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THE SENATE COMMITTEE.

First Day.

Quite a number of people assembled in the United States District courtroom yesterday morning awaiting the arrival of the Senate committee, though nearly every one expected to be obliged to leave before business commenced. All the city papers and a few Northern journals were represented.

At about twenty minutes to twelve o'clock the members of the committee, Senators T. O. Howe, of Wisconsin, chairman; Bainbridge Wadleigh, of New Hampshire; S. J. R. McMillan, of Minnesota; R. J. Oglesby, of Illinois; Joseph E. McDonald, of Indiana, and Eli Saulsbury, of Delaware, appeared, accompanied by Mr. R. B. Lines and Messrs. James J. Christie, James D. Kennedy and A. B. Sloanaker, sergeants-at-arms.

There were also present Hon. Frank Morey, Hon. W. G. Brown, Governor Pinchback, Hon. Hugh J. Campbell and one or two others. The rest retired on request.

Senator Howe stated that he had been asked by one party, opposing the action of the Returning Board, to allow representatives to be present, not more than five. To this there would be no objection. He supposed the other side would like the same privilege, and it would be allowed. The presence of a representative from each of the city papers would also be unobjectionable, and if those from other papers desired admission they could obtain it. The secretary would issue cards, or some other suitable arrangement would be made.

It had also been suggested that the party opposing the Returning Board desired to submit in writing a statement. This, if brief and concise, and not at all in the character of an argument, would be received. He inquired if the other side desired to do the same.

Judge Campbell then presented a written statement which was received.

No Democratic representative being present, Senator McDonald stated they were probably engaged at the Chamber of Commerce, with the other committee.

Senator McDonald stated that he had a compiled statement of the vote, which they would probably wish to present.

The chairman stated it would be desirable to know the practice of the board, and would want tables of the vote.

Governor Wells was then sent for, and soon arriving was introduced to the members of the committee.

The chairman stated that he had invited him to be present that he might state how the committee could learn the practice of the board, and how it would be convenient to obtain copies.

Governor Wells said he could furnish copies of the statements from the supervisors, the tally sheets, and the names of every one who voted at each precinct. The total could be given, and also those which were rejected, as the Board of Returning Officers believed it had the legal right to do. To Senator McDonald he explained the details of compilation by the supervisors.

The chairman suggested that the large corps of short-hand writers at the disposal of the committee might facilitate the work.

Governor Wells said they could, no doubt, and might go to the rooms of the board or have the documents brought to them. Everything desired would be given.

The chairman also presented the pamphlet shown by Senator McDonald to Governor Wells, who had not seen it, and suggested that the secretary should compare that with the returns of the board, and see where it agreed in order to expedite matters.

To this Governor Wells agreed, and promised every facility.

The committee then adjourned to 11 o'clock to-day.

THE HOUSE INVESTIGATING COMMITTEE.

Sixth Day's Proceedings.

All the members of the committee were present, and after a short delay the room was cleared and business began. The first witness called was—

George Johnson, recalled—Since I gave my testimony last week I have been attacked by a man named Smith; he said he wanted to kill me for testifying as I did; I know of others who are afraid to testify here because they fear they will be beaten; one man so fearing is named Kennedy, colored; the man who beat me is a Republican.

To Mr. Hurlbut—I have been in jail; was sentenced in Jefferson parish to serve five months; I served my term; was in the Gretna jail once.

Direct—I fought with a man who interfered with my wife.

E. W. Barnes—I reside in New Orleans; am telegraph manager in this city; many political dispatches have been sent from here, and many received here; I seldom looked at them; I have not seen them since I was subpenaed; have no positive knowledge respecting those dispatches; after I was subpenaed I called on Mr. Morrison, chairman of this committee, and told him that our employes were all very busy, and the task of copying the telegrams was a large one; told Mr. Morrison that he could hire clerks for about $30; told him I could see them copied by (this) Monday morning; the committee agreed to pay the expenses; I did not understand that I was to hire clerks for you; I telegraphed for instructions; told Mr. Morrison that I could have the clerks, but did not say that I would; the superintendent has instructed me not to deliver up telegrams; I would have taken President Orton's letter to Mr. Morrison as my guide in any event; I refuse to deliver the telegrams; we have had dispatches from and to Kellogg, Packard, Warmoth, Dibble and others; I was subpenaed at 2 P. M. on the thirteenth instant.

At this juncture the committee authorized the chairman to inform the House of Representatives of the reply of Mr. Barnes, and accordingly that information was telegraphed.

W. R. Young—Reside in Concordia parish; in the fall of 1876 heard a Republican, David Young, say, before election, that he would vote for Nicholls and assist him, but he believed the Returning Board would count him out; asked him where he got his information; he said he took it from his own conclusions; he believed that Nicholls would be elected; there were colored people who voted for Tilden in Vidalia; fully 100 for Tilden and 150 for Nicholls; it was general talk that any nigger who voted the Democratic ticket ought to be killed; this prevented some niggers voting; the Democrats did not intimidate the negroes, as far as I know; I am a Conservative in politics.

To Mr. Hurlbut—There was some disturbance in my parish on election day; in Vidalia there was disturbance, and one poll was closed an hour; a man holding a yellow ticket was crowded out, and he was finally compelled to vote a white ticket if he voted at all; in former times the Democrats were greatly in the minority; I heard of a poor white laboring man who was resting himself in a church, where some colored men got in conversation with him; he told them that he intended to vote for Tilden; the colored men then whipped and abused him; the man has not recovered; the leading Democrats promised colored men who voted the Democratic ticket to protect them at all hazards, and that they would, if essential, take the law into their own hands; there were 2300 registered colored men; 185 whites registered; the State ticket ran ahead of the presidential ticket; the vote polled was close up to the registry.

Direct—The Republican majority should have been 1500 or 2000; black Republicans made some fuss at poll No. 4 in Vidalia; the Democrats filed a protest on the foundation that the commissioners had been disturbed by unruly and defiant men; a Republican defied a commissioner to arrest him; David Young made a speech to his club and threatened to pull down a flag that the Jackson men intended to raise on the courthouse; many deputy constables were thereupon sworn in to keep the peace; never saw David Young perform any act of violence whatever.

J. F. King—I reside in Concordia parish; heard black people threaten their brethren if they voted the Democratic ticket; after the election heard David Young say that even if Nicholls was elected the Returning Board would never permit him to take his seat; Young is a powerful leader among his people; know that full forty negroes voted the Democratic ticket; on election day I marched about forty of my laborers to a poll in Vidalia, telling them to vote as they pleased; some of them were terribly frightened, fearing to vote the Democratic ticket because other colored people might injure them for it; nearly all of my colored men voted the Democratic ticket, but they were so greatly frightened that they actually looked ashy; the Democrats in my parish seemed determined to have a peaceable election; have frequently heard colored men and women say that any colored man who voted the Democratic ticket ought to be killed or run out of the parish.

To Mr. Hurlbut—I am a planter for myself and others; have charge of four plantations; I have had as many as 1000 persons under my charge; at present have only 200; think that the colored people in my section look on the white man as an antagonist; in cases where a white and a black man get into a difficulty the blacks are pretty sure to side with the black; men and women told my people that they should be driven out of the country for allowing themselves to be bought and sold; think about 100 blacks voted the Democratic ticket; everybody voted who wished to; some were spoken to before they went to the polls.

Direct—The Republicans had close organizations or clubs, and at them they discussed the subject of colored men voting the Democratic ticket, and said what ought to be done with such persons; indictments are pending against some leading Republicans in Concordia.

W. R. Young recalled—I am a lawyer; know of an indictment against David Young and Thomas Reber; the latter is parish judge elect; it is alleged that $31,000 was embezzled. The indictment was found in 1875; the case has not been tried because the accused are never ready; have heard colored men say that they had secret political societies; we had a White League in 1874, but it was not secret then; the society does not exist at present in Concordia.

Thomas Dawson—Live in Concordia on the Morgan place; there were threats made against us because we voted the Democratic ticket; I was president of a colored Democratic club; I was beaten by colored Republicans, as others were; the men do not have much trouble since election day.

To Mr. Hurlbut—The way I became a Democrat was that white men told us that taxes were so high that they could not pay us good wages; that if we voted the Democratic ticket taxes would be lowered, we would get higher wages and have good schools.

C. E. Whitney—Am personally acquainted with Anderson, who was supervisor of election in East Feliciana; he told me that the Republican party had served him badly, and that Kellogg told him he had a rope for him; Anderson showed me a large sealed envelope, which he intimated contained an order for an office; on the envelope was written "not to be opened until the vote is counted;" he also intimated that he knew a good deal about the rascalities in East Feliciana; he was bidding for an office from one or the other side; he told me that the election in East Feliciana was fair; he said that if Major Burke would do the right thing by him he would expose the East Feliciana matters.

To Mr. Crapo—The interview took place in the St. Charles Hotel; I telegraphed the conversation to the New York *Herald*, and then gave it to Major Burke; Anderson said that the contents of that envelope would fix him; he enjoined me to secrecy so far as this city was concerned; Anderson pretended that the envelope was given to him by a Republican.

Charles S. Wade—Live in Concordia parish; belonged to the First Ward Republican Club one time; voted the Democratic State ticket and the Republican national ticket; no direct threats were made against me for that; it was a general thing among colored people to say that any colored man who voted the Democratic ticket should be whipped; I had a falling out with David Young; I belonged to the Jackson faction; I voted as I did voluntarily.

To Mr. Townsend—Voted as I did because I thought the State would be better off with Democrats in office; it is a common thing among colored men to say that the colored man who voted Democratic ought to be whipped or killed, but it amounts to nothing; I had no fear of such threats.

Thomas Dawson, recalled—I think that if the whites had not protected us we would not have voted as we did; there were only two white men in charge of us; there were forty or more of us; the two white men could take care of us.

At the night session the first witness called was—

William Hunter—I reside in Concordia parish; am a planter; employ from thirty to sixty colored men on an average; heard David Young, Republican Senator, make political speeches last fall; he said to Democrats that they might just as well stay at home, for S. B. Packard will be made Governor by the Returning Board; that the State will go Republican; heard Mr. Sheldon make a speech; he said he could cut off the head of any colored man who voted the Democratic ticket; one of the colored men who joined the Democratic club told me that his wife had left him in consequence; Sheldon is a colored man.

To Mr. Hurlbut—Nearly all the white people of Concordia are Democrats; ten or twelve white men are Republicans; there were twenty-four votes for Tilden; the Republicans were more anxious to elect Packard than they were to elect Hayes; in his speech Young said that the Returning Board would give the election to Republicans; can not say what his motive was in making that assertion; it influenced some voters; Sheldon, the man who said he could cut off a Democratic nigger's head and drink his blood, never performed that feat; our election was so quiet that everybody who wanted to vote voted.

Ex-Governor Wickliffe—I reside in East Feliciana; have held a public position in this State; I know L. B. Jenks, of Feliciana; I have never done a thing to prevent the holding of Republican meetings in my parish, and all that Jenks says to the contrary is untrue; few people in my section would believe Jenks; Jenks was a State Senator under Warmoth; our nominating convention was composed of both white and black; Mr. Nicholls' speech was conciliatory; during the campaign there was a disposition on the part of some men to assail Democrats; I and my partner, Mr. Fisher, were in our office, one night, and as we went out, somebody shot at us; Fisher jumped behind a tree, and two bullets struck the tree; the fellows then fled down the street; some colored men who voted the Democratic ticket did not want the fact known because their wives would shut their doors on them; I think many more colored men would have voted with the Democrats than did had they been left to themselves; colored men listened attentively to all the arguments that we used, and they seemed to be influenced by them; the negroes were greatly interested in the school question; whites and blacks in the Felicianas habitually carry arms.

Mr. Hurlbut declined to cross-question witness at this time as he wished to peruse a document published by L. B. Jenks. Witness will be recalled at another time.

Judge Kennard—Was once a member of the Supreme Court in 1872; took an active part in the last campaign; at my first speech in Baton Rouge there were present 5000 people and 2000 of them were colored; after my first speech in Concordia colored Republicans solicited me to address them again; I consented, and spoke in Dave Young's church; Weber, the tax collector, told me that he had made his election returns without protest, but that since he had come here arguments had been used on him to make a protest; he also told me that he did not intend to do anything wrong, because his family and property were in West Feliciana; he also told me that his election had been a fair one; the Democrats distinctly avowed their purpose to have a quiet election; I always counseled peace and order.

To Mr. Hurlbut—At the last election West Feliciana had about 500 Democratic majority; at the previous election that parish had 800 to 1000 Republican majority; there were secret organizations in my parish, the members of which pursued thieves; when they caught a thief they whipped him; there were colored members of the Regulators; never heard that Republicans belonged to the Regulators; I think the organization has ceased to exist; pilfering and stealing has in a large measure also ceased; my impression is that some men were killed in my parish; think that no men crossed from Mississippi, near Woodville, where I reside; the Mississippians had all they could attend to at home; Mr. Bascom swears that on the night of election day E L Weber stated to him that the election had been fair.

Mr. Wickliffe recalled—There was one Republican in the Regulators' ranks; he was tax collector of East Feliciana and he was captain of the Regulators; he was appointed tax collector by Kellogg; he is a Republican.

Adjourned until eleven o'clock this morning.

POLITICAL NOTES.

In the parish of East Feliciana fifteen hundred Republican majority was wiped out by the Regulators, and the Republican organization utterly destroyed, not a vote being cast for Hayes. The legal canvass of the election showed these facts conclusively, and declared the pretended election a nullity. The Democrats maintain their disregard of the law as embodied in their decision, just as they overturned the law in the attempt to seize the offices. The *Patriot Democrat* (so-called), of Clinton, in italics and small caps, enumerates the list of Democratic candidates, with the declaration that—

These persons and those ALONE *the people* will permit to fill the above named offices.

The *Advocate* of East Baton Rouge maintains the right of the Democracy to enjoy the fruits of their murders and bulldozing of Republicans, by which a nominal triumph at the polls was obtained, and says "to judge by the temper of the people" the Democratic candidates "alone" will be permitted to occupy the offices. The Congressional committees will please take notice that these threats of violence and lawbreaking all come from Democratic sources.

From the day the *Catholic Messenger* declared:

There is but one way now to manage the negro. He is, as a class, amenable to neither reason nor gratitude. He must be starved into the common perception of decency.

And Chairman Patton, by confidential circular, instructed the Louisiana Democracy that—

You can not convince a negro's reason, but you can impress him by positive statements continually repeated.

Until this moment, when hundreds of honest and faithful laborers are cast out of employment because they dared to vote the Republican ticket, the Democratic election scheme has been one of force and intimidation. All the Democratic investigations that desperate partisans can put up will not wipe out the damning facts. The nation can no longer be blinded by Democratic slanders and misrepresentation.

Colonel Brooke had best be careful when he returns to his command at Baton Rouge. The editor of the *Advocate* is after him with a very sharp stick, because he dared to tell the truth about the cruel and lawless deeds of the Democracy in the recent campaign. The colonel may not be aware that the *Advocate* man was once a soldier, too, and served the Confederacy in the gallant "Pumpkin Studs," a corps of much renown in the ancient capital. We therefore throw out a cautionary hint.

A leading counselor of General Nicholls declares that a peace programme has been fully determined upon by the Democratic chiefs. A demand will be made for the seating of the legislators "counted in" by the Democratic committee, but left out by the legal tabulation of votes; and when this is refused all the Democrats will unite in setting up another Odd Fellows' Hall Assembly, and inaugurate their "State government." He concluded: "If we only had control of the Supreme Court, as Hampton has in South Carolina, we could easily win the fight; but, as matters stand, our sole hope is in the Northern Democrats fighting Tilden's battle successfully." Which is a very slender thread to hang such tremendous hopes upon.

General disgust is manifested at the bad character of the witnesses brought before the congressional committee to prove a good character for the Louisiana Democracy. The Democratic committee has mismanaged so as to manifestly dampen the enthusiasm of even their most enthusiastic followers.

Appointments.

Governor Kellogg made the following appointments yesterday:

West Feliciana—John Sanford Dula, justice of the peace, first ward; Cornelius Smith, justice of the peace, third ward; Horace Handy, constable, third ward.

Jefferson, left bank—M. Robbins, instead of M. Robinson, police juror.

The Governor also issued the following elective commissions: For Washington parish—S. P. Richardson, clerk of court; James M. Burris, parish judge.

The Attorney Generalship.

Hon. William H. Hunt, Attorney General, yesterday took the oath of office before Judge Lynch, of the Fourth District Court, and was afterwards introduced to the Supreme Court by Hon. Hiram R. Steele, as his successor in office.

The Temperature.

The thermometer at Louis Frigerio's, No. 50 Chartres street, for the past two days stood as follows:

December 17—At 8 A. M., 44°; at 2 P. M., 68°; at 6 P. M., 66°.

December 18—At 8 A. M., 56°; at 2 P. M., 52°; at 6 P. M., 48°.

Lowest point during the nights of December 16 and 17, 38°. Rain during the night of December 16, one-half of an inch.

Make yourself
Make yourself
A Christmas present.
A Christmas present.
A Christmas present.
One dollar buys a ticket
One dollar buys a ticket
One dollar buys a ticket
In the dollar drawing.
In the dollar drawing.

COURT RECORD.

MONDAY, DECEMBER 18, 1876.

United States Circuit Court.

Present—Hon. E. C. Billings, District Judge.

Ordered, that as the January rule falls on the first, it be postponed to the third Monday.

United States vs. P. Jones Yorke.—Verdict for $114 64.

Same vs. Bernard McGinnis.—Verdict for $750.

Same vs. Simon Fox.—Verdict for $94 93.

Same vs. R. W. Taliaferro, John Ray, J Madison Wells and William Bailey.—Verdict for $969 80.

E. D. Morgan and J. A. Raynor vs. New Orleans, Mobile and Texas Railroad Company. Report of master postponed to July 1.

F. M. Ames, trustee, vs. same.—Claims referred to master.

Supreme Court.

Present—All the judges.

The following decisions were rendered:

REHEARINGS GRANTED.

No. 6153. Catherine Jones vs. Joseph Henry.

No. 6324. State ex rel. New York Guaranty and Indemnity Company vs. Board of Liquidation.

No. 3941. Summers & Brannius vs. James S. Clark.

REHEARINGS REFUSED.

No. 6082. Benjamin S. Harrison vs. Carondelet Street and Carrollton Railroad Company. A. S. Collins garnishee.

No. 6122. Same vs. same. Henry Heuchert garnishee.

No. 6290. Felix Gottschalk vs. Henry Meyer.

No. 5511 Mrs. Charles Martrigaut vs. Pierre Dufort.

No. 6034. James Wood vs. Eugene Waggaman, sheriff, and city of New Orleans.

No. 5924. Isidore Newman & Brother vs. M. Kaufman & Co.

No. 4838. Caleb Barker vs. B. M. Grider and William McDuff.

No. 4993. Mrs. Sallie J. Pinkston vs. R. S. Morse and James B. Zunts.

BY CHIEF JUSTICE LUDELING.

No. 6310. State vs. Samuel Baras.—From Superior Criminal Court. Grand larceny. Sentence of five years. Judgment affirmed.

No. 5752 In re stockholders of Loan and Pledge Association.—Praying for a liquidation. From Superior District Court. Appointment of liquidation revoked.

No. 3271. John Kuhl, appellant, vs. Given, Watts & Co.—From Fourth District Court. Motion to dismiss appeal overruled.

No. 6425. Lawrence Duffy Liquidator vs. John Lange, appellant.—From Fourth District Court. Motion to dismiss overruled.

No. 4857. S. W. Hammond, appellant, vs. Peter Ross et al.—From Fifth District Court. Contract for work and materials, plaintiff contending that he owes only $855. Judgment affirmed. Justice Wyly dissents.

BY JUSTICE HOWELL.

No. 6336. Marie L. Beebe vs. judge of the Sixth District Court.—The plaintiff presented a petition and affidavit to the judge of the Sixth District Court for the parish of Orleans setting forth various grounds for an injunction to restrain the sale of her property in executory proceedings at the suit of one J. P. Guinault. The judge, instead of granting or refusing the writ, authorized a rule on said Guinault to show cause why the injunction should not be granted as prayed for, and upon hearing the said rule refused the injunction, whereupon the plaintiff applied to this court for and obtained writs of mandamus and prohibition to compel the district judge to grant the injunction on her petition and stay all proceedings under the writ of seizure and sale pending this application. To these writs the judge answers that on a "rule nisi," issued in the case of Marie L. Beebe vs. J. P. Guinault, under rule Nos. 21 and 22 of the district courts of the city, it was proved by counter affidavits and documentary evidence that the allegations of the petition for the injunction had no foundation in fact; that the affidavit of the petitioner was made by her from information without any personal knowledge of the facts sworn to, and no bond being filed or tendered, as required by law, the court in its legal discretion refused the injunction.

The plaintiff, in her application to this court, alleges that on the trial of the rule in the lower court she was not permitted to introduce rebutting evidence, and reiterates the grounds for an injunction, one of which she contends entitles her to an injunction without bond, and she insists that upon the showing made to the district judge she was entitled of right to the writ, and that there is no law authorizing the proceeding called a "rule nisi."

Article 738, Code of Practice, relied on by plaintiff, enacts that "the debtor, against whom this order of seizure and sale shall have been rendered, may obtain an injunction to suspend the sale if, before the time of sale, he files in the court issuing the order his opposition in writing, alleging some of the reasons contained in the following article, and of which he swears to the truth."

The reason given in this instance is alleged fraud. It has been often held that the writ of mandamus will issue only to compel the performance of a duty imposed by law, and in which no discretion is to be exercised. The issuance of an injunction is not such a duty. The judge is to exercise a sound legal discretion, subject, of course, to revision by this court in cases properly brought up. A mandamus, therefore, will not issue to compel an inferior judge to grant an injunction. This court is not vested with a superior control over all inferior courts so as to compel them to give remedies and do acts about which they have discretion. They may err in judgment, and even willfully, where such error can not be corrected by this tribunal. But the presumption is that the judge will do his duty in every case, and his failure to do so in some cases makes him responsible to another tribunal than this.

The plaintiff may be entitled to an appeal from the decision on the rule nisi, but we are not asked for a mandamus to compel an appeal. The question as to the legality of the proceeding by rule, the refusal to hear rebutting evidence, and the validity of rules twenty-one and twenty-two of the district courts are not properly before us in this proceeding. Ours is appellate jurisdiction only, and to be exercised in the mode prescribed by law.

It is therefore ordered that the application for writs of mandamus and prohibition herein be dismissed at plaintiff's cost.

Chief Justice Ludeling and Justice Wyly in separate opinions concur. Justices Morgan and Leonard in separate opinions dissent.

No. 5177. Samuel Lawson vs George L. Kouns and William Moran, appellants.—From Fifth District Court. On bond of indemnity. Lawson's name appearing as owner of steamboat Salado. There was a cause of action. The plea of res judicata fails as the other suit was in admiralty, and this is on the bond, C. C. 2286. Judgment amended by inserting allowances to Hunter, $450; C. Kouns $650, and affirmed. Chief Justice Ludeling dissents.

No. 5306. Lalance Grojean Manufacturing Company, appellant, vs. George G. Wolf & Levi.—From Sixth District Court. Sequestration of goods sold defendants, then in hands of civil sheriff on suit of intervenor. The sale of goods was made in New York, and the dissolving condition of C. C. 2046 was not a part of the contract. Johnson vs. Bloodworth, 12 A 699. The debtors were divested of possession, but not of their own act. To change the possession the creditors should have paid the judgment. Judgment affirmed. Justice Leonard concurs on the first ground only.

No 6314. State ex rel. James Longstreet vs. George B. Johnson, Auditor; Louisiana Levee Company, appellants From Superior District Court. Relator asked a mandamus for his salary as a Levee Commissioner. The case discloses no cause for it. It is only when a ministerial duty is imposed by law on an officer that a mandamus will lie against him. No such duty is shown in this case. Judgment reversed.

No. 6434. Thomas McLellan, appellant, vs. Charles Germain.—From Sixth District Court. The judgment is final. Motion to dismiss refused.

No. 6252. State vs. Jose Gruso, appellant.—From Superior Criminal Court. Crime against nature. Sentence of hard labor for life. The fact that the party injured made complaint may be proved, but not by hearsay corroborations. 3 Green. Ev. 213; Whart. C. L. 1150; Roscoe Ev. 863. Case remanded. Mr. Justice Leonard took no part in the decision.

No. 4977. William H. Vredenburgh vs. Lagan & Mackison, appellants.—From Fifth District Court. Lagan did not sign the notes nor were they issued in the course of business. Judgment reversed as to him and otherwise affirmed.

No. 5189. Mutual National Bank vs. Jean Rotge et al, appellants.—From Sixth District Court. Against the drawers and indorsers of a note for $740. The plaintiff was not guilty of laches; Morse Banks and Banking. 282; 2 Pars Notes and Bills, 75; 2 Curr, 121. Judgment affirmed.

No. 5170. Turner, Wilson & Co., appellant, vs. W. W. McMain et al.—From the Fourth District Court. The service on one of the obligors of the note in solido does not interrupt prescription except as to creditors. C. C. 3552. Judgment affirmed.

No. 6438. Succession of H. D. Cochrane.—From the parish of Jefferson. Motion to dismiss appeal refused.

No. 6431. Union Insurance Company vs. Mrs Delphine Benit, appellant.—From Sixth District Court. There is no error. Judgment affirmed, with ten per cent damages.

No. 6421. L. L. Mavenno vs. Mrs. J. H. Millaudon, appellant.—From Superior District Court. Motion to dismiss appeal refused.

No. 6411. State vs. Adrian Eveque and Eugene Godin, appellants.—From Superior Criminal Court. Murder; appeal from sentence of death on Adrian Eveque. The refusal to reject a juror as not being a registered voter does not appear to have injured the defense. Judgment affirmed.

BY JUSTICE WYLY.

No. 6413. Mrs. Eliza McCormick, appellant, vs. M. O'Sullivan, constable, et al.—From Superior District Court. Injunction on sale. Plaintiff was duly authorized to sue. The sale was to satisfy a judgment of $68 against the husband; this suit involves the ownership of the property of over $500. C. P., 398. An authorization to "institute and prosecute this suit" is sufficient for an appeal. It is immaterial whether the husband signed the bond or not. Diminution of the record is not a ground to dismiss an appeal. Motion to dismiss denied.

Justice Morgan dissents.

No. 6442. Thomas S. Atwood vs. William L. Cushing, appellant.—From Sixth District Court. Suit for $220 Defendant can not be serious when he complains that he sustained a loss of $1000 because he sold for plaintiff $220 worth of goods, and was compelled to return the price to the purchaser because the goods were not as represented. Appeal dismissed.

No. 5178. R. G. Latting appellant, vs. Fassman, Bryant & Co.—From Sixth District Court. Partition of partnership. The assignee in bankruptcy of Latting suffered two years to elapse before making himself a party. He can not maintain this suit. U. S. R. S.: 5057. Chambers, the alleged commendam partner, is without interest. Judgment affirmed.

No. 6331. Mrs. E. M. Hays, appellant, vs. Mr. and Mrs. Philip Veron.—From Superior District Court. Motion to dismiss denied The court below had no jurisdiction to restrain the execution of a judgment of the Third District Court. While in possession the plaintiff can not bring a petitory action. Judgment affirmed.

No. 5281. John Grant, appellant, vs. George C. Sebastian.—From Fourth District Court. For $335 rent. Reconventional demand of damages of $5000. Verdict of $500 for defendant. Even if the lease was by the month, plaintiff had a lien, and the seizure was in accordance with C. P., 287. There is no foundation for damages. The charge of improper conduct by the sheriff is wholly unsustained. Judgment annulled.

No. 6399. Mrs. Mary Murphy vs. Factors and Traders' Life Insurance Company, appellant.—From Fifth District Court. The fault of serving the citations on her attorney instead of plaintiff was that of the sheriff See No. 5489. Heirs of Seghers vs. Soule, decided January, 1876, not yet reported; act No 45 section eleven. extra sess on of 1870; 17 L., 515; 2 A., 769; 13 A., 332; 13 A. 259; 14 A, 698; 16 A., 303; 21 A., 669. Motion to dismiss denied.

No. 4839. Rosa Epstein, appellant, vs. Mutual and Benevolent Life Insurance Company.—From Fifth District Court. On policy of $5000. The policy became void on failure to pay the assessment. The failure to receive notice was not the fault of the secretary of the company. Judgment affirmed.

No. 6412. State vs. William Remps, George Schlesinger, appellant, and Hy. Coppersmith.—Robbery. Sentence of five years. Judgment affirmed.

No. 6349. State ex rel. Thomas Carey, appellant, vs. John Barron.—From Superior District Court. The power of the Governor to remove a tax collector is settled in 25 A., 119, 396; 26 A., 537. In his absence the Lieutenant Governor exercises his powers; const. La., art 53. Judgment affirmed.

BY JUSTICE MORGAN.

No. 5201. Joseph H. Mitchell, executor, appellant, vs. Abraham Levy.—From Fifth District Court. John Lisles, deceased, owed defendant a judgment of $7861 27. The executor alleged he had delivered defendant two notes of William Hogan of $5000 as security. Defendant did not collect, war intervening, etc. The court of Ouachita dismissed defendant's intervention in a suit on the notes; 24 A., 324. The object of this suit is to recover from Levy the difference of $3016 70. The court did not err in admitting evidence; the claim was not just, though the question was raised in the succession of Lisles. The plea of res judicata was not made; 2 Hen. Dig., 1168, No. 1. Judgment affirmed. Chief Justice Ludeling dissents.

No. 5207. William Bogel vs. Teuton's National Bank, appellant.—From Fifth District Court. On promissory note for $600 drawn by J. M. Wagney, who was Bogel's agent and cashier of the bank, and discounted. When due it was not protested, but passed to Bogel's account. He did not complain, except to Wagner, for eighteen months. If he should recover, it would be without any consideration and the bank be without recourse, as Wagner has left the State. Judgment reversed.

No. 6454. Louisiana State Lottery Company vs. Dunant DaPonte, appellant.—From Superior District Court. Suit for $550. Remittitur of $50. Judgment for $500 and interest. The judgment of which defendant complains is more than $500 and allows an appeal. Motion to dismiss appeal refused.

No. 5705. J. A. Donnally & Son vs. Merchants' Mutual Insurance Company, appellants.—From Superior District Court. Policy on freight to Cairo. The check line not paid for was not insured, but it was used in defendants' service and they should pay for it. It is not unseaworthiness for a flat not to carry anchors. 3 Peters, 557. Freight was insured to $2310 and $1370 was indorsed and premium paid. Judgment affirmed.

No. 5185. Jury & Harris vs. Mrs. Mary J. Read et al., appellants.—From Fourth District Court. The supplies for which the suit is brought were sent and received. Defendant was responsible, though when she married she ordered the account to her husband's name. Prescription had not run. Judgment affirmed.

Justice Wyly dissents.

No. 6429 Mrs. Barbara Litter, appellant, vs. Mrs. Maria de Sabatta.—From Sixth District Court. See Clandel vs. Palao; opinion book 45, folio 586. Judgment reversed.

No. 3387 Louis Parker vs. Shropshire & Anderson, appellants.—From Fifth District Court. See same case; 26 A., 27. Judgment reversed.

BY JUSTICE LEONARD.

No. 6357. Succession of Francois Lacroix on question of heirship, Marie Cecile Lacroix, appellant.—From Second District Court. Francois Edgar Lacroix is admitted to be the legitimate son of deceased. Appellant claims to be the child of his deceased son Victor. Her legitimacy is questioned. There is evidence of the ceremony and that her mother was received as married, but no certificate. It was not necessary. 6 L., 463; 5 A., 430; 26 A., 94. It is claimed that the marriage in 1862 between a white woman and a man of color was null. Ratification, she not being acknowledged after it, would not affect the minor's status. C. C. of 1825, 217; act of March 31, 1831. It is contended she is legitimate because her mother was in ignorance of the impediment. Civil Code, 117 and 118, are literal translations of the Code Napoleon. The presumption is she was ignorant then, but must have known soon after. For authorities on presumption on this see the French authorities, but ignorantia legis neminem excusat prevails in Louisiana. 3 N. S., 438; 7 A., 252; 24 A., 390; 7 A., 93. There is no similar case in Louisiana, but as our law is taken from the French code, these authorities should be consulted as to the status of the minor. A review of them is given by the learned justice. The Civil Code, 3482, seems to be in accordance with the latest. But by public acts the children of Victor have been considered legitimate both by Francois and F. Edgar Lacroix. Judgment reversed, appellant declared legitimate and entitled to the rights of her father.

Chief Justice Ludeling concurs on the ground of good faith.

Justices Wyly and Morgan dissent.

No. 5300. Folsom Brothers, appellants, vs. City of New Orleans.—From Superior District Court. Damages caused May 6, 1873. The city is liable. R. S. 2453 Williams vs. city, 23 A, 507 Plaintiffs appeal from $15,000 in their favor; the city seems satisfied. The amount is the only matter in controversy. Mr. Folsom swears to $26,858 of articles carried away at wholesale cash prices, and that the actual amount was greater. This is confirmed by employes. We regret that the representatives of the city did not see proper to institute a more careful scrutiny into a matter which involved the payment by the taxpayers of so large a sum of money. As it was they did not call a single witness; nor did they apparently make any effort to ascertain for themselves the amount of the city's liability. It might have been well also to have cross-examined the plaintiffs and their clerks more vigorously with regard to each item of loss charged in the statement. As it is we have no alternative but to accept the uncontradicted testimony of these witnesses as accurate and conclusive. Verdict set aside. Judgment for $26,858, and five per cent interest from May 16, 1873.

Justice Morgan considers the judgment should simply be affirmed.

No. 6379. George F. Brott vs. Roger, Ellerman & Co., appellants.—From Superior District Court. Injunction on collection of wharfage dues. The exception should have been maintained, and plaintiff seek his remedy under constitution of Louisiana, article 78. Levy vs. Shreveport, 27 A., 620. Judgment reversed.

No. 6309. State vs. Joaquino Florensa.—From Superior Criminal Court. Murder. The indictment is that the accused did willfully, feloniously and of his malice aforethought kill and murder one Marie Louise, and is sufficient. R. S., 1048. Judgment affirmed.

No. 6462. State ex rel. John R. Clay vs. George B. Johnson, Auditor, appellant.—From Superior District Court. Motion to dismiss appeal refused.

No. 5284. Bogart & Guyer, appellants, vs. New Orleans Park.—From Superior District Court. Suit for services as landscape architects. Judgment reversed. Decree for plaintiffs for $2500.

Superior District Court.

Charles H. Kugour vs. New Orleans Gaslight Company.—Defendant's petition for removal to the United States Circuit Court, alleging the sum in dispute exceeds $500, and plaintiff is a citizen of Ohio. Cause to be shown December 22.

Emile Lefranc vs. Consolidated Association of Planters et al.—Petitioner prays for $336 for services in raising a crop of sugar on Concord Plantation, seized by defendants, and now owned by A. Thomson & Co.

Crescent City Live Stock Landing and Slaughterhouse Company vs. Eugene Dieffenthal and Mathias Salmon.—Petitioner prays for $350 penalty for landing and slaughtering one beef, and injunction against further violation of act of March 8, 1869. Injunction issued on bond of $500.

John Baeher vs. City of New Orleans et al.—Petition for cancellation of mortgage and drainage privilege against property purchased April 26, 1876, at a tax sale in the Fourth District.

New Orleans Savings Institution vs. B. M. Pond.—Petitioner alleges the holding of two promissory notes of June 19, 1871, of $5000 each, due June 19, 1874 and 1875, extended to June 22, 1876 secured by mortgage, and prays judgment for $10,000. Writ of seizure and sale.

In re New Orleans Mechanics' Society, A. Rocheteau & Co. vs. B. F. Flanders, liquidator; Factors and Traders' Insurance Company vs. same.—Consolidated. The Attorney General for the State of Louisiana appeals from the judgments appointing B. F. Flanders liquidator; that in favor of Rocheteau & Co. of $10,000 on mortgage, and that in favor of the Factors and Traders' Insurance Company for $5000, first, because the court is without power to appoint a liquidator; second, because proceedings were ex parte; third, want of citation; fourth, that the notes were invalid, having been executed by a power having no right to do so, and the mortgage being given for property not belonging to mortgagor; fifth, the notes were prescribed; sixth, that the judgment rendered on the rule to sell property was in error and illegal, for the reason that the plaintiffs obtained judgments in personam against the liquidator, via ordinaire, and therefore the seizure and sale should have been sought under a writ of fieri facias. Devolutive appeal granted.

Superior Criminal Court.

INFORMATIONS.

Grand larceny—Pierre Baptiste.

Carrying concealed weapons—Charles Langley.

SENTENCED.

1. Breaking and entering, etc.; 2. Grand larceny—Lee Johnson, John Henry, alias Charles Porter; George Edwards, alias Allen; Frank Murphy, alias Morrison, convicted, December 13, of burglary at M. Cogan's store, No. 19 Canal street, on the night of May 16, and larceny of goods valued at about $800. Five years' hard labor each.

Assault and battery, etc.—Lewis Lagaresty, who pleaded guilty to assaulting Officer A. J. Kerry, December 6. One month Parish Prison.

ON TRIAL.

Willful perjury—Peter Fell Kendall, indicted May 5, 1876, for perjury, before Judge Staes, as surety for J. Bruin, charged with grand larceny.

BOND FORFEITED.

Willful perjury—Thomas Malloy, perjury as surety for Mat Hogan. Accused not appearing, his bonds were forfeited and capias issued.

First District Court.

Thirty six jurors are ordered to be drawn for the panel of January, 1877.

Second District Court.

Succession of Anna Buscher, widow of Jean Paul Klaiber, opened.

BY TELEGRAPH.

CONGRESS.

Senate.

WASHINGTON, December 18.—A motion that the bill reducing the President's salary to $25,000 pass, the veto notwithstanding, was lost, yeas 25, nays 19—not two-thirds.

Mr. Mitchell's Oregon resolution was resumed.

Mr. Key, of Tennessee, read a lengthy argument in which he reviewed the Oregon case, and said he did not question the motives of the Governor of Oregon; had he (Key) been in his place he would have held that there was a vacancy on account of the ineligibility of Mr. Watts, and would then have filled that vacancy so as to carry out the wishes of the majority of the people. He then referred to the condition of affairs in South Carolina, Florida and Louisiana, and argued that the will of the majority in those States had been reversed by the action of the Returning Boards. He referred to the argument of the Senator from Ohio (Mr. Sherman), to the effect that the decision of the Louisiana Returning Board was supreme and must be respected by the Senate the same as a decision of the Supreme Court of the United States, and said if the decision of that board was supreme in Louisiana, the decision of Governor Grover must be supreme in Oregon. He (Mr. Key) did not admit that these decisions were final, and argued that Congress had the right to go behind them. The acts of the Returning Boards were not clothed with such sanctity that Congress could not peep behind them.

He then referred to the case of Eliza Pinkston, in Louisiana, and denied that any white men were engaged in the outrages upon her. He could assure his friend from Ohio (Mr. Sherman) that there was not such a large number of savages among the white people of the South as the testimony before the Louisiana Returning Board would have him to believe. Laid aside.

The Senate took up the report of the Committee on Rules, which was ordered printed. Adjourned.

House.

Mr. Knott, of Kentucky, introduced a bill prescribing a method of counting the electoral vote for President and Vice President. Referred to the select committee on the subject.

Mr. Garfield, of Ohio, presenting a telegram received by him from Mr. Hurlbut, of Illinois, member of the Louisiana select committee, stating that the dispatch from Mr. Morrison, its chairman, to the Speaker, was without the knowledge or consent of the committee. Referred to the Judiciary Committee.

A resolution offered by Mr. Warren, of Massachusetts, to inquire into the action of Judge Bond, of the United States Circuit Court, in discharging persons held in custody under orders of the Supreme Court of South Carolina, failed for want of a two-thirds vote—138 to 75.

A resolution offered by Mr. Banning, of Ohio, calling for General Sheridan's report on the removal of Governor Wells, of Louisiana, in 1867, failed in like manner.

A resolution offered by Mr. Hunter, of Illinois, instructing the Judiciary Committee to report an amendment to the constitution forbidding the payment of war claims to disloyal persons, was adopted. Yeas 150, nays 53.

A resolution offered by Mr. Frye, of Maine, for a committee of inquiry into the election in the sixth congressional district of Mississippi and the fourth Alabama district, also failed.

WASHINGTON.

The Printing of Revenue Stamps.

WASHINGTON, December 18.—A congressional inquiry is progressing why the printing of the revenue stamps was transferred from the printing bureau to the bank note companies. The lobby has been at work.

Senator Morton Interviewed.

The *Star* publishes the following:

Senator Morton was interviewed by a reporter of the *Star* this afternoon in regard to the political situation. He says he went to Indiana to attend to private business. Occupying the position that he does as a Senator, and as a chairman of a committee investigating important subjects connected with the presidential question, he did not deem it proper at this time to express himself fully in regard to the rifle club organizations in the West. He says there is a great deal of bluster, and a good many threats among the Indiana Democrats, but he believes it to be solely for the purpose of intimidating the Republicans. He does not regard the movement as a formidable one, nor does he believe anything very serious will grow out of it.

Exempt from Taxation.

The Secretary of the Treasury decides the three-sixty District bonds not liable to taxation.

Home Again.

Battery G, Second Artillery, has come from Fort Sill.

Orton Served.

A personal subpena was served on President Orton to day to appear at New Orleans on the twentieth with dispatches.

Tax on Champagne.

The Supreme Court, in the case of Debarry and others vs. the collector of the port of New York, affirmed the decision of the circuit court, holding that under the statute the duty on champagne in bottles is $6 per dozen for the wine, and thirty six cents per dozen for the bottles in addition to the specific tax on the wine.

Senator Edmund's Proposed Returning Board of Last Resort.

The bill introduced by Senator Wright to establish a court for the trial of contested presidential elections provides that the election of any one declared elected to the office of President or Vice President of the United States may be contested by any eligible person, who received votes for the office. A contested notice of intention to contest must be filed with the Secretary of State in Washington within ten days after the decision of the election, accompanied by a sworn statement of the causes of contest, whereupon the papers shall be delivered to the Chief Justice of the United States Supreme Court, whose duty it shall then be to appoint a day not more than ten days thereafter for the person declared elected to appear and answer the claim of the contestant. The court for the trial of such contested elections shall consist of the said Chief Justice and of six United States circuit or district judges, to be selected by him from those of different political parties, and who shall not be interested in the particular contest nor in any manner related to the persons involved. This court is to hold its meetings in Washington, a majority of its members constituting a quorum. If the office of Chief Justice is vacant, or if from any cause he is incompetent to act, the senior justice of the Supreme Court shall perform the duties above specified. Before the entering upon the trial of the contest the said Chief Justice and judges are to take a special oath that they will faithfully and impartially discharge the duties thus specially devolved upon them, and that they will decide and determine any and all questions submitted to them according to law and the very right of the matter, and without regard to technical errors, defrauds, omissions or irregularities. The court is to have the same or like powers in the exercise of its jurisdiction and the enforcement of its orders and judgments as are now vested in the Supreme Court in regard to the latter's jurisdiction, etc. The bill provides that the proposed court in its adjudications and determinations shall at all times be governed by every right of the matter according to law and the testimony, and they shall disregard technical errors, omissions or other matters on the part of those engaged in certifying the elections in the several States and of the electors in casting their votes, or in any manner connected with such elections, having at all times, however, due regard to the forms of law and the ascertainment of the will and true vote of the people at such elections. The person whom the majority of the court shall thus find to be elected President or Vice President, as the case may be, shall be entitled to such office, and said court shall have full power and authority to carry into effect and enforce its judgment by any and all needful process. In case it shall appear that any person has been lawfully elected, said court shall so declare and adjudge, and in all cases they shall certify their judgment to the two houses of Congress. The bill next provides that any party to such contest, feeling aggrieved by the judgment may, within six days after its rendition, appeal therefrom to the Supreme Court, but such appeal shall not, however, operate to stay the execution of the judgment appealed from, without the special order therefor, made by the court rendering such judgment. The record and case shall be immediately filed in the Supreme Court, and take precedence of all other business. The Supreme Court must then at once proceed to determine the same upon the record and case so presented, and shall have full power to carry its judgments into effect without a remand.

Orton's Inquisitors.

Messrs. Hurd, Linde and McCrary compose the sub-committee of the Judiciary Committee, to report proper action to meet the situation at New Orleans regarding telegraphic dispatches and the abuse of witnesses.

Appointment.

William B. Moore has been appointed supervising special agent of the treasury.

The Position Mr. Orton Takes.

President Orton has not been summoned to New Orleans. He is here in the interest of the sanctity of messages intrusted to the telegraph, but not to dispute the authority of the House to compel obedience to its mandates. He represents to the Judiciary Committee that during the present year 25,000,000 messages will pass over the Western Union lines. The senders of these messages represent the capital, enterprise and intelligence of the country, and they are entitled to the protection of their business offices from Congress.

Pacific Railroad.

Senator West, chairman of the Committee on Pacific Railroads, who leaves on Wednesday for New Orleans, called that committee together to-day, and there was an informal talk, but no business done or proposed.

The Proposed Raid on the Telegraph Offices.

In the Judiciary Committee of the House this morning, the demand for telegraphic dispatches being under consideration, several propositions were made and referred to the sub-committee.

Mr. Hoar suggested the House should compel only the production of private papers and telegrams in cases where the person required to produce them is not himself charged with an offense, or, if so charged, secured by the most ample protection against penal consequences, and, second, that satisfactory proof in all cases should be required in advance that the private papers or telegrams would throw light on the subject under investigation, and in all cases there should be a description of the particular paper or telegram required.

Mr. Lord submitted that the House has the right to authorize its committees to procure telegraphic correspondence in any case where the character of the correspondence is proper and material for the elucidation of the truth in regard to any inquiry before the House; that in case the correspondence does not pertain to the subject matter great care should be taken to prevent its publicity, and that in case of a refusal by any person to produce the correspondence, he shall, on due process therefor, be brought to the bar of the House, to be dealt with according to law.

Supreme Court.

United States vs. Philadelphia and Southern Mail Steamship Company, and two other cases, cross appeals from the Circuit Court of Louisiana. This was a case of collision on the Mississippi, near New Orleans, between the tug Neeffie and the steamer Juniata, by which the government lost a cargo of cement. The decree is so modified as to direct full payment to the United States, the costs to be equally divided between the tug and the steamer.

NEW YORK.

Bad Weather.

NEW YORK, December 18.—An inch and a half of snow, followed by rain, freezing as it fell. Locomotion difficult.

Consolidating the Railroad Rings.

Railroad managers admit that while the question of freight rates, both East and West bound, is amicably arranged, the passenger rates has not yet been adjusted. No serious change, however, is anticipated on this point during the winter season.

POLITICAL.

The Hampton Farce in South Carolina.

COLUMBIA, December 18.—There was another unsuccessful ballot for United States Senator in the Democratic House to-day. Everything quiet. The Congressional and Senatorial committees are working actively, but quietly. There are rumors of a compromise between the Republicans and Democrats, favorable to the latter.

Investigating in Florida.

TALLAHASSEE, December 18.—The Senate committee met at noon. The sergeant-at-arms excluded under orders the reporters and the public. Cards were returned with the statement that the session was private. The House committee had before it eighteen negroes whose names were on the poll list of Richardson's precinct in Leon county as having voted there, who swore that they did not vote there, and were not at the precinct all day. There were votes in the ballot-box to accord with these names. The committee will summon other witnesses to-morrow. The introduction of the colored witnesses to-day, and their testimony, created quite a sensation.

The Supreme Court continued its session to-day for the hearing of the argument in the mandamus. The argument will be concluded to-morrow, and the decision announced probably on Wednesday. General Lew Wallace arrived to-night.

FOREIGN.

Personal.

LONDON, December 18—Brent, the Louisville forger, will be delivered to-morrow.

Caleb Cushing is here, en route to Madrid.

Politics Getting Warm Among the Danes.

COPENHAGEN, December 18—The final debate in the Rigsdad on the financial bill occurred to-day. The speeches were virulent, and abounded in personal recriminations. The select committee to which the bill was referred has stricken out or largely reduced every item demanded by the government, and had incorporated personal insults against several ministers. The radicals have a large majority in the Chamber.

The government journals advise the King to close the session, which would be the third dissolution since this agitation commenced, and provide for state expenses by means of provisional grants under his signature in the council.

The radicals urge resistance to the collection of taxes, if necessary, by force.

The situation is the most critical one since 1818; indeed, it is hardly possible it could be more critical.

Another Armistice.

BELGRADE, December 18.—It is believed an armistice to the first of May is about being concluded.

MISCELLANEOUS.

River and Marine News.

SOUTHWEST PASS, December 18, 6 P. M.—Arrived—Steamship New York, Quick master, at nine last night, from New York, to Charles A. Whitney &

[CONTINUED ON FOURTH PAGE.]