

OPINION OF JUDGE JOHNSON.

In the Court of Appeals.

THOMAS H. RODMAN, APPELLANT, AGAINST ALFRED MANSION, RESPONDENT.

Johnson, J.—The facts of this constitutional case of the canal act of July 10th, 1851, is directly presented by these cases, and must necessarily be decided. A decision against its validity will prove injurious to the interests of many persons, and also to the interests of many more. But this consideration, while it occasions regret on my part, detracts nothing from the obligation to preserve the constitution from infraction. The evil consequences to the community from an example of judicial infidelity in this case, would far outweigh the worst to be apprehended from a decision adverse to the canal act.

Before proceeding to the consideration of the principal question involved in these cases, it may be said to be very briefly to need two topics which were urged upon my attention as the argument; for there may be found persons so little familiar with the course of judicial procedure, as to attach to them much more importance than they really deserve. These are, first, the question of the validity of the act, and secondly, the question of the validity of the provisions which were contained in the act, and which were not contained in the constitution.

Leaving these matters without further observation, let us turn to the main question which we are called upon to decide. It is, whether the act is valid in the exercise of their undevolved and sovereign authority, established the constitution. As part of the machinery of government under it, they created a canal and an assembly, and vested in them the legislative power. The canal was not a part of the constitution, but a creature of the Legislature, and is not a part of the constitution. The canal is a creature of the Legislature, and is not a part of the constitution.

When the convention assembled in 1846, three financial schemes were fresh in the recollection of every one. The first was a plan to raise the money to be expended in the canal, and to pay the interest of money to be borrowed and applied to the completion of the work; and this is in substance the plan of the present canal act. Upon this plan the convention acted, and when, upon the 12th of July, 1846, the constitution was adopted, it was found wholly to have failed.

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It is obvious, therefore, that the difference between these two schemes is not formal or modal, but is one of substance. The first scheme is a plan to raise the money to be expended in the canal, and to pay the interest of money to be borrowed and applied to the completion of the work; and this is in substance the plan of the present canal act.

Whether we are considering an agreement between parties, a statute law, or a constitution, with a view to the interpretation of the thing we are to construe, it is thought which it expresses. To ascertain this, the first resort in all cases is to the natural signification of the words employed, in the order and grammatical arrangement in which the framers of the instrument placed them. If this does not give a definite meaning, which involves no absurdity, and no contradiction between different parts of the same writing, then that meaning, appearing on the face of the instrument, is the one which alone is to be regarded. If this does not give a definite meaning, which involves no absurdity, and no contradiction between different parts of the same writing, then that meaning, appearing on the face of the instrument, is the one which alone is to be regarded.

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THE NEW ORLEANS TELEGRAPH AGAIN.—We are far from being querulously inclined; but there are some things that are too much, even for us to bear silently. How it is we know not, but for the last few months scarcely a day has passed that we have not had good cause to complain of some delay or neglect on the part of the New Orleans and Washington Telegraph Company, but except on one or two occasions have put up with the inconvenience rather than make our columns the vehicle of any complaint. But the greater the attentions exhibited by us, the greater is the neglect that occurs on the line. Yesterday morning two dispatches were forwarded from Baltimore for this city, containing the African Intelligencer, one of the best of the kind, and at 9 A. M. and the other for us at 9.10 A. M.—six minutes later. The first dispatch arrived at 1.25 P. M. but ours did not make its appearance until 4.45 P. M.—three hours and twenty minutes behind the other—by the great inconvenience of our delay. We have not had a single English course, 5 A. M. former course, or a single English course. The institution has been in operation for some time, and it is to be regretted that the management is under the care of the late Mr. [Name].