

BY TELEGRAPH.

THE EXTRA SESSION.

The Cabinet Will Dispose of this Matter at its Session To-day.

Probability That the Extra Session Will Be Called for May.

[Special to N. O. Democrat.]
WASHINGTON, April 23.—The Cabinet at its regular session to-morrow will take up and dispose finally of the extra session matter. The session may be called for the third Monday in May instead of for June 4. **BUELL.**

THE PRESIDENT'S VIEWS.

Hayes Neither Alarmed Nor Disturbed by the Threatened Assaults of Blaine and Wade.

The Radicals, Though They Have a Majority in the Senate, Can Do Nothing.

Hayes's Confident Belief that His Policy Meets with Popular Approval.

The System to be Pursued in Foreign Appointments.

[Special to the N. O. Democrat.]

WASHINGTON, April 23.—Yesterday a gentleman, who is an applicant for a foreign appointment, called socially on the President, and in the course of conversation with him alluded to the threats of Blaine, Ben Wade and other extreme Radicals, to antagonize his Southern policy. The President said that he saw no reason for any uneasiness on that score; that he did not see how the gentlemen were going to give any practical force and effect to their opposition; they could not do it by thwarting his personal plans or projects of his own, because he had none for them to thwart; they could not do it by rejecting his nominations in the Senate, because he never would send any name to the Senate in whose confirmation he had any interest beyond that inspired by those general views as to the good of the public service. He did not see that they could do anything beyond denouncing his policy in speeches. Even if they could find a majority in the Senate opposed to his Southern policy, the Senate could not undo what had been done; it could not restore the troops to the State-Houses of Louisiana and South Carolina, nor could it rehabilitate the governments which vanished as soon as Federal arms were withdrawn from their support.

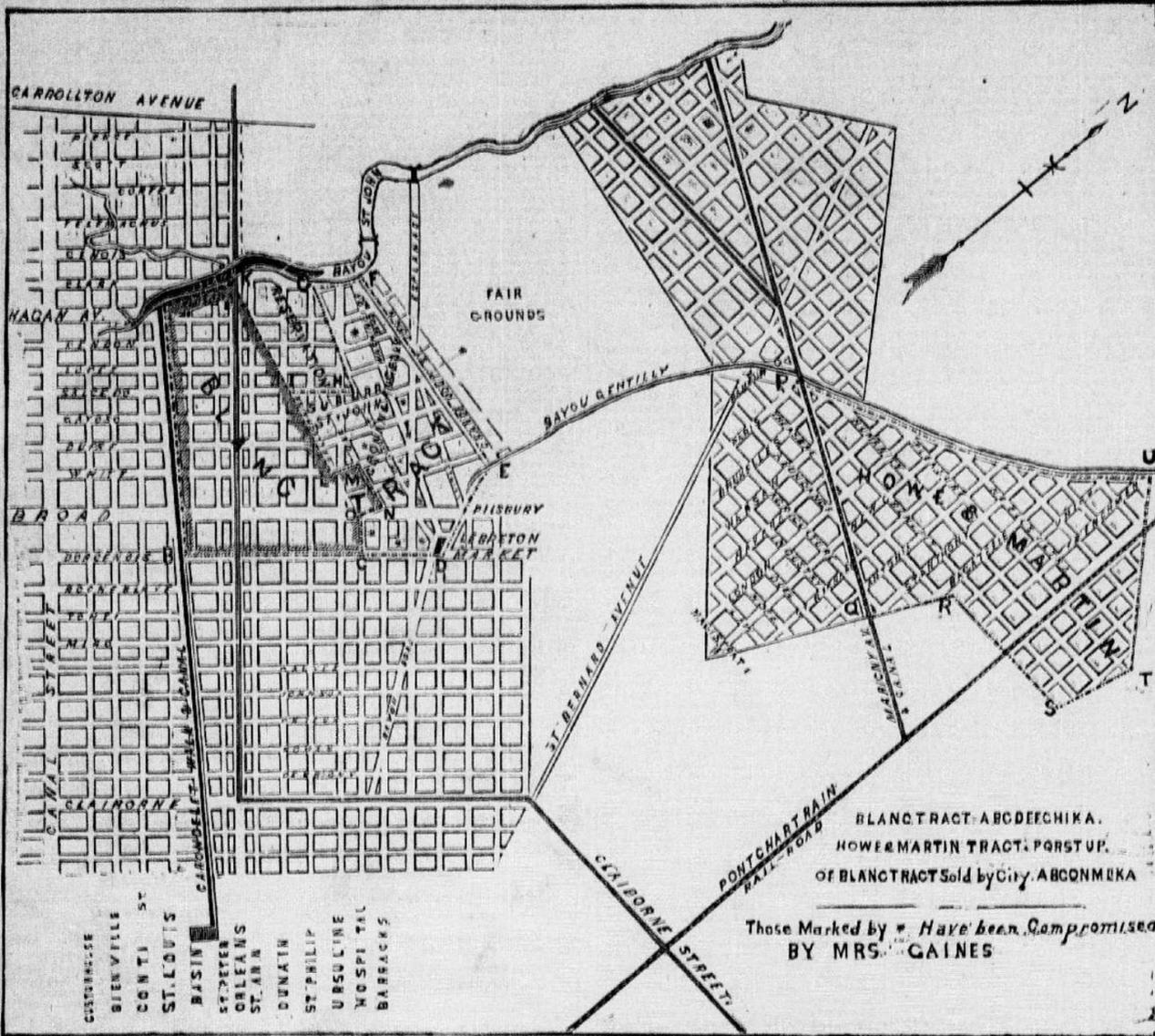
To the suggestion that the opposition might like the shape of seating Kellogg as Senator from Louisiana, the President's reply was, that that would be the Senate's affair, not his; the Senate was judge of the qualification of its members; he had been informed that the Senate Committee on Privileges and Elections had reported Kellogg entitled to his seat, but the report had not been acted upon; if Kellogg was legally entitled to the seat, at the time the report was made, he was certainly entitled to it now, because nothing had been done to invalidate anybody's legal rights.

The general tenor of the President's observations on the subject of Kellogg's contest for the seat in the Senate was to the effect that he (Hayes) had no personal interest in the matter, and did not see how the seating of Kellogg could disturb the even tenor of his Administrative policy; it could not, at the worst, be considered as a reversal of any decision as to who was the legal Governor or which the rightful government in Louisiana, because he had made no decision on that point; he had done nothing but withdraw Federal interference, leaving the government of the State to adjust itself according to the ruling sentiment of the people.

The Senate could seat Kellogg if it wanted to, and unless the Senate should find it necessary to call on him to use Federal troops to maintain Kellogg in his seat there would be no occasion for any action on his part involving an exercise of executive power. Of course such a contingency was absurd, and therefore the seating of Kellogg would not affect him or the policy of his Administration. The Southern policy, he said, related simply to the attitude of the general government toward the States, not to the attitude of the United States Senate toward the Administration.

My informant says that what struck him most forcibly was the perfect good humor Hayes exhibited in commenting on the designs of his enemies in his own party, and his evident faith in the inherent strength of his policy when placed before the country on its merits. Hayes seemed to regard the idea of the Senate requiring troops to maintain Kellogg in his seat, as a neat bit of humor, and, altogether, his review of the situation

THE LAND RECOVERED BY MRS. MYRA CLARK GAINES.



THE GAINES CLAIM.

A Brief Review of Some of Its Protean Phases.

An Indefatigable Litigant.

The map which we print this morning exhibits the principal portion of the land within the city limits which, under the recent decision of the United States Circuit Court, Mrs. Myra Clark Gaines is entitled to recover from the present holders. Her judgment covers also a square of ground bounded by Poydras, Dryades, Perdido and Rampart streets, and some tracts of land in other parts of the State. The dotted lines on the map, designated by the letters A, B, C, O, N, M, L and K, indicate the tract which was sold in full by the city authorities at various times, with full warranty of title, and which is a part of what is known as the Faubourg St. John. The lots and squares marked with asterisks are those the titles to which have been settled by compromises with Mrs. Gaines.

The tract on the extreme right of the map, known as the Howe and Martin tract, and designated by the letters P, Q, R, S, T, U, V, is of little value and affords very few persons.

The celebrated Gaines claim has been for so many years the subject of protracted litigation in State and Federal courts; has assumed so many intricate and perplexing phases, and affects the interests of so many citizens of New Orleans, that a brief review of its history may prove interesting and instructive to our readers.

The first public assertion made by Mrs. Gaines of her claim as heir and universal legatee of Daniel Clark was made, we believe, under the following circumstances: In 1832, the Supreme Court of the State of Louisiana decided the case of Fletcher et al. vs. Cavalier et al., (4 La. Rep., 267,) holding that the plaintiffs were entitled to certain lands in this city. According to the law of Louisiana, the plaintiffs had to pay the value of the improvements to the defendants, who were purchasers in good faith, and the vendors of the land, who had been successively called in warranty, had to pay to the evicted defendants the improved value of the land. (See decision in the same case of Fletcher vs. Cavalier, in 10 La. Rep., 116, of 1833.) Thus the defendants, Cavalier and the heirs of Davenport, obtained judgment for a considerable sum of money against their ultimate warrantors, the estate of Daniel Clark, the land having been sold by Daniel Clark partly in person and partly by his executors.

The parties called in warranty were the heirs of Mary Clark, who had been Daniel Clark's universal legatee under his will of 1811, probated immediately after his death. Daniel Clark had laid out, long before his death, an extensive tract of land in the rear of the city of New Orleans, in lots, squares and streets, bearing the name of Faubourg St. Jean, and many lots were still undisposed of when Clark died.

The lawyer of Cavalier and the Davenports, the late Judge P. A. Bost, procured a number of these lots to be seized by the sheriff, under the execution his clients had obtained against the aforesaid heirs of Daniel Clark. When these lots were advertised for sale Mrs. Myra Clark Gaines sued out an injunction against the sheriff and the clients of Mr. Bost, on the ground that she was the true and only heir of Daniel Clark, and was not affected by the judgment rendered against the heirs of Mary Clark.

Mrs. Gaines, for some reason or other, after having asserted her claim in this manner, shortly

afterwards entered into a stipulation with the lawyer who then represented the parties at whose instance the lots were to be sold (Mr. Bost having been appointed a Judge of the Supreme Court), to the effect that she would withdraw her injunction and no longer resist the sale by the sheriff of the lots in Faubourg St. John, the condition being that the parties should pay the costs that had accrued, which was done. A duplicate original of this stipulation can now be seen among the records of the notary Joseph Cuyllier. Notwithstanding this agreement, however, Mrs. Gaines brought suit for a number of these lots, which had been sold. Some of them afterwards became the property of the Union Company, of New York, who employed, before the war, Judge E. H. Durrell as their agent, and put the title in his name. Judge Durrell having, on account of his apparent interest in the matter, refused to hear Mrs. Gaines' cases while he officiated as Judge of the United States Court in New Orleans, incurred the little claimant's displeasure, and she did, no doubt, what she could to effect his removal from the bench which he so signally disgraced in 1874.

Passing over a period of a dozen years or more we come to the case of Patterson vs. Gaines, which reached the Supreme Court of the United States, or, rather, was decided by that court in 1848. In that case (3 How., 603) the Supreme Court held that a lawful marriage had taken place between Daniel Clark and Mrs. Gaines' mother; that Mrs. Gaines was the only issue of that marriage, and the forced heir of her said father, and as such entitled to four-fifths of his estate, notwithstanding the will of 1811 in favor of Mary Clark, which could not deprive her of her legitimate portion of Daniel Clark's estate.

If this decision had been followed out, then all the owners of property that at the time of Daniel Clark's death belonged to him might have been evicted, and it would have been unnecessary for Mrs. Gaines to apply, in 1835, to the Probate Court of New Orleans, and afterwards to the Supreme Court of Louisiana, for the probate of the will of 1813, or to ask for anything except for the one-fifth of the estate which that decision left to Mary Clark as heir under Daniel Clark's will of 1811.

But at the December term of 1851 the Supreme Court of the United States rendered another and a very different decision, in the case of Myra Clark vs. Belf & Chew, (12 How., 472.) In their opinion the court say, (p. 505):

"The complainant sues as the only legitimate child of the late Daniel Clark, who died in New Orleans, on the 13th of August, 1813. No account is prayed against Daniel Clark's executors, but the complainant seeks to recover the property sold by them, consisting of lands and slaves, on the ground that her father could not deprive her, as his legitimate child, of more than one-fifth part of his estate, by a last will, according to the law of Louisiana, as they stood in 1813." *Ibid.*

"The respondents claim under a will made by Daniel Clark in 1811, by which he devised all his property, real and personal, to his mother, Mary Clark, and appointed R. Relf and B. Chew his executors."

At page 537 the Supreme Court proceeds: "On the 29th of January, 1849, Gaines and wife filed their supplemental bill against all the defendants, and, among other matters, set forth the decree made in their behalf by this court in the case of C. Patterson vs. Gaines and wife as December term, 1847; and complainants set out that decree as having adjudged and decided against all the defendants to this suit, that Myra Clark Gaines was the legitimate child and forced heiress of Daniel Clark, and that, although neither of these were nominal parties to said decree, yet each of them is bound and concluded thereby, and each of them holding the same relation to your contract as the said Patterson did."

The defendants reply (p. 537), "that said decree was brought about and procured by imposition, combination and fraud, between said complainants and Charles Patterson, and that there-

fore it should not be regarded in a court of justice for any purpose whatever. That said decree was designed as no honest exposition of the merits of the case, but was brought about, allowed, and assented to, for the purpose of pleading the same as *res judicata* upon points in litigation not honestly contested."

Patterson was examined as a witness, and from his testimony the Supreme Court concludes (p. 538): "That this proceeding on the part of Patterson and General and Mrs. Gaines was amicable, and that no earnest litigation was had in any case; that the parties agreed to go to trial at once on the depositions found in the probate court; and as Patterson was to lose nothing by the event, he was of course indifferent as to what evidence might be introduced at the hearing."

"It also appears by his evidence that when a decree was obtained in the Circuit Court against him, his name was used to carry up an appeal to this court, but it was in fact brought up by General and Mrs. Gaines. Patterson employed counsel here, who of course had to take the record as they found it, and make the best of it as they could, and it is conceded on all hands they did so; and made the best exertion for Patterson they could do on the record brought up by him, as they supposed. Nevertheless, an affidavit of the decree was had in this court. It could hardly be otherwise in a case managed as this was, the object of the complainants below being to obtain a favorable opinion and decree on the law and facts of a case made up at their own discretion."

This case of Gaines vs. Chew & Relf, was seriously contested, and the court, while announcing their conclusions, say, among other things, (12 How., 538):

"The decree of this court in Charles Patterson's case does not affect these defendants, for two reasons: 1st, because they were not parties to it; and 2d, because it was no earnest controversy."

"The record of Desgrange's prosecution for bigamy, overthrown by the feeble and discredited evidence introduced by complainant to prove the bigamy of Desgrange by marrying Marie Zulime, nee Carriere, in 1794; and established the fact that Desgrange was her lawful husband in 1802 or 1805, when complainant alleges Daniel Clark married her mother; and, therefore, complainant is not the lawful heir of Daniel Clark, and can inherit nothing from him."

An ordinary mortal might have been completely discouraged by this decision, but Mrs. Gaines is evidently not an ordinary mortal. Besides, she fully realizes the fact that courts and their decisions are mighty uncertain; so she kept pegging away at her claim. About the year 1856 she obtained from the Supreme Court of Louisiana a decision admitting to probate an obitographic will of Daniel Clark, which her witnesses swore the said Clark had made in July, 1813, but which nobody had ever read, and by which Clark was said to have constituted her—"my legitimate daughter"—his universal legatee.

In consequence of the probate of this will, when another of her numerous cases was reached by the Supreme Court in 1863, that Court rendered a decision (Hennen's case, 24 Howard) which gave to Mrs. Gaines the very status which the decision of 1851 had denied to her, and declared that there was a legitimate marriage between Daniel Clark and Zulime Carriere, and that Mrs. Gaines was the legitimate offspring of this marriage and Daniel Clark's heir-at-law.

After the war, in the year 1868, we believe, a decision was rendered by the Supreme Court to the same effect in the case of Gaines vs. the city of New Orleans, and most people supposed that the various legal questions involved in the Gaines claim had been definitely determined; but her adversaries had by no means exhausted their resources. Their next move was to proceed in the Second District Court of this city for the revocation of the probate of the will of 1813, which had been obtained from the Supreme Court of Louisiana, in 1856, in what was practically an *ex parte* proceeding. In this undertaking they were

necessitated, and the decision of the Second District Court was affirmed on appeal. This decision was generally accepted as putting a quietus upon the pretensions of Mrs. Gaines as universal legatee of Daniel Clark under the will of 1813, but the claimant had taken the precaution, when the suit for the revocation of the probate of that will was instituted in the Second District Court, to move for its transfer to the United States Court. This motion was based upon an act of Congress of 1867, providing for the removal of suits to the United States Courts in cases where a strong local prejudice exists against one or the other of the parties to such suits. The motion was refused, and, because of this refusal, which involved the construction of a Federal statute, Mrs. Gaines obtained a writ of error from the United States Supreme Court to the judgment of the Supreme Court of Louisiana. When the writ came up for argument at Washington, the defendants, Fuentes et al., through their counsel, insisted that the "local prejudice act" of 1867 was not meant to apply to probate proceedings, over which Federal courts had no jurisdiction; but the Supreme Court, by a majority of one vote, decided, to the surprise of most lawyers, that the effect of this act was to enlarge the jurisdiction of the Federal courts, and held, contrary to all former precedents, that in such cases of local prejudice these courts could henceforth take cognizance even of probate matters.

In consequence of this decision the revocation of the probate of the will of 1813 by the Second District Court and the Supreme Court of Louisiana went for naught and the case of Fuentes et al. vs. Gaines had to be transferred to the United States Circuit Court. There it was consolidated with the various other suits pending there, in which Mrs. Gaines appeared as plaintiff against the possessors of the property Billings described, and on the 16th instant Judge Billings rendered a decision sustaining Mrs. Gaines' pretensions in every particular.

As stated in the DEMOCRAT of Friday, it is the purpose of the defeated parties to this controversy to apply for a re-hearing of the case, but whether they propose to appeal these cases to the Supreme Court of the United States, in the event of a final defeat in the Circuit Court, we are not informed.

We have made no mention in this brief and imperfect review of some of the phases of the Gaines case of the supposed claim of this lady to nearly 3500 acres of land in the heart of the city, founded upon a great embracing 1,920 square toises, or some 11,500 square feet. The "trus inwardness" of this preposterous and ridiculous claim was exposed in the DEMOCRAT of Saturday morning. There is absolutely nothing in it, and no one need entertain the slightest fear lest that claim should ever "rear its hideous front" again.

Do you want to laugh? Go see the Contraband Children.

Special bargains in hosiery, handkerchiefs, parasols, emporideries, linen shavings, towels, damasks, napkins, etc., at M. L. Byrne & Co.'s, 163 Canal street.

Now is seen the good effect of President Hayes' policy. The White Leaguers all go to see the Contraband Children's *nigger show*.

These five hundred new linen suits, opened on Saturday by M. L. Byrne & Co., varying in price from two dollars and a half to twenty dollars, are the greatest bargains of the season.

LIBERALITY EXERCISED.—It is rumored that on next Saturday night all gentlemen accompanying ladies to the Contraband Children's performance will be presented at the door with a box of cigars. Of course, any one dissatisfied with this arrangement will be, in addition, refunded the price of the ticket.

indicated that he listens to the mad howlings of the Radical bulls of Bashan with profound complacency.

Turning the conversation upon the foreign appointment, the President said that Mr. Everts was making up a budget of recommendations as reports which would soon be ready for submission to the full Cabinet, and this budget would be made the basis of all the appointments and changes in the consular and diplomatic service. This budget will probably be ready for the Cabinet session a week from to-morrow.

DUZZI
(From Our Evening Edition of Yesterday.)
LOUISIANA'S FREEDOM.

One Hundred Guns Fired in Honor of Gov. Nicholls.

[Special to the N. O. Democrat.]
PAINCOURTVILLE, Assumption, La., April 20, 10 o'clock, p. m.

Editor of New Orleans DEMOCRAT, New Orleans, Louisiana:
Dear Sir:—One hundred guns fired here to-night in honor of Gov. Nicholls and his government.

Yours truly, J. C. T.

WEN WADE'S ATTACK.
WASHINGTON, April 23.—Wade has succeeded in finding a publication for his letter attacking Hayes' Southern policy in the New York Times.

The Baltimore American says of it: "It is very bitter and caustic, but the writer seems to have forgotten that circumstances have changed since the end of the war."

The Harbor Appropriation.
WASHINGTON, April 23.—No information can be obtained regarding the balance unexpended for rivers and harbors. All paragraphs on this matter have been based upon the favorable hearing accorded to persons in favor of special interests. The War Department takes special pains to conceal its intentions.

A Conflagration in New York.
NEW YORK, April 23.—The Journal of Commerce building was destroyed by fire this morning. The fire broke out at six o'clock, and is supposed to have originated in the editorial or composing room. The contents of the building were entirely consumed, including the valuable library. The loss at present cannot be ascertained, but the property was fully insured.

FOREIGN.
A SHORT DELAY.
The Russian Army Delayed by Bad Roads.

LONDON, April 23.—It now appears that Russia will delay development of her intention until the 29th instant, the chief reason being her preparations are not quite complete.

The roads are very bad, and it is also stated Russia finds a larger force is required for the task before her than she supposed. The Sultan, in case of war, will go to the Danube and command in person.

ROMANIA.
Several Fortresses in Turkey Occupied.

LONDON, April 23.—The Standard's dispatch from Vienna reports that Roumanian troops occupy Oltenitz, opposite Turkafrank, Giurgiuva, opposite Rusebuk, and Karakao, opposite Sillistia, under Russian commanders, in order to concentrate their forces at Broila and Ismailia. At Tarrajova 20,000 Roumanians are forming a reserve corps.

Gortschakoff's Circular.
LONDON, April 23.—A courier arrived at Vienna on Sunday night with Gortschakoff's circular.

The Turkish Fleet.
LONDON, April 23.—A portion of the Turkish fleet is taking position at Hirsowa, near Galatz, where the Turks expect the Russians will try to cross the Danube.

Servia Disarming Volunteers.
LONDON, April 23.—The Servian government has sent troops to Gladona to disarm the Servian volunteers who refuse to disband. A Servian crop of observation is forming on the Timok.

An American Geographer Released.
LONDON, April 23.—The King of Abyssinia has released Mr. Mitchell, the American geographer.

THE TURKS READY.
They Believe They Can Hurt Back Russia.

[London Truth, April 6.]
The Turks are not unwilling to give Russia the battle she seems to crave; they are strong in men and strong in armament. They are weak in commanding officers and in their military train. They are confident of repelling the first Russian attack, but they are doubtful of their powers of protracted resistance. "Let us have only a little money," they say, "to organize our commissariat and transport services, and we shall hurl back Russia upon her frontiers, with losses that she will not easily forget. In every one of our men a large heart beats full of hatred, and ready to express their hatred in deeds."

Through all her provinces runs this living feeling, and old and young will answer the call of the Patriarch to repel an enemy, against whom every pulse of the nation beats with unextinguishable detestation. These sentiments, although they are strongest, are not limited to the Mahometan population. Those Christians who engage the benevolent solicitude of the Czar hate him as hotly as the Turks; and, in short, the war with Russia will be popular throughout the empire without any exception of race or creed.

The naval review and sham fight we had been promised for Easter Monday, is not to come off after all. Robert Faeha may soon have more serious work to take up his position with the fleet at the Black Sea mouth of the Bosphorus, to be in readiness for any emergency. He places as much confidence in his sailors as the Turkish commander-in-chief does in his soldiers. He has led them into action with a full reliance on their efficiency.

CREMONA'S TRICKS.—It is rumored that on next Saturday night all gentlemen accompanying ladies to the Contraband Children's performance will be presented at the door with a box of cigars. Of course, any one dissatisfied with this arrangement will be, in addition, refunded the price of the ticket.