NEW ORLEANS REPUBLICAN.

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VOLUME IX—NO. 21. NEW ORLEANS, TUESDAY, MAY 4, 1875. WHOLE NUMBER 2482.

AMUSEMENTS.

BIDWELL'S ACADEMY OF MUSIC.

Tuesday, May 4, 1875.

Grand Olio entertainment by the French Pantomimists, the wonderful Gymnast Ala, the Petit Cawthornes, Miss Gertie Granville. Concluding with the popular drama entitled THE BOY DETECTIVE.

To Morrow Noon and Night—Testimonial Benefit to Mr. D. BIDWELL. my4 1t

A GRAND MAY FEAST

Will be given by the

Odd Fellows' Aid Association,

AT

EXPOSITION HALL,

On Tuesday, May 4, 1875.

Admission 50 cents, Children under ten years 25 cents. my2*

RAILROADS.

GREAT REDUCTION IN RATES

Over the

NEW ORLEANS, ST. LOUIS AND CHICAGO RAILROAD.

Lowest Rate Ever Offered:

New York	$35 00
Philadelphia	33 00
Baltimore	31 00
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Cincinnati	25 50
Louisville	24 50
Chicago	25 00
St. Louis	20 00
Chattanooga	12 00
Atlanta	12 00
Montgomery	11 00
Selma	10 00
Meridian	9 00

E. D. FROST, General Manager.

S. K. CAREY,
General Passenger Agent. ap22

NEW ORLEANS, ST. LOUIS AND CHICAGO RAILROAD COMPANY,

GREAT JACKSON ROUTE

On and after December 28, 1874.

Trains depart and arrive as follows from Calliope street depot.

DEPART.	ARRIVE.
Express......7:00 A. M.	Express....11:00 P. M.
Mail.........6:00 P. M.	Mail.......10:30 A. M.

Pullman Palace Sleeping Cars through to St. Louis, Chicago and Louisville.

Only one change of sleeping cars to Eastern cities.

Tickets for sale and information given at No. 21 Camp street, corner of Common.

A. D. SHELDON, Agent.
ja13 1y E. D. FROST, General Manager.

THE MOBILE LINE.

On and after April 17, 1875.

Trains will LEAVE depot foot of Canal street, as follows:

Express and mail, daily.......... 8:00 A. M.
Coast accommodation, daily except Sunday.......... 3:15 P. M.
Throught night express, daily.......... 5:00 P. M.

ARRIVE:

Coast accommodation, daily except Sunday.......... 10:20 A. M.
Express and mail, daily.......... 4:20 P. M.
Through night express, daily.......... 12:00 P. M.

This is the only line running through Pullman Palace Cars to Louisville, Richmond, Atlanta and Charlotte POSITIVELY WITHOUT CHANGE.

Office corner Camp and Common streets, opposite City Hotel.

D. B. ROBINSON,
my13 Acting Superintendent

LOTTERIES.

SPLENDID SCHEME.

ONLY 10,000 NUMBERS.

LOUISIANA STATE SINGLE NUMBER LOTTERY

Capital Prize..........$20,000.

LOUISIANA STATE LOTTERY COMPANY.

(Incorporated August 17, 1868),

CLASS G,

To be drawn in public at New Orleans,

On Saturday, May 22, 1875.

SCHEME.

10,000 Tickets........Tickets only $10

Halves, Quarter and Eighths in proportion.

1 prize of $20,000 is	$20,000
1 prize of 10,000 is	10,000
20 prizes of 500 are	10,000
200 prizes of 100 are	20,000
200 prizes of 50 are	10,000

APPROXIMATION PRIZES.

9 approximations of $300 each for the nine remaining units of the same ten of the number drawing the $20,000 prize are.......... 2,700

9 approximations of $200 each for the nine remaining units of the same ten of the number drawing the $10,000 prize are.......... 1,800

440 prizes, amounting to.......... $74,500

EXPLANATION OF APPROXIMATION PRIZES.

The nine remaining units of the same ten of the numbers drawing the first two full prizes will be entitled to the eighteen approximation prizes. For example: If ticket No. 1246 draws the $20,000 prize, those tickets numbered 1241, 1242, 1243, 1244, 1245, 1247, 1248, 1249 and 1250 will each be entitled to $300. If ticket No. 251 draws the $10,000 prize, those tickets numbered 232, 233, 234, 235, 236, 237, 238, 239 and 240 will each be entitled to $200.

Whole Tickets, $10; Halves, $5; Quarters, $2 50; Eighths, $1 25.

PRIZES PAYABLE IN FULL WITHOUT DEDUCTION.

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LOUISIANA STATE LOTTERY COMPANY,

Lock box No. 692, Postoffice,
New Orleans.

Send postoffice money order, or register your letter. ja3 1y

DRAWING OF THE LOUISIANA STATE LOTTERY FOR MAY 3, 1875.

CLASS 104.

1	2	3	4	5	6	7	8	9	10	11	12	13	14
21	32	21	46	64	38	11	69	19	2	00	6	—	—

The above drawings are published in the principal papers, and are drawn in public daily, at the rooms of the Company.

Witness our hands at New Orleans, Louisiana, this third day of May, 1875.

H. PERALTA,
ADAM GIFFEN,
Commissioners.

BEWARE OF BOGUS LOTTERIES. ap13

SCALES.

FAIRBANKS'..........FAIRBANKS'

STANDARD SCALES,

No. 53 Camp street.

FAIRBANKS' COTTON BEAMS

MOSLER, BAHMANN & CO.'S FIREPROOF SAFES,

The best made in the market.

TROEMNER'S STEEL CORN AND COFFEE MILL

FAIRBANKS'

POSTAL PACKAGE SCALE.

For the weighing of postal matter, hardware, groceries, cigars, gloves, shawls, dry goods, candy, ornaments, tea, etc. Anything not weighing more than four pounds can now be sent by mail for two cents per ounce, or sixteen cents will carry a pound across the continent.

All retail merchants should have our

Postal Package Scale.

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Counter, Druggist, Platform, Hay, Coal and Cattle Scales.

FOR SALE AT NEW YORK PRICES.

FAIRBANKS' SCALE DEPOT,

53..........Camp street..........53

ap18 3m d&w

COURT RECORD.

MONDAY, MAY 3, 1875.

United States Circuit Court.

Present—Hon. W. B. Woods, circuit judge.

Britton & Koontz vs. the Police Jury of the Parish of Concordia.—The following is the charge of the court:

It is claimed by the defendants that, conceding that the power to contract a debt for levee purposes existed in the police jury, it could only be exercised in a particular way, and that that way was pointed out by the act No. 258 of April 29, 1853, acts of 1853, p. 234, which has not been followed. This act declares "that the police juries of the several parishes in this State shall not hereafter have power to contract any debt or pecuniary liability without fully providing, in the ordinance creating the debt, the means of paying the principal and interest of the debt so contracted."

This provision of the statute has been in force since 1853, and is in force now, and is a settled principle of the jurisprudence of this State. Under this law, as construed and enforced by the Supreme Court of this State, the duty of the police jury was, whenever it contracted a debt or pecuniary liability, to provide fully the means of paying it, both principal and interest.

For instance, the police jury might undertake to erect a courthouse, or build a bridge, or construct a hall. It was not necessary that it should undertake to pay for the whole work in one year; but it was necessary, as soon as it contracted a debt, or incurred a pecuniary liability, that it should produce the means of payment, and as the parish is not shown to have had any other source of revenue than taxation, that it should levy a tax fully sufficient for the purposes, to continue until the debt or liability was extinguished. The parish can not escape the duty of providing for the payment of indebtedness incurred by contracting indebtedness, without doing so by ordinances, would be a most transparent evasion of the policy of the statute.

I instruct you that when the parish undertakes an improvement of this kind, and the work has been done, it may anticipate its revenues by issuing vouchers for money due, certificates of indebtedness for services rendered or for property furnished for the use of the parish. These will be good in the hands of any holders, subject to any equities in favor of the parish as a defense; provided always, that when the parish incurred the liability it laid a tax fully sufficient to pay the principal and interest on the debt incurred. The policy of this law of Louisiana is clear. It was to save the parishes and municipal corporations of the State from contracting debts for posterity to pay; to save them from the wasteful extravagance which results from the power to contract debts provisions for the payment of which is postponed to a future day. It was to enforce economy in public expenditures by making the taxpayers feel at once the burden of any debt contracted by the officers of the parish, town or city. It was a wholesome policy, and has been again and again enforced by the Supreme Court of this State. Capmartin vs. Natchitoches, 23 An. 190; Breaux vs. Iberville, 23 An. 232, see also 23 An. 251; Edwards vs. Bassin, 24 An. 457; Stating vs. West Feliciana, 26 An. p. 59.

I instruct you that though these warrants are transfered by assignment when they are payable to order or by delivery where they are payable to bearer, they do not possess that other quality of commercial paper, namely that the holder who takes them for value can recover on them notwithstanding there may be a good defense.

The defendant says that the law was not observed, which alone gave the police jury power to contract debts and incur pecuniary liabilities. It has been frequently determined, says the Supreme Court in Sterling vs. West Feliciana, 21 An. p. 59, that police juries are political corporations, whose powers are specially defined by the Legislature, and that they can legally exercise no other power than that delegated to them. They are specially required by statute, when within the scope of their legitimate powers, they create a debt against the parish to provide in the same ordinance the means of paying it.

Now, you will look into the evidence to ascertain whether provision was made by the ordinance which authorized the creation of the debt for the building of the levees, for the full payment of that principal and interest. The warrants signed by the president of the police jury, A. T. Welch, refer on their face to the ordinance of July 21, 1859, amended October 21, 1859, as the authority for their issue. You will, therefore, look to this ordinance as amended to ascertain whether it provided for the payment of the principal and interest of the debt authorized to be contracted by it. I have looked through this ordinance, and have been unable to find any such provision. Look through the ordinance for the authority to contract the debts represented by the engineers' warrants, and see whether there is to be found therein provision for the payment of the principal and interest. If there is not I instruct you that the police jury had no power to contract the debts, and the warrants representing the same are no better than blank paper.

Under the act of 1853 the duty of the police jury of the parish was plain and easily performed. When any unusual work was to be done it was their duty to estimate its cost and levy a tax to pay for it. Where they expected to make no expenditures except for the ordinary administration of the parish affairs, they were required to levy a tax for such general and ordinary purposes. The policy of the law was to require the parish officers, whenever they contracted a debt or incurred a liability, to face the responsibility of levying a tax to pay it in full. The means to pay the debt was required to be provided by the very ordinance which authorized the debt to be contracted. It was not to be left to the future action of other officers to make provision for its payment. They were not allowed, and it was so held in Sterling vs. West Feliciana, to contract debts for the ordinary expenses without levying a tax to pay them. Much less were they allowed to undertake the great work of constructing or repairing levees for an entire parish, involving, as the evidence shows, an outlay of hundreds of thousands of dollars, without making provision by levying a tax to pay principal and interest.

Look into the evidence and ascertain whether this has been done in this case. If it has not then there can be no recovery on these warrants, or on the claims against the parish which they represent.

The jury returned a verdict for the plaintiff.

Supreme Court.

Present—Chief Justice Ludeling, and Justices Taliaferro, Howell, Wyly and Morgan.

The following decisions were rendered:

REHEARING GRANTED.

No. 4802. Thomy Lafon vs. William B. Hyman et al.

REHEARING REFUSED.

No. 5462. John T. Michel vs. Zerilla Meyer et al.

BY CHIEF JUSTICE LUDELING.

No. 5484. State ex rel. A. V. Brown, appellant, vs. E. M. Cramer.—From Thirteenth Judicial District. Exception that Crawford was not district attorney pro tem. overruled, he certainly being de facto such officer, and case remanded.

No. 5323. State ex rel. J. C. Scale vs. Isaac N. Crawford, appellant.—Judgment reversed in favor of plaintiff's right to the office of district attorney pro tem. Justice Wyly concurs, and considers act No. 44 of 1874, changing the manner of filling vacancies in the office of district attorney pro tem., unconstitutional.

No. 5527. In re succession of Ernest Poree.—From Second District Court. All the parties in interest were not parties to the suit. Sale annulled and judgment reversed.

No. 5313. Lazare S. Rodriguez vs. Mathilde Johnson, his wife, appellant.—From Fourth District Court. Judgment for divorce affirmed.

No. 4102. L. A. Welton vs. R. P. Burton, appellant.—From Sixth District Court. Judgment reversed.

No. 5676. Parish of West Baton Rouge, appellant, vs. Robert Morris.—From Fifth Judicial District. The claim against the defendant, for uncollected taxes, which plaintiff is now collecting, is unfounded in equity and law. He is bound to return the amount he did receive in currency and not in warrants. Verdict of the jury set aside and judgment for plaintiff for $2095 85.

No. 3507. City of New Orleans, appellant, vs. New Orleans, Mobile and Chattanooga railroad.—From Fourth District Court. The resolution of the General Assembly exempting defendants from wharfage dues is not unconstitutional: 14 A., 7; 9 A., 329; 20 A., 196: the public servitude is under the control of the General Assembly: C. C. 453, 455, 458; and it could grant the right; 5 A., 661; 15 A., 577; 22 A., 545; 6 N. Y., 523; 26 N. Y., 287; 1 Black 1. It was not a donation of revenues. Judgment affirmed.

No. 5618. Charles McAlister, appellant, vs. R. K. Anderson.—From Thirteenth Judicial District. The State did not sell the property at the tax sale for taxes due for 1871, freed from the taxes of 1872. Judgment affirmed.

Justice Wyly dissents.

No. 4990. Aimee Jumoville vs. A. Jackson Sharp, appellant —Fourth Judicial District. The appearance of the husband authorized the suit. It is necessary to protect him; 6 A. 360, C. P. 105. Plaintiff's mortgage has preference; 20 A., 79. Judgment amended that defendant pay $7300 60.

BY JUSTICE TALIAFERRO.

No. 5713. D. C. McCan & Son vs. L. F. Jacks et al., appellants.—From Fifth District Court. On promissory note. Judgment affirmed.

No. 3866. Randolph, Singleton & Browne vs. Joseph H. Carroll, appellant.—From Eighth District Court. The court in estimating the value of professional services will be guided by a conscientious estimate and of itself fix the amount. The judgment is amended from $2200 to $1200. Justice Morgan dissents.

No. 4354. Laurent Julien vs. owners Wade Hampton, appellants.—From Sixth District Court. Damages for injuries received while a passenger. On the ground that common carriers are bound to carry their passengers safely; Angell, on Carriers, 568; 2 Green. Ev. 221; and that captain and owners are responsible for employes' acts, 15 A. 321; 18 L. 490; 2 A. 654; 11 A. 396; 14 How. 468, judgment is affirmed.

No. 5015. City of New Orleans vs. New Orleans Mechanics' Society, appellant.—From Superior District Court. The property is not exempt from taxation. The Mechanics' Institute has not been used for the purposes described in the act of March 31, 1850. There is no contract between the State and the corporators. Injunction against tax collection dissolved, otherwise judgment affirmed.

No. 5312. Miss H. H. Todd vs. John Bourke et als., appellants.—From Fourth District Court. On the purchase of a note purporting to be defendants', but forged, the judgment being against the brokers who recommended the purchase. If the plaintiff's and two disinterested witnesses' testimony is to be believed the brokers, Carpenter & Van Solingen, urged her to purchase. More reliance is to be placed on that than that of the brokers who were engaged in many similar transactions, because they were absorbed in this single subject. The brokers evinced an unusual desire that the purchase should be made. Judgment for $12 000 affirmed.

No. 5736. State ex rel. Mississippi and Mexican Gulf Ship Canal Company, appellants, J. Q. A. Fellows, intervenor.—The intervenor should have given bond, and the appeal as to him is dismissed.

No. 4036. A. Roos & Co. vs. Merchants' Mutual Insurance Company, appellants.—From Seventh District Court. Defense on the ground of double insurance without notice. It is not tenable, as plaintiffs had an insurable interest in supplying Marks with goods. The other insurance was in the interest of a different party. Judgment affirmed. Justices Howell and Morgan dissent.

BY JUSTICE HOWELL.

No. 3947. George E. Wilkinson et al. vs. Joseph Dalfres, appellant.—From Seventh District Court. Plaintiff's authorities show the responsibility of owners as common carriers. This is an action by owners against their lessee. C. C., 2710. The defendant did not violate the obligation. The charterer is not held to be an owner in a contest with the actual owners. Judgment reversed.

No. 4089. Nisoda Stewart, appellant, vs. V. M. Kilmartin et al.—The broker knew the lessor was a married woman. Judgment affirmed.

No. 5671. In re succession of Treville Daigle.—From parish of Baton Rouge. Judgment reversed, and Edward Cousinard appointed to administer the succession.

No. 4105. Clement Camp vs. Metropolitan Loan and Savings Bank.—From Fourth District Court. There was no provision for plaintiff's compensation. Judgment reversed.

No. 5733. F. S. Serrill vs. city of New Orleans, appellant.—From Superior District Court. The city is not bound by the action of a clerk who did not know an appeal had been taken. Motion to dismiss denied.

No. 4112. Jacob Denny, appellant, vs. Henry Simons.—From Fifth District Court. There was a total failure by the defendant to deliver the articles, but the action of the military power relieved him from responsibility. Judgment reversed, and plaintiff to recover the $30,000 paid by him.

No. 4398. Odile Saux et al. vs. Nicholas Betz, appellant.—From Second Judicial District. The proper steps against the principal were not taken before pursuing the surety. Judgment reversed.

No. 4418. Luther M. Morressett vs. William F. Mason, appellant.—From Second Judicial District. Judgment affirmed.

No. 5656. John J. Gardner vs. E. W. Alverston et al., executors and appellants.—Judgment reversed.

No. 5356. Citizens' Bank, appellant, vs. St. Louis Hotel Association.—From Superior District Court. The privilege of the contractor did not have preference over mortgages in force. C. C., 3274; Gaylor vs. Bovard, Opinion Book, p. 44. Judgment reversed and intervenor's demand rejected.

No. 5576. New Orleans, Mobile and Chattanooga Railroad Company vs. Thomas S. Dugan; William S. Harris, surety on appeal bond, appellant.—Judgment affirmed.

No. 5742. Temple S. Coons, appellant, vs. Joseph F. Kendall.—From Fifth District Court. Judgment affirmed.

No. 5592. Peet, Yale & Bowling, appellants, vs. J. J. McDaniel & Co.—From Sixth District Court. The proceeding is premature because the liability for damage is not ascertained. Judgment affirmed.

BY JUSTICE WYLY.

No. 5726. Louisiana National Bank vs. city of New Orleans, John Klein and Thomas Tallis, intervenors and appellants.—From Superior District Court.—Metropolitan Police warrants are receivable for licenses under act No. 33 of 1874, and act No. 44 of 1869, and so specify on their faces. The plaintiff as a creditor taxpayer has no more right than any one else to rush into court for an injunction. If all did so the law could not be administered. The plaintiff has no interest and no injunction should have issued prejudicing intervenors. Judgment reversed and injunction dissolved.

No. 5729. State of Louisiana, ex rel. Edward Labie, appellant, vs. Administrator of Finance.—From Superior District Court. The warrants were issued under act No. 41 of 1870 and receivable for licenses and taxes under act No. 44 of 1869. Act No. 33 of 1874 changed the law and required a special tax to be collected in cash to support the Metropolitan Police department, and the outstanding police warrants are receivable for licenses. It is unambiguous and precise. The relator has the right to pay his license in these warrants. Judgment reversed and mandamus made peremptory.

No. 3899. Canal and Claiborne Street Railroad Company vs. succession of John Armstrong, appellant.—From Second District Court. On rehearing. The succession is not liable on the bond; suretyship is not to be presumed. C. C. 3039. No specific sum was promised and there is nothing to enforce. Judgment annulled.

No. 4420. Alfio LeBlanc vs. James Berthoud, appellant.—From Second Judicial District. Action for $30,000. Plaintiff, after complaining of trespass of mules of others, went to see defendant, a justice of the peace, on his invitation; was there abused, cursed, beaten, handcuffed, threatened with seventy-five lashes, stretched half an hour on the grass with his hands tied by defendant's field hands. The defendant's acts were not in his judicial capacity, but a high-handed and disgraceful outrage not to be tolerated. The jury's damages of $500 increased to $2500, and judgment affirmed.

No. 4368. J. Faust, Brother & Co. vs. Glynn & Wintz, appellants.—From Seventh District Court. Judgment affirmed with ten per cent damages.

No. 4720. Hall, Washburn & Co., appellant, vs. E. M. Ivens & Co.—From Sixth District Court. After deducting commissions as agents, defendants owe plaintiffs a balance. The reconventional demands are not of the kind indicated in the contract. The plaintiffs had the right to sequester their own property. No commissions can be charged on the property unsold. Judgment reversed.

No. 5724. Elizabeth Marchal, appellant, vs. Harriet Hooker.—From Fourth District Court. The registry of the unsigned judgment did not operate as a mortgage before signing; 5 N. S. 105. Judgment annulled.

No. 3426. Pierce Tissot vs. Joseph Jouet, appellant.—From Fourth District Court. Reinstated on the docket that defendant's assignee in bankruptcy be made a party.

No. 5738. Mrs. and Mr. Delacroix vs. Mrs. E E Nash, appellant.—From Fourth District Court. Case remanded and judgment reversed.

No. 4400. Mauria N. Bowman vs. city of New Orleans, appellant.—From Sixth District Court. Camp Parapet being without the limits of New Orleans, she could not close the outlets of drainage and damage plaintiff's farm. C. C., 660. The proprietor below must pay damages for obstructing drainage; 19 L., 351; C. C., 2315; 4 A., 440; 12 A., 15. Judgment affirmed

No. 4415. Felix Formento vs. J. N. Robert, appellant.—From Fifth District Court. Judgment amended that plaintiff recover $2300, the act of sale being annulled.

No. 4512. F. Formento, appellant, vs. F. J. Robert.—From Fifth District Court. The court did not err. Execution could not issue till the error condemning Joseph N. instead of Francois J. Robert was corrected. Judgment affirmed.

BY JUSTICE MORGAN.

No. 5423. D. & J. D. Edwards, appellants, vs. Fairbanks & Gilman; C. Cavaroc vs. W. P. Harper and the New Orleans Mutual Insurance Company, intervenors and appellants.—From Fifth District Court. Judgment amended to give privilege on the seizure of the refinery; exempting the property purchased by the insurance company from liability for the debt, and allowing its intervention, so far as that property is concerned, but dismissing it as to the machinery; and maintaining the intervention of Cavaroc & Son. Justice Wyly dissents.

No. 4346. Robert N. Lewis vs. J. B. Letorey, appellant.—From Sixth District Court. The plaintiff hired the press, received it without objection, and there is no stipulation for the defendant to repair. Its breaking down was the result of carelessness on the part of his employes. Judgment reversed.

Justice Wyly dissents.

No. 3539. Dominick Koelmee vs. New Orleans, Mobile and Chattanooga Railroad Company, appellant.—From Seventh District Court. The Legislature having authorized the placing of the track where it did, in close proximity to plaintiff's dwelling, the judgment is reversed.

Justice Wyly dissents.

No. 4393. Nicholson & Co. vs. Mrs. A. M. Jennings, appellant.—From Fifth District Court. Case remanded to determine the question of prescription.

No. 5395. Mrs. Virginia C. Burke vs. Mrs. Clarissa Bishop, appellant, and Mary E. Kisley.—From Sixth District Court. Mrs. Bishop was not authorized to stand in judgment. Elliot being dead when the check was paid, it is claimed the succession was protected by the Civil Code, 1536, 1558. But he indorsed it, handed it to Mrs. Risley, and his property in it ended. It was money that he gave her. She should not return it. Judgment reversed. Chief Justice Ludeling and Justice Taliaferro dissent.

No. 5749. John Fitzpatrick vs. city of New Orleans, appellant.—From Superior District Court. Some charges are not processes but seem to be included in the salary. The judge had no power to certify to what were not processes. Judgment reduced from $9089 21 to $6888 41.

No. 4101. Dr. Samuel Choppin vs. James Wilson, appellant.—From Sixth District Court. The court in this case is not authorized to appoint a receiver. Judgment reversed.

No. 3325. Mathilde Morrison, appellant, vs. Citizens' Bank et als.—From Sixth District Court. On rehearing former judgment set aside. The proceedings had not become final because the mortgage was not properly recorded; C. C., 3273, and has no effect as a privilege, 3240, 3241. The tacit mortgage attached on the day of purchase, 20 A., 79, and was in force when the privilege ceased. When the act of sale was recorded it operated as a mortgage. Judgment reversed.

No. 4369. B St. Mesure LeBreton, appellant, vs. P. J. Kennedy.—From Second Judicial District. The act by defendant's employe was not one for which he was responsible. Judgment affirmed.

No. 3500. William McCubbin, appellant, vs. Samuel Hastings.—From Fourth District Court. Damages for improperly compounding a prescription, causing death when administered. Defendant was responsible for his employe, though not engaged by him. The demand was within the time, and is the test, and not the allegations. The certificate of death is no act of the plaintiff. It is not necessary to show defendant could have prevented the act. Competency or incompetency or mistake is no defense. The spirits of camphor in place of camphor water did harm. The physician denounced the mistake, and said but for it the patient would have done well. The terrible fact of death from the substitution destroys the medical testimony that it was a benefit. Judgment reversed. Justice Wyly dissents.

Superior District Court.

Union Baptist School and Church vs. John Holmes.—Testimony ordered to be taken by the clerk of court as commissioner.

Alfred Marchand vs. city of New Orleans and Louisiana National Bank.—Prayer for judgment on thirty nine coupons of the bonds of the city of Carrollton, amounting to $118 43.

Theo. Dumas vs. T. Hall and Christopher Erne.—Petitioner alleges that manufacturing a fine quality of seltz water he uses syphons to deliver it in, marked with his name and the quality of the water; that defendants also manufacture seltz water and have obtained about 750 of plaintiff's syphons and are selling their water in them; that they are worth $1 each, and prays that defendants be restrained from continuing to use them. Injunction issued on bond of $500.

Superior Criminal Court.

INFORMATIONS.

Carrying concealed weapons—Milton White, John Develin, Joseph Formay, James Ward.

Grand larceny—J. F. Smith.

Breaking and entering a store, etc.—Frank Rivers, John Murphy.

TRUE BILL.

Embezzlement—Paul Druilhet, embezzling funds as clerk of Llambias & Dockter, on Old Levee street.

VERDICT.

State vs. W. S. Calhoun and Albert Hawthorne—1. Forging a satisfaction of judgment; 2. Publishing the same as true, etc. Calhoun, guilty of both counts. Hawthorne, not guilty.

First District Court.

INFORMATIONS.

Entering shop, etc.—Charles Smith, Charles Harrison.

Assault and battery—Mrs. Mackey, Bridget Conners, Herbert Stewart, M. Mahony, Louisa Johnson, Mrs. Jovilde.

Assault with intent to kill—William Williamson, E. Preavesu.

Breaking and entering dwelling house, etc.—Levi Howard.

Horse stealing—Robert Lewis.

Petty larceny—Frank Rivers, Joe Mack, George W. Phillips, Red Harrison.

AFFIDAVIT DISMISSED.

James Kelly, petty larceny; Pat Baggs, receiving stolen goods.

NOLLE PROSEQUI ENTERED.

Paul S. Buckner, petty larceny.

SENTENCED

Johnson Smith, petty larceny, two months; Louis McGettingen and Fred Kuhn, assault and battery, $5 fine each.

JURY.

Thirty-six jurors are ordered for the May panel.

[Communicated.]

Disinfection Preferred to Quarantine.

EDITOR REPUBLICAN:

In an article headed "The Doctors and the Quarantine" the REPUBLICAN has reference to an address lately sent by a number of physicans to the Board of Health. The REPUBLICAN takes issue with that portion of the address which reads: "That after many years of experiment quarantine has failed to protect this city from yellow fever;" and inquires, "If quarantine has failed to protect, is it the fault of the system or owing to imperfect administration? The judgment of the subscribing physicians is not given on this subject, which is the only point involved in the controversy."

In my opinion the failure to protect is owing to both, partially to the system, but more so to its inadequate administration; and how could this have been otherwise, when the appointing power looked more into the political creed of the incumbent of that important and responsible position than to qualification? But the main question devolves upon the system, and here I feel it a duty I owe to myself to explain my position. I have always been a warm advocate for a strict quarantine, and when I signed that paper requesting the Board of Health to abolish our much abused and inefficient quarantine institution, I intended to have a far better and more efficient proceeding set in its place, a proceeding which besides would not obstruct the commerce of our city of which we are so much in need. We know to-day that a ship coming from an infected port may, even after the original compact of forty days, still carry in its hold the infectious matter which will finally develop into an epidemic. We have since learned to destroy effectually the germs of infection and are able to accomplish that in hours where formerly weeks were needed and then no security obtained.

Why then, in the name of common sense, stick to a system which it is every person's aim to frustrate? With the new and efficient system of disinfection which was initiated and properly executed by the late quarantine physician (Dr. A. Perry) at this port, we may do away with the old quarantine regulations, and it is hoped that the Board of Health, composed in its majority with progressive medical elements, will not hesitate to issue such rules and regulations, which once adopted will not fail to find general approbation. I hope that my explanation will be satisfactory to the REPUBLICAN. M. SCHUPPERT, M. D.

State Funding Board.

At the request of Messrs. Ranger, Fatman & Co., of this city, agents of a firm in Liverpool, there was a special meeting of the State Funding Board, yesterday. There was a full attendance of members.

Application was made by the above firm for the exchange of $78,500 worth of old bonds for new ones, in accordance with the law authorizing the refunding of the State debt, and providing for the payment of interest. Upon examination of the bonds, all were accepted, but one calling for $1000, and new bonds ordered to be issued.

Applications for the exchange of old bonds for new were received in the following amounts: A. Luria, $102,000; LeSassier & Binder, $20,000; Isidore Newman & Brother, $9500; E. J. Forstall & Sons, $22,500; Henry Beer, $20,000; James Chalanan, $25,000. They were in each case accepted and the exchange ordered to be made.

The total amount of bonds ordered to be renewed was $276,500.

While the board was in session a special committee of the House of Representatives, appointed at the extra session to investigate the affairs of the board, appeared and presented a petition requesting the postponement of the burning of securities, and asking that all facilities be given them to examine into the affairs of the board. The committee is composed of Messrs. Bayley and Aldige.

On motion of Fiscal Agent Baldwin, seconded by Secretary of State Deslonde, it was resolved that the burning of the securities be postponed until the nineteenth instant, and that the special committee be given every opportunity to make a thorough and exhaustive examination of securities funded.

The resolution was carried without a dissenting vote.

A letter from E. J. Forstall & Sons was read inquiring as to Auditor's warrants issued in 1874 for 1873 and previous years' interest. On motion the matter was referred to the Fiscal Agent, Auditor and Lieutenant Governor, who had been appointed a committee to wait upon the Attorney General and obtain his opinion in regard to the matter.

All of the bonds submitted by Messrs. Ranger, Fatman & Co. are accredited with having been issued under what is cited as act No. 32.

Eighty-seven thousand dollars of the amount presented in bonds by A. Luria, cashier, was issued under the act of March 16, 1870; $5000 of the amount was issued under the act passed March 26, 1867, and $10,000 under act passed February 21, 1874.

The balance ranges pretty much in the same way, including some of the old Opelousas railroad bonds and a portion of the Jackson and Great Northern railroad bonds.

The next regular meeting of the board will be held to-morrow at one o'clock.

Fire at Bayou Sara.

Intelligence was received yesterday of an incendiary fire at Bayou Sara, which destroyed the drug store of F. M. Mumford and an adjoining building belonging to Picard & Wiel. Mumford's loss is estimated at $10,000. He was insured in the sum of $4000. Picard & Wiel lose about the same.

BY TELEGRAPH.

WASHINGTON.

Resignation of the Austrian Minister.

WASHINGTON, May 3.—Baron Schwarz Senborn, Austrian minister, has tendered his resignation and it has been accepted.

Fog Bell at the Patapsco.

The light and fog bell, on Fort Carroll, Patapsco river, Maryland, will be removed, May 6, to the southwest angle of the fort.

Appointment.

Curtis S. Burnham, of Richmond, Kentucky, has been appointed assistant secretary of the treasury, vice Hartley.

Supreme Court Decisions.

The Supreme Court to-day has decided the case of the State of Maryland against the Baltimore and Ohio Railroad Company. The State claimed a deferred payment of $500,000, as due for the period between 1860 and 1870, being one fifth of the passenger fare over the Washington and Baltimore branch of the road. The company refused to pay the amount to the State on the plea that the tax was unconstitutional. This the Court of Appeals of Maryland overruled, affirming the right of the State to the money in question.

The Supreme Court holds that the passenger tax was different from a tax on inter-State commerce, which the State could not impose. The State had a right to impose conditions in the granting of the charter of the road, and it mattered not what became of the money. The proportionate amount, or one fifth of the passenger fare, was a bonus to the State. It was a condition imposed in consideration for the franchise. This the State had a right to do.

The court, in view of the facts presented, could not regard the stipulation between the parties as unconstitutional. The decision of the Court of Appeals was affirmed. Justice Miller dissented from the opinion of the court, regarding the tax imposed by the State of Maryland unconstitutional.

Mechanics and Traders' Bank vs. Union Bank of Louisiana; error to the Supreme Court of Louisiana. Decided.

NEW YORK.

Accident in East River.

NEW YORK, May 3.—The steamer City of Hartford, passing through East river this morning, ran into the scow Charles McManus No. 5, on which were Captain Costa, his wife and four children, the eldest seventeen years old. The scow capsized and the four children were drowned in the cabin. Captain Costa and wife were saved by the crew of a passing pilot boat.

The captain and pilot of the City of Hartford have been held in $5000 for running down the scow, whereby the four children were lost. The father and mother were saved. The mother is demented. The children were aged respectively fifteen years, six years, three years and twenty months.

FOREIGN.

A British Consul Wounded.

NEW YORK, May 3.—Haytian advices report that the British consul has been assaulted and wounded at Port-a-Paix. English war vessels are in motion for an explanation or retaliation.

Extradition of a Forger.

LONDON, May 3.—Charles L Lawrence, charged with forging invoices of silk smuggled into New York, is to be extradited, and comes home on the Scythia.

Satisfactory.

A dispatch from Berlin says the last Belgian note is highly satisfactory and terminates the controversy.

Carlist Victories.

The Carlist committee has received telegrams reporting great victories by Don Carlos' forces, under command of Saballs, over the Spanish government troops at Breda, Lerida and Santa Colona. The latter place is in the province of Barcelona. The enemy numbered 4000 men.

They lost five chief officers in the first engagement, and 350 men in that at Santa Colona.

Another great victory for the Carlists under Castillo is reported from Arragon. The government troops are said to have lost all their artillery and many prisoners. Alfonsist General Delatre was killed.

Mutiny of a New Orleans Crew.

The schooner Jefferson, from New Orleans or this port, has arrived off Port Lethen. The captain reports that his crew mutinied, and the first and second mates were killed. Two sailors were wounded and put in irons. One sailor was wounded and chained to the pump, and another is dying. The vessel was worked by three hands.

The *Unita Cattolica* of Rome comments in bitter terms on the installation of the Prince of Wales at the head of the order of Masons in Great Britain and declares that this act identifies Anglican Protestantism with Masonry.

Dead.

Mr. Stevens, sculptor of the unfinished monument to Wellington, in St. Paul's Cathedral, died last week.

Foundered at Sea.

QUEENSTOWN, May 3.—The bark Rose Brae foundered on the passage from Galveston for Liverpool. The crew was rescued and landed here.

MISCELLANEOUS.

The Spencer Investigation.

MONTGOMERY, May 3.—The committee of the Alabama Legislature to investigate Spencer's election will be in session in Mobile until Wednesday night, and will then adjourn to this city, to commence here on Thursday.

Judge Bruce on the Bench.

Judge Bruce, Busteed's successor, commences his first term here to-day.

Funeral of Mrs. Conway.

BROOKLYN, May 3.—The funeral of Mrs. Conway, the actress, which took place at the Church of Our Father yesterday, was attended by a great crowd, including many members of the profession.

Water Spout.

MUSKOGEE, I. T., May 3.—A water spout lifted the bridges, culverts and track of the Kansas and Texas road, near Elk creek.

A Steamboat Wrecked and Several Lives Lost.

ST. LOUIS, May 3.—Some additional particulars regarding the loss of the steamer St. Luke have been learned from Captain Keith and passengers who came down from St. Charles by the railroad to-day.

The night was dark and the lights on the bridge very dim. About thirty feet of the larboard side of the boat was crushed in by the collision with the pier, and part of her machinery was torn away.

She made water very rapidly, but floated down about two miles, struck a bar in the middle of the river and sunk to the hurricane deck. The passengers rushed from their berths in great terror, ran hither and thither panic stricken, but all those not lost in the collision were finally gathered on the hurricane roof, where they remained till daylight, clad only in their night clothes, when the ferry boat came down and took them ashore.

Five or six persons are supposed to have been knocked overboard and drowned at the first crash, but this is not definitely known. Those whose loss is certain are: William Brooks, fireman, St. Louis; Tom Donnelly, deck sweeper; Mrs. John Doran and two children, who took passage at Kansas City; one male passenger and three deck passengers, names unknown.

About 100 souls were on the steamer, most of whom, outside of the officers and crew, were deck passengers, no list of whose names were kept by the clerk.

The boat had about 100 tons of freight, which, with the boat, will be a total loss.

Mrs. Lewan, wife of John L. Lewan, a railroad man of Kansas City or Jefferson City, and two little girls, aged respectively seven or eight years, were lost. Six or seven deck passengers are supposed to have been lost, though their names can not be ascertained.

The Fire at Montpelier.

MONTPELIER, Vt., May 3.—The losses by Saturday's fire aggregate $137,000.

A Policeman Murdered.

PLYMOUTH, Mass., May 3.—A desperado killed a policeman who attempted to arrest him.

To-day's Races at Galveston.

GALVESTON, May 3.—The following are the entries for to-morrow—fifth day's races:

First Race—Handicap, mile heats. E. A. Gay enters Flyaway, weight eighty-seven pounds; R. Miller enters Sallie Anderson, weight ninety pounds; ——— enters Billy Williamson, weight 101 pounds; J. H. Stone enters Pauline Sprague, weight eighty-seven pounds; J. S. Busleson enters Austin, weight 101 pounds.

Second Race—Half mile dash. J. S. Busleson enters b. c. Stonewall, William Snyder b. f. Fanny Smithly, A. H. Eimans b. g. General Palmer, A. Wagner b. g. Dixie, and E. A. Gay b. h. Conductor.

Civil Rights in Texas.

In the United States District Court for the Eastern district of Texas, Judge Morrills, in an opinion in relation to the civil rights bill given in the charge of the grand jury, says: By the constitution to the United States, it is provided that all persons, born or naturalized, in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside; no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty or property without process of law, nor deny to any person within its jurisdiction the equal protection of the law. This section of the fourteenth amendment of the constitution is simply a prohibition against any State from passing any law that has a tendency to injure any person, but it does not pretend to furnish a penalty for the commission of any of the acts done by individuals in States where the law is silent relative thereto. To meet this omission, on the first of March, 1875, Congress prepared an act to protect all citizens in their *civil* and *legal* rights. I have italicized civil and legal, for the purpose of showing that these rights only, and not social rights, are intended by the act. The first section of this act provides that all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities and privileges of taverns, public conveyances on land and water, theatres and other places of public amusement, etc. I take this to mean that all persons have a legal right to have board and lodging at an inn, transportation on steamers and railroads or stages, and an entrance in a theatre, but while they have these legal rights they do not thereby acquire any social rights. A landlord of an inn and a conductor of a railroad train or a manager of a theatre must have due regard to the social condition of those who patronize him. While he must respect the legal rights of all he must also respect the social rights of all. To hold that a conductor of a railroad train can not assign a special car to ladies and children and their attendants to the exclusion of all others, provided other passengers are furnished with other cars, with all necessary facilities for traveling, would be to stab social rights, privileges and immunities. Therefore, my view of the act is that it was not intended to affect social rights, but civil and legal rights. If it shall be made to appear that any innkeeper has refused proper facilities to any one on account of race, color or previous condition, or if a railroad conductor has failed to furnish a proper seat in his cars, or a manager of a theatre has excluded from his theatre any one from a similar reason you will be authorized to find a true bill against them.

Saturday Night's Frost.

INDIANAPOLIS, May 3.—Reports from various portions of the State show but little additional damage done by the heavy frost of Saturday night last. The temperature since the extreme cold of the middle of April has not been high enough to cause much development of buds or grain. The fruit crop in the Southern portion of the State generally is considered gone, while a partial crop is expected in the Northern counties.

Crop Prospects in Nebraska.

OMAHA, May 3.—On account of the backwardness of the season, the recent frosts have done but little damage. The prospect for wheat, oats and fruit is believed to be the finest ever known in this vicinity. Orchard and forest tree planting has been very extensive this season. It is thought the late frosts have destroyed the embryo grasshoppers.

A Schooner Lost in a Gale.

SANDUSKY, May 3.—The schooner Consuello, Captain Hausser, of Cleveland, with building stone, from Vermilion for Chicago, was lost in a gale off Marblehead, near this port, Saturday evening. Captain Hausser, William Law, William Clary, Charles Peterson and the female cook, name unknown, were washed overboard and drowned. Fred Donohue, the mate, and James King, seaman, took to the rigging and were rescued by the Clemans Brothers, of Marblehead.

Probabilities.

WAR DEPARTMENT,
Office Chief Signal Officer,
Washington, May 3, 1875, 4:35 P. M.

For Tuesday, in the South Atlantic and Eastern Gulf States, falling barometer, southeast winds, threatening and rainy weather, with slight changes in temperature. For the Western Gulf States, rising barometer, northerly winds, with cooler and partly cloudy weather.

River and Marine News.

SOUTHWEST PASS, May 3, 6 P. M.—Barometer 29.65. Wind southwest, light. Weather thick, rainy and foggy. No arrivals or departures.

PASS A L'OUTRE, May 3, 6 P. M.—Wind southwest, light. Weather thick and rainy. Arrived—Schooner Peter Mitchell, Benson, four days from Ruatan, with a cargo of fruit. No departures. The schooner Elizabeth Edwards, Captain Townsend, from Philadelphia, has arrived outside to anchor. Schooner Anna, that arrived outside yesterday, was towed to Southwest Pass to-day. The steamship Hannover is still at anchor outside. There is no chance to get in while the Marlborough and Yazoo block the bar. Four ships, two barks, one brig, one schooner and the steamship New Orleans are inside bound out.

VICKSBURG, May 3.—Up—James Howard at 5 P. M.; Illinois, at 6 P. M. Down—Frank Pargoud, at 6 P. M. Arrived—Capitol City, at 2 P. M.; Natchez, at 6 P. M. Weather warm and clear. River fallen six inches.

MEMPHIS, May 3.—The river rose nineteen inches. Weather cool and rainy. Arrived—Vint Shinkle, from Cincinnati. Departed—Mammelle, for Little Rock; Mary Houston, for New Orleans; Belle Memphis, for St. Louis; City of Helena, for Vicksburg.

CINCINNATI, May 3.—River twenty-one feet six inches and falling. A light rain since 3 P. M. Weather cool.

ST. LOUIS, May 3.—Arrived—Julia, from Vicksburg. Departed—Great Republic, for New Orleans. After rising a few inches last night, the river came to a stand, with twenty-four feet four inches above low water mark. Weather cloudy, cool and rain at intervals.

CAIRO, May 3.—Arrived—Charles Morgan, from New Orleans, at 1 P. M.; Longworth, from Cincinnati, at one; Glencoe, from New Orleans, at five. Departed—City of Helena, for Vicksburg, at eight o'clock last night; Morgan, for Cincinnati, at 2 P. M. to-day; Glencoe, for St. Louis, at seven. River thirty-two feet seven inches and rising. Rain all the forenoon. Weather cloudy. Mercury 64°.

EVANSVILLE, May 3.—Light rain all day. Weather cool. River risen three feet.

PITTSBURG, May 3.—River six feet seven inches, and rising. Weather cloudy and cool.

LOUISVILLE, May 3.—River falling slowly; ten feet four inches in the canal. Steady rain to-night. Departed—Thompson Dean, for New Orleans.

MARKETS.

Domestic Markets.

NEW YORK, May 3.—The Post's financial article says: The official announcement that the Treasury will sell $5 000 000 gold during the month had the effect of causing a decline in gold to 115@115⅛. The early sales having been at 115 and the sales since 10:06 A. M. at 115⅛. On gold loans the rates have been flat and 1 ₱ cent ₱ annum for use. Foreign exchange is steady and firm, with prime bankers' sterling at $4.88 and $4 91, nominally, and $4 87@4.87½ and $4.90 and $4.90½ actually.

The money market continues extremely easy, with quotation for call loans 3@3½ ₱ cent, 4@2½ ₱ cent being the exceptional rates. Prime mercantile paper ranges from 4½ to 6 ₱ cent, with choice as low as 4 ₱ cent. Government bonds

[CONTINUED ON FOURTH PAGE.]