting it to be exchanged for the checks of said banks in return for three checks in the possession of said New Orleans Banking Association, or from offering them for certification and exchange, or collection or payment, or paying the same in any way whatever. The order issued on the same day, which was on Saturday.

There is no contest about the fact that at that time the plaintiff was the owner and holder of the check described in the petition, and that it was duly deposited for collection on the fourth of October, 1873, in the New Orleans National Banking Association, of which Charles Cavaroc, Sr., was president at the time. The deposit is shown to have been made about half-past three o'clock in the afternoon of the day on which that bank ceased to do business. At about a quarter to nine o'clock in the forenoon the judge granted the order for a writ of injunction in the suit No. 9238. As soon thereafter as practicable the deputy sheriff repaired with the writ to the Clearing House. The check in question had not then been exchanged, and meeting Mr. Henry Blache, cashier of the New Orleans National Banking Association, D. Pochelu, the president of the Louisiana Ice Manufacturing Company, stated to him that "there was an order of court on the way and he would be notified in order not to make the exchange" of the check now in question. See ev., pp. 8-9. The notice was handed by him in person to Mr. Maynard, the president of the Clearing House Association. Ev., p. 9. Mr. Dupuy, the cashier of the State National Bank, was present at the Clearing House. P. 10. Maynard read the writ and Dupuy approached him and looked at it, remarking that the check was not properly described. Thereupon Mr. Pochelu told him it was a check for $1000. P. 10. Dupuy knew that an injunction had been granted. Pp. 11, 12. The New Orleans Banking Association suspended payment on the sixth of October, 1873. Ev., p. 15. It continued to pay out until 3 P. M. on the fourth of October.

It made no exchanges with the Clearing House Association on Monday. Mr. Dupuy met Mr. Blache at 11 A. M., on that day, and made an exchange of checks with him; p. 16. At about 9 to 10 A. M., on that day, Mr. Pochelu desired Mr. Blache to return him the check in question, and which had been deposited on Saturday previous, saying that he was going to sue out an injunction to prevent Blache from giving it up; pp. 18 19. This occurred about 9 or 10 A. M., and before Dupuy made the exchange of this check. The New Orleans Banking Association had then failed. On the same day this bank made exchanges with several other banks; p. 20. The exchange of the check in question was effected in the usual form and according to the custom in such matters; p. 21. The only difference being that the exchange in this case was made with the cashier directly, instead of through the Clearing House Association. Ev. p. 21. Checks between banks are not paid in money, but always by an exchange of checks. Ev. p. 23. It was customary at the time of this transaction to use certified checks—payable through the Clearing House. Ev. p. 24. The State National Bank had no interest in the check, it only collected it as it had been left there for that purpose. Ev. p. 26. The check for $1000 was not paid in money, but a check was taken in lieu thereof. Ev. pp. 28 29. The effect of the suspension and failure of the New Orleans Banking Association, and of the exchanging of certified checks, was the loss, to the Louisiana Ice Manufacturing Company, of the check for $1000, which it had deposited with that bank for collection.

The plaintiff now contends that whatever custom the banks may adopt for their own convenience, by which they take certified checks, that depositors are not so far affected by it as to be obliged to receive such checks as payments. That as between it (the plaintiff) and the Clearing House Association and the State Bank, there was no privity, and therefore it can not be considered estopped from pursuing it, where, as in this case, it was notified of the condition of the suspended bank, and of the judicial proceedings instituted to restrain it from exchanging the check in question; that it deposited it for collection—collection in currency; that the bank was its agent for that purpose and for no other, and that the exchange of its good check for one that was worthless, was not a collection of its check, nor a payment on the part of the State National Bank, *quo ad* the plaintiff; that even if the exchange of checks should be considered, under ordinary circumstances, as a payment, it could not be so considered, where the paying bank was informed, before it made the exchange, that the depository had failed and suspended payments, and where it had been informed that a writ of injunction had already issued for the express purpose of restraining it from making the exchange; and, finally, that from the moment the New Orleans National Banking Association suspended payments and failed, it ceased, *ipso facto*, to be the agent of the depositors. C. C., 3027; Parker vs. Smith, 16 East., 382; Minet vs. Forrester, 4 Taunt, 541; 2 Kent's Com., p. 644; Pot. Contrat de Mandat, N. 120; C. N., 2003.

Defendant's counsel make the following points:

1. That there was no privity between the State National Bank and the Louisiana Ice Company, and that in the absence of such privity, it must be a very strong case to authorize a recovery. He reminds the court of the familiar axiom that one should not be permitted to enrich himself at another's expense. He cites McWilliams vs. Hagan, 4 R 374, and McCauley vs. Hagan, 6 R. 359, in support of it. There is no doubt of its soundness. The cases of McCulloch vs. the Commercial Bank, 16 L. 356, and of Oakey et al. vs. Bank of Louisiana and William Christy, 17 La. 386, are referred to as establishing the doctrine that the absence of privity is fatal to a right of action.

2. That the State National Bank (defendant herein) had no pecuniary interest in the transaction; that it held on deposit sundry checks of her own depositors, and that it was its duty as agent to collect them; that if they had not been exchanged (which, according to the custom of the banks, was the same as payment) the State Bank would have protested the returned checks, and the loss, if any, would have fallen on the parties depositing them, and for whom the bank acted as collecting agent. I may here remark that, being charged with the collection in currency of a particular check, it was the absolute duty of the bank to do so, or to protest. Such is the law. The establishment of clearing houses is intended for the benefit of the banks. Through them their daily settlements with each other are facilitated and simplified. The depositors have nothing to do with them, nor can the banks change or modify their liability to depositors by establishing such private associations to suit their own convenience. The banks entering into such an arrangement are bound *inter sese*, but the depositors are not ordinarily privy to such agreements, and, therefore, can not be held bound by their action. Morse on Banks and Banking, pp. 389, 390.

3. That the plaintiff intrusted the Bank of New Orleans with power to collect, and that this fact carried with it the right to exchange checks, as was customary among banks, either through the Clearing House or over its counter. That if the plaintiff has been injured it has been solely through the fault of its own agent, to whom alone it can look for redress. Reference is made to Morse on Banks and Banking, pp. 322-4, 341, 334, 369. This author lays down the generally recognized doctrine, that a bank receiving paper for collection thereby becomes, as a rule, the agent of the depositor; that in making the collection it must be governed in all matters concerning the time and mode of making the demand, giving notice, etc., by the laws and customs prevailing in the place of its own situation; that it alone is responsible for any losses to the depositor resulting from its negligence, etc. But I imagine that the laws and customs referred to must be general and not exceptional. The agency conferred must be legitimate and properly exercised.

The courts are not inclined to enlarge the authority of usage, but on the contrary, they limit it to its narrowest proportions, and uniformly "require the most perfect adaptation of the facts of the case to it." Morse on Banks and Banking, p. 376. "The customs and usages of a bank by which persons outside of the corporation can be affected are only such as relate to its dealings with such outsiders." Ib. p. 376. "They are only for the convenience of the bank. Even if they are known to its customers, in which alone the customers can be supposed to be interested; they are the internal arrangements, with which the customer has nothing whatsoever to do, whether he knows them or not, and whether he approves them or not." Id. 377. This principle, I think, applies here. Usage can not be shown to absolve a bank from a positive and essential duty. "What it undertakes to do it must do." It undertook to collect a check for $1000 in this instance. Now, as to the depositor, has it done so? The State National Bank was fully aware that the New Orleans Banking Association had failed, and that a writ of injunction had been issued to provent it from exchanging the worthless check of the said banking association. It is true it had not been formally served with notice, but enough had been done to answer every practical purpose, had the defendant seen proper to abide it. The failure of the New Orleans Banking Association was known before the check had been exchanged, and the agency to collect had terminated. This fact, taken in connection with the notice which the defendant had of the issuance of the writ of injunction, should have prevented the exchange. There must be judgment as prayed for.

Fourth District Court.

The following answer has been filed:

J. E. Staes vs. Placide Canonge.—Defendant denies all and singular the plaintiff's allegations, and specially avers:

1. That as alleged in his peremptory exception, which is made a part of this answer, article thirteenth of the constitution of Louisiana and the following statutes, to wit: Revised Statutes, sections 456, 459, of 1870, No. 67 of 1871, No. 23 and 84, 1873, on the subject matter of civil rights, and to places of public resort and entertainment, violate and contravene the federal constitution, article seven guaranteeing the right of trial by jury, article one, section one, on the prohibition to impair the obligation of contracts, and fourteenth amendment, section one, protecting citizens of the United States in the full right and enjoyment of their property, in the pursuit of legal avocations, and in the enjoyment of life, liberty and property.

2. That the defendant is, by birth, a citizen of the State of Louisiana and of the United States.

3. That he has been and is manager of the New Orleans Opera House, a business sanctioned by law; that said business involves the outlay and investment of large capital, and requires the constant and assidious labor and care of respondent, and can not be made profitable without business, literary and artistic capacities.

4. That in the year 1859 the Opera House Association, a regularly chartered corporation under the laws of Louisiana, erected the Opera House, corner of Bourbon and Toulouse streets, in New Orleans, for the performance of operas and dramatic plays. That a large capital was thus invested in said building and its appurtenances, including musical and dramatic libraries, costumes, etc., necessary for the aforesaid purpose; that since that period of time the said Opera House was used in accordance with its original design, which chiefly gives it value as property; that in the prosecution of the business or calling of respondent and those who preceded him certain rules and regulations were adopted and enforced in order to render profitable said business, and to derive the full benefit of the capital so invested in said property, that certain parts of said theatre, during performances, were assigned to the white people, and other parts thereof to the colored people; that the necessities of said business required of all the managers that preceeded respondent and of respondent to fix the price of tickets at a much higher rate than are paid at other theatres of this city; that said Opera theatre has been and is patronized by the white people exclusively, the number of colored people who are willing and able to attend said Opera theatre being so limited as to afford to the manager no prospect of profit; that the allowance of all persons, white and colored, to enter promiscuously at said performances, has the tendency to prevent a large number of whites from attending; and must inevitably end in the mercantile failure of the manager, the pecuniary loss to the large number of persons engaged or employed for such performances, and must seriously impair the value of said Opera House, appurtenances and accessions; that to prevent said disaster the white and colored people have not only been assigned to separate parts of said theatre, but a necessarily limited space of said theatre has been assigned to the colored people, of which limited space the latter have ever been either unable or indisposed to avail themselves.

5. That the parquette, where plaintiff insisted to have admittance, is set apart exclusively for the white people—a fact which petitioner knew full well before he applied for admittance there, and that so far from having been humbled for refusal of admission, as stated in his petition, he had expressly applied for admittance, knowing that he would be refused, his deliberate preconceived purpose being to lay the foundation for an action of damages under the civil rights bill.

6. That the aforesaid legislation of the State of Louisiana, in so far as it attempts to abolish the said rules and regulations with regard to the parquette, abridges the privileges and immunities of respondent, deprives him of the free use of his property, impedes him in his labor, in contravention of the aforesaid provisions of the federal constitution.

7. That the statute of this State which, by way of favor to the colored people, gives to the judge presiding, upon the disagreement of the jury, the right at once to pass finally upon cases arising under the civil rights bill, infringes the rights of respondent, as a citizen of the United States and of the State of Louisiana, to equality before the tribunals of the land, and to equal protection of his rights.

Wherefor respondent prays for regular trial by jury in due course of proceedings; and that, upon a hearing, the plaintiff's demands be rejected with costs.

The Hibernians' Ball.

Next Saturday evening will take place the ball to be given by the Ancient Order of Hibernians. It will be a fancy dress, masquerade and calico ball, and taking place at the new St. Patrick's Hall, the anticipations are that it will be in every way an enjoyable affair. The young men who are charged with making arrangements for it can be relied upon for making all things agreeable.

Staub's News Depot.

The energetic and untiring Staub, whose news depot is at Goldthwaite's bookstore, No. 69 Canal street, near the Postoffice, has kept apace with the times in his supply of periodical literature. He has all of the desirable Northern and Western dailies, the illustrated weeklies, sold at five and ten cents, and the Galaxy, Harper's, Atlantic, Scribner's, St. Nicholas and Lippincott's magazines for January, with other good things for Sunday reading.

Fine all wool cassimere pants at $3 50, $4, $4 50, $5, $6, $7 and $8, at Garthwaite, Lewis & Miller's, No. 100 Common street, opposite City Hotel.

SPECIAL NOTICES.

Office Firemen's Charitable Association, New Orleans, December 18, 1874.—Board of Delegates, special meeting, MONDAY, December 21, at 7 P. M., in the Hall of Louisiana Hose Company.
By order of the president:
de19 C. C. FLANAGAN, Secretary.

Office of the Crescent City Gaslight Company, No. 50 Camp street (up stairs)—New Orleans, December 17, 1874.—In conformity with the requirements of the amended charter and by-laws of the Crescent City Gaslight Company, the annual election of Directors to serve during the ensuing year, will be held on TUESDAY, the twelfth day of January, 1875, at the office of the company, in this city, between the hours of 10 A. M. and 2 P. M.
JOHN M. CONWAY, Secretary.
de18 20 22 24 26 29 31 ja3 7 12

Notice.—The annual election for seven directors will be held by the stockholders of the Canal Street, City Park and Lake Railroad Company, at the office (No. 26 St. Charles street, up stairs), on MONDAY, January 4, 1875, between the hours of 12 M. and 2 P. M., as provided in article seven of the charter of the company.
de16 td R. M. HARRISON, Secretary.

Office of New Orleans City Railroad Company, No. 124 Canal street, New Orleans, December 9, 1874.—At a meeting of the Board of Directors held this day a dividend of FOUR DOLLARS per share was declared, payable to the stockholders on and after January 1, 1875. The transfer books will be closed from December 22 to 31, 1874, inclusive.
de10 t de31 C. C. LEWIS, Secretary.

Office of New Orleans City Railroad Company, No. 124 Canal street, New Orleans, December 9, 1874.—An election for twelve directors, to serve for the ensuing year, will be held at the office of this company on MONDAY, the twenty-first instant, between the hours of 10 A. M. and 2 P. M.
de10 td C. C. LEWIS, Secretary.

Notice.—Office of the Merchants' Fire Insurance Company, No. 43 Carondelet street.—A meeting of the stockholders of the Merchants' Fire Insurance Company will be held at their office, corner Carondelet and Union streets, on MONDAY, December 28, 1874, between the hours of 1 and 3 P. M., to vote upon proposed amendments to the charter.
S. SALOMON,
de3 Secretary.

POLITICAL NOTICES.

Hall of the First Ward Central Club, corner of White and Melpomene streets, New Orleans, December 20, 1874.—By order of the administrative committee, the following named gentlemen were appointed commissioners and clerks of election, said election to be held MONDAY, December 21, 1874, from 4 till 8 P. M., for the election of officers and standing committees for the ensuing year: T. A. Murphy, Theodore Grant, P. Horrigan, commissioners of election; Theodore Renshaw, A. J. Desmond, clerks of election.
de20 GEORGE C. NORCROSS, Secretary.

COAL.

COAL............COAL............COAL.

JOHN D. MACLIN,
No. 34 Carondelet street.

PITTSBURG, ANTHRACITE AND CANNEL COAL

Prepared for family use and delivered at lowest market rates. Branch office and depot head of Second street, Fourth District. de20 3t

OFFICIAL NOTICES.

PUBLIC SCHOOL NOTICE.

OFFICE BOARD OF SCHOOL DIRECTORS,
City of New Orleans, Sixth Division,
No. 30 Burgundy street, December 19, 1874.

IN VIEW OF THE RECENT DISTURBANCES IN the public schools, and by virtue of the authority vested in the undersigned officers by the rules, the schools of this city are hereby directed to be closed from this date until after the holidays, or until further orders by the Board of School Directors.

CHARLES W. BOOTHBY,
Superintendent Sixth Division.
HENRY C. DIBBLE,
President Board Directors.
H. A. CORBIN, Secretary Board. de19 2t

THIRTEENTH CALL.

Redemption of Five-Twenty Bonds of 1862.

TREASURY DEPARTMENT,
Washington, November 2, 1874.

BY VIRTUE OF THE AUTHORITY GIVEN BY the act of Congress approved July 14, 1870, entitled "an act to authorize the refunding the national debt," I hereby give notice that the principal and accrued interest of the bonds hereinbelow designated, known as "Five-twenty bonds," will be paid at the treasury of the United States, in the city of Washington, on and after the SECOND DAY OF FEBRUARY, 1875, and that the interest on said bonds will cease on that day. That is to say, coupon bonds known as the fourth series, act of February 25, 1862, dated May 1, 1862, as follows:

COUPON BONDS.
$50—No. 4201 to No. 4961, both inclusive.
$100—No. 6201 to No. 10 500; both inclusive.
$500—No. 5001 to No. 7000, both inclusive.
$1000—No. 14,901 to 20 000, both inclusive.
$5,000,000.

The amount outstanding (embraced in the numbers as above) is five million dollars of coupon bonds.

United States securities, forwarded for redemption, should be addressed to the "Loan Division of the Secretary's office."
no8 B. H. BRISTOW, Secretary.

NOTICE.

Commissioner's Sale.

ARISTIDE MILTENBERGER AND EMORY E. NORTON, assignees of the Bank of Louisiana, vs. Thomas Woodward, No. 10,224 on the docket of the United States District Court for the District of Louisiana, in bankruptcy.

NOTICE IS HEREBY GIVEN THAT BY VIRTUE of the decree of foreclosure and sale entered in said cause on the ninth day of April, 1874, I shall offer for sale to the highest bidder, for cash, at the main entrance to the United States Customhouse, on Canal street, in the city of New Orleans, in the State of Louisiana, at the hour of twelve o'clock M., on FRIDAY, January 15, 1875, the following described property, real estate, viz—

A CERTAIN COTTON PLANTATION, situated in the parish of Rapides, in the State of Louisiana, fronting Bayou Jean de Jean, bounded below by the plantation belonging to the estate of F. Henderson, and above by lands formerly belonging to Neal & Winn, containing the quantity of 1200 arpents, and known by the name of "Oak Hill," together with all the buildings, engines, machinery and improvements, stock, cattle, horses, mules, wagons, carts, farming utensils and implements of husbandry on said plantation.

This sale is made to satisfy the amount of the decree against defendant in said cause, and is made without appraisement.

CHARLES B. STEELE, Special Commissioner.
New Orleans, December 12, 1874.
de13 19 26 ja8 15

SUCCESSION NOTICES.

Succession of Christian August Wiemann.

ALL PERSONS INDEBTED OR HAVING PROPerty belonging to said deceased, and all who have claims against his estate, are requested to make the same known to Friedrich W. Keppe, testamentary executor, No. 65 Tremé street, New Orleans, or to A. J. LEWIS, Attorney at Law, No. 33 Exchange alley, corner of Customhouse street. de3

Estate of Charles F. Grater.

NOTICE IS HEREBY GIVEN TO ALL PERSONS having claims against said estate to present the same, and those indebted to make payment within ten days to E. C. Pitcher, administrator, or to his attorneys.

HORNOR & BENEDICT,
de20 25 30 No. 16 Carondelet street.

Succession of John A. Teller and Jane A. Teller, his widow.

SECOND DISTRICT COURT FOR THE PARISH OF Orleans, No. 37,657.—Whereas, E. T. Parker has petitioned the court for letters of administration on the estate of the late John Teller and Jane A. Teller, his wife, deceased, intestate. Notice is hereby given to all whom it may concern to show cause within ten days why the prayer of the said petitioner should not be granted.
By order of the Court.
de13 17 21* FRANK PACE, JR., Clerk.

Succession of Matthew Flood.

SECOND DISTRICT COURT FOR THE PARISH of Orleans, No. 37,551.—Notice is hereby given to the creditors of this estate and to all other persons herein interested, to show cause within ten days from the present notification, if any they have or can, why the account presented by Mrs. Widow Ann Flood, administratrix of this estate should not be homologated and approved, and the funds distributed in accordance therewith.
By order of the Court.
de12 16 20* FRANK PACE, JR., Clerk.

Succession of F. M. Fisk.

SECOND DISTRICT COURT FOR THE PARISH of Orleans, No. 37,663.—Whereas, Milton Benner has petitioned the court for letters of dative testamentary executorship on the estate of the late F. M. Fisk, deceased, intestate. Notice is hereby given to all whom it may concern, to show cause within ten days why the prayer of the said petitioner should not be granted.
By order of the Court.
de16 21 25* FRANK PACE, JR., Clerk.

Succession of Joseph Lobrano.

SECOND DISTRICT COURT FOR THE PARISH OF Orleans, No. 36,726.—Notice is hereby given to the creditors of this estate, and to all other persons herein interested, to show cause within ten days from the present notification, if any they have or can, why the account presented by Joseph Lobrano, the administrator of this estate, should not be homologated and approved, and the funds distributed in accordance therewith.
By order of the Court.
de12 16 20* FRANK PACE, JR., Clerk.

Succession of James Medd.

SECOND DISTRICT COURT FOR THE PARISH of Orleans, No. 35,418.—Whereas, E. T. Parker, public administrator, has petitioned the court for letters of dative testamentary executorship on the estate of the late James Medd, deceased, intestate. Notice is hereby given to all whom it may concern, to show cause within ten days, why the prayer of the said petitioner should not be granted.
By order of the Court.
de17 22 26* FRANK PACE, JR., Clerk.

Succession of Ellen Gernon, wife of M. J. Farrell.

SECOND DISTRICT COURT FOR THE PARISH of Orleans, No. 37,671.—Whereas, E. T. Parker has petitioned court for letters of administration on the estate of the late Mrs. Ellen Farrell, deceased, intestate. Notice is hereby given to all whom it may concern, to show cause within ten days why the prayer of the said petitioner should not be granted.
By order of the Court.
de18 22 26* FRANK PACE, JR., Clerk.

Succession of Nicolas Auguste Roche.

SECOND DISTRICT COURT FOR THE PARISH of Orleans, No. 37,658.—Whereas, Pierre Denis Roche has petitioned the court for letters of administration on the estate of the late Nicolas Auguste Roche, deceased, intestate. Notice is hereby given to all whom it may concern to show cause within ten days why the prayer of the said petitioner should not be granted.
By order of the Court.
de15 19 23 FRANK PACE, JR., Clerk.

Succession of W. T. Hepp.

SECOND DISTRICT COURT FOR THE PARISH of Orleans, No. 36,162.—Notice is hereby given to the creditors of this estate, and to all other persons herein interested, to show cause within ten days from the present notification, if any they have or can, why the final account presented by the testamentary executors of the deceased should not be homologated and approved, and the funds distributed in accordance therewith and said executors discharged from all and further liability.
By order of the Court.
de12 16 20* FRANK PACE, JR., Clerk.

Succession of C. A. Wiemann.

SECOND DISTRICT COURT, FOR THE PARISH of Orleans, No. 37,621.—Notice is hereby given to the creditors of this estate, and to all other persons herein interested, to show cause, within ten days from the present notification, if any they have or can, why the account presented by the testamentary executor of this estate should not be homologated and approved, and the funds distributed in accordance therewith.
By order of the Court.
de12 16 20 FRANK PACE, JR., Clerk.

Succession of Patrick Halpin.

SECOND DISTRICT COURT FOR THE PARISH of Orleans, No. 37,053.—Notice is hereby given to the creditors of this estate and to all other persons herein interested to show cause within ten days from the present notification, if any they have or can, why the account presented should not be homologated and approved, and the funds distributed in accordance therewith.
By order of the Court.
de16 21 25* FRANK PACE, JR., Clerk.

Succession of J. M. C. Jamison.

SECOND DISTRICT COURT FOR THE PARISH of Orleans, Nos. 37,553.—Notice is hereby given to the creditors of this estate, and to all other persons herein interested, to show cause within ten days from the present notification, if any they have or can, why the account presented by the public administrator of this estate, should not be homologated and approved, and the funds distributed in accordance therewith.
By order of the Court.
de17 21 25* FRANK PACE, JR., Clerk.

Succession of Franciscn Weidenbaker, widow of Emile Gardner.

SECOND DISTRICT COURT FOR THE PARISH of Orleans, No. 37,677.—Whereas, George Weidenbaker has petitioned the court for letters of administration on the estate of the late Franciscn Weidenbaker, widow of Emile Gardner, deceased, intestate. Notice is hereby given to all whom it may concern to show cause within ten days, why the prayer of said petitioner should not be granted.
By order of the Court.
de20 24 29* FRANK PACE, JR., Clerk.