# MEMPHIS APPEAL.

JOHN S. C. HOGAN & CO.

*Vera Atque Honesta Dicere.*

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PRINCIPLES GOVERNING THE CONDUCT OF THE APPEAL.

A GOVERNMENT of white men for white men; and no political miscegenation.

LOYALTY to the Union of the STATES: FIDELITY to the Constitution in its true extent and meaning: Obedience to and maintenance of all law, State and National, constitutionally enacted.

RESISTANCE to Tyranny, Usurpation and Oppression, of one man or many; and to all encroachments upon the rights of freemen or of States, or upon the just and Constitutional prerogatives of any Department of the State or National Governments.

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STRICT SUBORDINATION of the Military to the Civil Power.

NO STANDING ARMIES of States in time of peace.

RESTORATION of disfranchised citizens to all rights and privileges of which they have been dissolved; no prosecutions or disqualifications for political opinions; for the PAST, oblivion of offences; for the PRESENT and FUTURE, UNION, PEACE, LAW and ORDER.

PERPETUAL ASCENDANCY to all freemen of the African race, of all the CIVIL rights of freemen.

NO REPUDIATION, by State or Nation, of any honest and lawful debt.

NO REVIVAL of old party differences; but a Union of all Conservative men, of all former parties, who revere the Constitution, to restore the old land-marks of the government.

NO REPUDIATION of the plunder one portion of the country for the profit of another portion.

WHATEVER is JUST; whatever is HONEST; whatever is of GOOD REPUTE, and worthy of the descendants of English freemen.

TO CORRESPONDENTS.

No notice can be taken of anonymous Communications. Whatever is intended for insertion in the APPEAL, must be authenticated by the name and address of the writer, as a guarantee of his good faith and responsibility.

BUSINESS letters should be addressed to "THE APPEAL," Memphis.

Communications for publication must be written on one side of the paper only, and with all other matters connected with the editorial department, should be addressed: EDITORS OF THE APPEAL, Memphis.

We cannot, as a rule, undertake to return articles not found suitable for publication.

## SET-OFF OR COMPENSATION.

Another branch of our American law, which greatly needs amendment, and in which nearly every man that deals or trades with others is interested, is that of Set-off, or, as it is called in the Roman and French law, Compensation.

Our American law, briefly stated, is this: "Where two parties owe each other debts, *connected in their origin or by a subsequent agreement*, the balance only is the debt, and he to whom it is due should sueonly for that; and if he sues for more, the opposite debt may be offered in evidence reducing the claim of the Plaintiff to the balance. But where the opposite debts or accounts are not so connected, *each constitutes a distinct debt*, for which suit may be brought: and when one is sued on, they may be balanced by *setting off* one against the other, by means of a notice or plea of set-off." The defence of set-off is purely the creature of the statute, the object of the statutes which allow it being to prevent cross-actions between the parties. The debts or demands do not extinguish one another to the amount of the smaller, at the moment of the beginning of existence of the later one; but set-off "is a mode of *defence*, by which the Defendant, acknowledging the justice of the Plaintiff's demand, sets up a demand of his own, to counterbalance it in whole or in part, *and asks the Court to set it off against it by its judgment*." Consequently the extinguishment of so much of the Plaintiff's demand is effected only by the judgment of the Court; both debts existing in their entirety, in law, until that judgment is rendered.

Set-off is in the nature of a cross-action, and is substituted for that, *it is said*, for the very purpose of preventing unnecessary litigation; and Courts have *censured* parties for not pleading a demand by way of set-off, when there was nothing to show that it might not have been made perfectly available to the defendant in that way. But in doing that it is quite clear that these Courts did what they had no right to do, and so the party censured might properly have told them. For a party who is sued for a debt is not under the least obligation to plead by way of set-off a cross-demand that he may have against a plaintiff who ought to allow it as a credit without putting him to that trouble, and he has a perfect right, of which a Court cannot deprive him, to let the plaintiff have his judgment, and then sue him, in his turn, on the independent cross-demand. To *censure* a man for exercising a legal right, is an invasion of his rights, and the ermine ought not to protect a Judge that does it.

Nor is the object of the statute to prevent unnecessary litigation, for the benefit of the public or the plaintiff. It is, on the contrary, to facilitate the obtaining of justice by a defendant, and prevent his being swindled and defrauded.

The consequence of considering a plea or notice of set-off as a cross action is, that no demand can be set-off, unless an action on it could be brought by the defendant, and sustained. It, therefore, his demand be barred by limitation, or otherwise defeasible, it cannot be set-off at all. To a plea of set-off of a demand barred by limitation, the plaintiff may specially reply the statute. Buller N. P. 180 *Chapple. Durston*, 1 *Cromp. & Tere. Exch. Rep.* 1, in which case the Court said that a "plea of set-off has ever been considered as in the nature of a cross-declaration. See also *Levering v. Rittenhouse*, 4 *Whart.* (*Pa.*) 130, 140. *Williams v. Perry*, 2 *Strobh.* (*So. Car.*) 170. *Tringer v. Pollard*, 5 *Grattan* (*Va.*) 490.

From the fact that the plea of set-off stands in the place of, and is in substance and effect a cross-action, it must follow that it is an action commenced by the filing of the plea, and that if the demand pleaded is *then* barred, it can not be set off. The time of the institution of the plaintiff's suit cannot, on principle, (though it was so held in *Tringer v. Pollard*, be so substituted for the time of filing this plea, so that if not *then* barred) the demand may be set-off. As DANIEL, J., there said, the defendant may rely on his set-off or bring his action, as he prefers. If he elects to rely on his off-set, he then assumes, as to the off-set, the attitude of a plaintiff. At the moment of filing the plea, and not before, he becomes the *actor*, as to that. Why then should he be barred if he brings a suit on his claim, and not barred if he plead it in set-off? How can the institution of the plaintiff's suit stop the running of the statute as to the defendant's claim?

Lord MANSFIELD, who was a great lover of the Civil law, and transplanted many of its principles into the civil law of the English law, said, in *Green v. Farmer*, 4 *Burr.* 2221, that the justice of allowing cross-demands was supported by natural equity, *the balance only being really due in such cases*. But the English law and that of our States do not proceed on this principle. As we have said, the extinguishment, in whole or in part, is produced by the judgment rendered by the Court.

If, therefore, A holds B's bond under seal (a promissory note in all except the seal) in a State where the limitation on such a bond is *five years*, and B holds A's promissory note, the limitation on which is *three years*; or if A holds B's promissory note on which the limitation is five years, and *owes* B on open account, even as much as or more than the amount of the note, the limitation on open accounts being two years, and sues on the bond or note, B cannot, if the three or two years have elapsed before he pleads, avail himself of the note or account by way of set-off. It is plain that that is not honest law.

Neither can unliquidated damages, even if secured by a penalty, be set off; and therefore may be lost, by an assignment, even after suit brought, of the Plaintiff's claim to a third person.

Moreover, Courts of Equity will allow set-offs in equitable cases, where they are not allowable at law, on the ground that it would be *hard* not to do it; as where after a partnership is dissolved, and the partnership debts are paid, and a surplus remains, a person indebted to the firm and a separate *creditor of one* of the firm, against whom a commission of bankruptcy has issued, may set off the debt, due to the firm against the surplus to which the bankrupt is entitled.

If that principle is right in a Court of Equity, it is right every where. The relief is not granted, in such a case, on any peculiar ground of Equity jurisdiction, such as fraud, accident or mistake, but on the simple ground that it is *right*, to prevent hardship.

Now the Civil law is very different. It is thus stated in the "*Analyse des Pandectes de Pothier*, by MORKAU DE MONTALIN, from the Pandects themselves:

"Compensation is the reciprocal balancing of a debt with a credit. He who is sued by his creditor, who is at the same time his debtor, may always repel his demand by offering him compensation." The Digest itself says (*Book* XVI, *Tit.* 2, *de Compens.*), "*Compensatio est debiti et crediti inter se contributio. Unusquisque creditorem suum, eundemque debitorem petentem sumovet, si paratus est compensare.*

And the reason given for it, by L. 3, is, "*Ideo compensatio necessaria est, quia interest nostra potius non solvere, quam solutum repetere.*" Compensation is of necessity, because it is more to the interest of a party not to pay, than to be put to an action to recover back what he has paid.

"Compensation is effected by operation of law (*de plein droit, ipso jure*), in actions of good faith. Finally it was settled that compensation should take place *pleno jure* in all actions real or personal. Difference of origin and even of cause (or consideration) in the two debts, does not prevent compensation; for if one owes us money and we owe him, though by virtue of different contracts, compensation is admissible. Every debt that is demanded of us, and from whatever cause it proceeds, may be excluded by the compensation of any other debt whatsoever. Compensation takes place as well in an action for damages for a tort; and against the Republic or a municipal corporation, except in particular cases.

"If one has paid a debt, when he could have opposed compensation, he has an action to recover back money paid when not owed; and if after compensation we still owe a balance, and we pay it, or if we tender it or deposit it, and the Plaintiff refuses to receive it, we may sue him for restitution of our securities given.

The Jurisconsult PAUL said (LAW 4 same title), that NERATIUS and POMPONIUS agreed that if a principal had the right to retain any amount by compensation, his surety owed so much less, *ipso jure*, no matter what the nature of the compact was, is which he was surety.

There was in every case, "*ipso jure inniceem liberatio*," and when one debt bore interest, and the other did not, a Constitution of the Emperor SEVERUS provided that no interest should be payable on the amount which was mutually due.

In Law 21, of the same title, we find, quoted from PAUL, "*Posteaquam placuit inter omnes, id quod invicem debetur, ipso jure compensari*," etc.

The debts, DURANTON says, pay each other; "*C'est une sorte d' imputation que chacune des parties fait de ce qui elle doit en re qui lui est du: es Euse patient a Eucs-memes.*" For these reasons, he says, the law makes compensation produce its own effects *de plein droit*, even without the knowledge of the parties, and even in spite of themselves, so that the two debts are extinguished *ipso facto*, to the amount of their respective quantities. The party sued for a debt must, he says, if compensation has extinguished it, nevertheless *plead* that it has taken place, for the Judge cannot divine this; but this in no case prevents its being operated *de plein droit*, if all the conditions required by the law are found to have been complied with. The Judge then only declares that fact, and that, in consequence, the debt was extinguished at such a time, at least to the amount of the smaller debt. Consequently from that moment interest will have ceased to run on either debt, to that amount, privileges and hypothecations will have been effaced, and sureties liberated, in the same proportion; and if the Defendant's debt is larger than the Plaintiff's, the latter will be adjudged to pay the costs, because nothing was due him.

For debts to be extinguished *ipso jure* by compensation, DURANTON says, that five conditions must concur:

Each debt must have for its object a sum of money, or a certain quantity of fungible things of the same kind; that is, things that can perform the office of paying the debt. Each must be liquidated: each must be demandable (due): One of them must be owed to the person who demands the compensation, and the other to the person to whom the compensation is opposed; and neither debt must be of the number of those excepted by the law.

No other conditions are necessary. It does not matter that the debts are payable at different places. When the five conditions concur, compensation extinguishes debts *de plein droit*, as a veritable payment would do. It is the image of payment.

A consequence of this is, that when once so effected by operation of law, the parties cannot direct the effect of it upon another debt to the prejudice of those who have an interest in the acquittal of that which has extinguished any more than they could change the application of a payment made by the law itself in the absence of any application of it by the parties at the time of the payment.

ZACHARIÆ says that the personal incapacity of the parties interposes no obstacle to the compensation, which is operated, although they are not capable of paying or of receiving a payment. It is operated *plenour* producing all the effects which the law attaches to it, without the intervention, and even without the knowledge of the parties. The parties may renounce availing themselves of a compensation so effected; but the renunciation does not cause the revival of the compensated claims, which remain, as to them, definitively extinguished. MARCADE says that the defendant, in opposing compensation to the plaintiff's demand, only insists upon and avails himself of the compensation that has been legally accomplished, and he says that if the defendant pays the plaintiff without demanding the compensation, he does not afterwards sue on his own debt, but for so much money paid that was not due; for his original claim is extinguished, by the compensation effected *pleno jure*.

There have not been wanting Judges who have thought that these principles of the civil law ought to have been adopted, when the statute allowed plea or notice of set-off. Any one may easily think out for himself, without suggestion from us, cases many and various, in which the adoption of them would prevent injustices that are not remedied by our own law of set-off. One of these, which we indicated at the beginning, is where the period of limitation is not the same for both debts. Another is, when one debt bears a higher rate of interest than the other, and the interest runs on each until judgment on the plea of set-off, instead of part or the whole of the debt bearing ten per cent. interest, for example, being extinguished as soon as the other was contracted. Another is, where a debt is secured by lien or mortgage, and a third person afterwards obtains a junior lien or mortgage on the same property, before or after which the first creditor becomes indebted to his original debtor, and it may suit the purposes of the latter to permit his first creditor to enforce his whole demand and the lien created to secure it, which he may do, by our law, though the second creditor may have learned, after his own lien was created, that the original creditor had become indebted, on another account, to the debtor in an amount as large or larger than the original debt. For yet that debt is not extinguished, as it would have been by the Roman law, and when it is sued on, it is wholly optional with the debtor whether to plead his off-set, or retain it for an independent suit.

The cases in which Courts of Equity have allowed set-offs, where Courts of law could not, are other examples. A bankrupt may hold a note on a person to whom he had given his own note on a separate transaction. The note he holds, when it is over-due, he assigns, and his assignee can recover the whole amount; while on the note given by the bankrupt, the holder, who has to pay his own note in full, can recover only a paltry dividend.

The law should never be a patron of fraud: and the law of set-off will always be so, unless the principles of the Civil law are adopted by legislation. The Courts are not at liberty to apply them.

## GEORGIA ELECTION RETURNS.

The Augusta *Republican* has the following additional returns:

Wilkes County, first day, 739 for the Convention.

Taliaferro County, first day, 379 for the Convention.

Greene County, first day, 550 for the Convention.

Pierce County, first day, 124 for the Convention.

COLUMBUS, GA. October 31.—During the three days 1500 votes have been polled. All but 25 were negroes, and all are for the Convention.

COLUMBUS, GA., October 31.—The election progresses quietly, the whites taking but little interest in it. Three thousand and sixty-six votes have been polled to date in this city and county. The total number registered was 5513. Nearly all the votes cast are for Convention. Glasscock county has 106 votes cast; Jefferson, first day, 450 votes; Wilkes, vote for two days, 1300; Taliaferro, two days, 900; Greene, 1222 voted in three days. In Athens, the total vote cast was 561, nearly all for Convention. In Milledgeville, 1019, all for Convention but one. In Marietta, 640 votes were cast during the three days, mostly freedmen, and nearly all for Convention. Griffin, Spaulding county, had 241 today. Total, 1168. In Henry county, the total vote last night was 789, of which 531 were for Convention. In Pike county the voting is almost entirely for Convention. In Albany, all is quiet; 1821 votes were polled, all Radical.

SAVANNAH, GA., October 31.—The number of votes polled to-day was 714 in the city, and 280 in the county; the total in three days, 3569 in the county. The negroes voted the Radical ticket.

ROME, GA., October 31.—The total vote of this city for three days was 1367, closely divided on the Convention; the Radicals claiming 400 majority so far. Nearly all were white voters to-day. There will be about 500 to 700 more cast. LaGrange polled 1717 votes, all for the Convention; some whites voted. In Fort Gaines the whole vote was 385, all for the Convention; 86 whites voted.

MACON, GA., October 31.—The total vote in the city and county is 1708. In Thomasville the total vote for three days was 1345; all for the Convention; very few whites voted.

## NEIGHBORING IT.

The Alabama niggers who flocked here in considerable force yesterday and the day before, upon being interrogated, declared their intention of voting at this place, or as they termed it, to neighbor it, in return for a recent favor of a similar character done them by the Georgia niggers. Several Georgia niggers announced their intention of voting each separate day of the election. We suppose they carried this intention into effect, for we are not aware of any way to prevent.—*Columbus Sun, 31st ult.*

Not a white voter of Bibb county cast a ballot yesterday! What a glorious record for a county that has such a proud history! We are sure that to-day will be like that of yesterday, and to-morrow even as to-day. Let the sun of Thursday set upon that record unsullied by any participation in, or countenance to the swindle.—*Macon Journal and Messenger, 31st ult.*

## THE ROLL OF HONOR.

Sumter county—Up to Thursday morning, 1255 negroes had voted—not one white man.

Schley county—On Tuesday 350 negroes and two whites.

Randolph county—Tuesday, 718 negroes and fifteen whites.

Dougherty county—Tuesday and Wednesday, 1257 negroes and no whites.

Houston county—Up to yesterday morning no whites had voted.

## POPE'S NEGRO SHOW.

At the close of the polls yesterday about seventeen hundred negroes and three white men had deposited their votes at the courthouse—all for a convention, and of course, for the radical ticket, as there is none other in the field.

The people of Georgia decline to kneel, like the camels, to take upon themselves the pack and burthen of oppression and of a voluntary descent to the negro-level which the rescript of the knaves who lead the fools in Congress ordered them thankfully to submit to. The consternation which this unexpected display of patient courage, in spite of JOE BROWN's exhortations has caused in that Department of the Devil's Dominions known as Radicaldom, may be judged of by the following moreaux clipped from a mass of jabbering rigmarole in the New York *Times*. The *Tribune*, with the stolid obstinacy of the donkey, swears that it will never abate a jot or a title of what it calls with a gloomy gravity its "principles," no matter how the people may vote. It appeals from the people to the negro. It cries, like RODERICK DHU:

"Come one, come all, this rock shall fly
From its firm base as soon as I."

It learned nothing from the past, and sees no further into the future than a bat. Hear, however, the maundering of the *Times*. It says of the people of the South:

The Democratic gains of October inspired them with new hopes. They saw in them indications of renewed Democratic supremacy,—to be followed by the repeal of all the reconstruction acts, the withdrawal of the suffrage from the blacks, and a restoration of absolute political power in the South to the white classes who had it before the war. In some parts of the South, it seems to be well established, that they even anticipate a repeal of the Constitutional Amendment by which slavery was abolished, or at all events payment to the owners for all the slaves that have been set free.

How absurd and short-sighted all these expectations are, every candid and dispassionate man knows full well. But they have had a most disastrous effect upon the political action of the Southern States. They induced their white citizens to refuse all participation in the elections, and thus not only threw the whole power of those States into the hands of the blacks, but implanted the seeds of a bitter hostility between the races which may lead to the most deplorable results hereafter. It is precisely here that the worst effect of Democratic successes is to be traced. Upon the actual policy and action of the North they can have little effect. They hold forth no prospect of the return of the Democrats to power in the nation next year, nor can they bring about any change in the party complexion of Congress for two years to come. But they betray the people of the South into most lamentable mistakes of policy, and induce them to take a course which will postpone the actual work of reconstruction for many years to come, if it does not defeat it altogether.

It says that the people of the South, since the negroes were vested with the franchise in spite of them, and were protected in the exercise of votes in defiance of them, have cultivated a 'sulky stubbornness,' and allowed the negroes to carry matters in their own way.

Such a result is very much to be deplored. It darkens the future of the South and adds to the perplexities of a question already greatly complicated. But the difficulties it interposes to the successful working of the reconstruction scheme are not to be accepted as evidence of its defects or of injustice in the leading objects at which it aims. Harsh it is in many particulars, and dangerous, perhaps, in its creation of political power out of ignorant, semi-civilized elements. Time, however, and the healing influences of a restored Union, might be relied upon to gradually remove its harshness; and the danger would have been materially reduced had the whites accepted the situation, and exerted themselves to mitigate its embarrassments. Their obstinate refusal, to do either of these things—their rejection of the conditions prescribed and their antagonism to the equality which constitutes the fundamental principle of the law, must deprive them of sympathy to which otherwise they would have been entitled, and lessen the influence of appeals which they may address to Congress on the subject. Even qualified compliance with the requirements of Congress would have indicated a spirit to which the North could not have been indifferent. But the dogged defiance which has thus far governed their proceedings, and the unyielding opposition not only to universal but to partial negro suffrage, are indications of a temper which has slight claims upon the magnanimity or forbearance of the country. The South might have "stooped to conquer" with fair chances of profit. Its failure to bend even to the inevitable, and to recognize lessons which are irreversible, may entail excitement and trouble, but the heaviest loss will, after all, fall upon its own people.

The same journal, under the heading of "Minor Topics," says:

The white people in different parts of the South have lately been asking Government for more troops to maintain order and preserve them from apprehended riots and insurrections by the negroes. At the same time, the Congressional Executive Committee (curiously enough) have received appeals from negroes, saying that they "stand in fear of violence, and suggesting that they be allowed to form military companies." All this is exceedingly painful and ominous news to those who seek the welfare of both races in the South, and who have labored to secure such harmony of feeling as would enable them to live and labor together for all time to come. These things are appalling. They forebode a future which we would rather not contemplate, and whose horrors can only be averted by statesmanship and wisdom, not merely on the part of the Government, but on the part of the governing *people* of the United States.

THE most frantic appeals were made by the Radical press of the North, to prevent the late tide of opposition which has swept them away. Among other appeals the New York *Tribune* besought the voters of New York not to endorse "the pirate" Semmes and the "oppressor of Union prisoners," Wirtz. Poor Wirtz, in his bloody grave, cares very little now about human applause or censure. But the hosts of friends of the gallant Admiral of "the Alabama" may perhaps be pleased to learn that the citizens of the Empire State have endorsed him by a majority which the *Tribune* now concedes will reach 40,000.

THE Radicals have endeavored to explain all the elections which have resulted to their discomfiture, by pretending some special circumstance which would not be likely to operate generally. Seeing their doom in advance in New York, they raised the cry of fraudulent and forged naturalization papers before the election. If any such papers existed, we have no doubt they were forged by some of their own hired agents, to furnish a pretext to account for their defeat. At Richmond they hired men to issue handbills threatening the assassination of HUNNICUTT and UNDERWOOD. And in New York, we believe, they are carrying out the same pitiful game to account for the popular tornado which has swept over them.

THE Northern Generals, who won renown by their military conduct in the late war, would have consulted their reputations if they had declined the post of Proconsuls to the Provinces of the South. A brave soldier always receives the respect of mankind; but a petty tyrant ever falls heir to the contempt he so justly merits. The Southern Generals are fortunate that they have been compelled since the war to resort to the common business of life to sustain themselves. Our Confederate ex General commission merchants, teachers, lawyers and farmers have won, or rather retained, more honor than the SHERIDANS, SCHOFIELDS and ORDS, to say nothing of POPE and SICKLES, who had no great amount of reputation to start on.

THE indications, to be gathered from the ballot box, are that the South and North are about to change grounds politically. The Democratic party is to be sustained by the Northern States, while the Jacobin, Radical or Ethiopian party is to look to support from the reconstructed Provinces; and, if that is not enough, then to Hayti, St. Domingo, Cuba and Jamaica, which, according to THAD. STEVENS' programme, are to be hereafter "annexed." The New York *Herald* pithily asks and answers:

What are the glorious names that are likely to be associated with Southern representation in the future? Quashy, Coffee and Sambo? Elisek Johnson, Pompey Smith, Cæsar Jones and Cicero, with every possible addition, are to be the future Senators, speakers and eloquent orators from States whose annals are splendid with the names of the founders of freedom. No wonder the Republican party vaunts its achievements, which it can show results as great as this!

## GENERAL NEWS ITEMS.

—The report of the Controller of the Currency has been completed and laid before the Secretary of the Treasury.

—Gov. Geary, of Pennsylvania, has issued a proclamation announcing Judge Sharswood's majority to be 937.

—The burglar who robbed the bank of Pattis & Ingals, at Tremont, Tazewell county, Ill., of $100,000 in money and bonds, has been arrested at Springfield. He gives his name as Henry O'Connor, and is said to be the reckless Union scout "Wild Bill," described sometime ago in *Harper's*.

—James M. Scovell, of New Jersey, in a recent letter, says, "When the Republican party becomes so cowardly that it fears to face a negro at the ballot-box, after we have made him for four years an animated target to stop rebel bullets, then that party will go down, and it ought to go down, because it would then be false to its pledges and recreant to its sense of duty." According to the verdict of the elections in the Northern States, then the Republican party will "go down and ought to go down," to which we heartily say amen!

—A "coal famine" prevails at Cincinnati. The low water in the Ohio river prevents shipments from Pennsylvania. The Cincinnati *Gazette* says the high prices for coal and provisions, a scarcity of work for large classes of people, and exorbitant house rents, foreshadow a hard winter there for the poor.

—The total number of voters registered in New York city is 128,006, a gain of 6864 the number registered for the November elections last year. The number registered in Brooklyn is 54,397, an increase of 6000 over last year.

—Sales of real estate belonging to Hon. John Wentworth were made in Chicago last week to the amount of $400,000.

—Gen. Grant has ordered all officers on leave of absence on account of the prevalence of yellow fever to return to their respective stations in the South by the 20th inst.

—Advices from Porto Rico state that during the hurricane on the coast on the 29th, the ship Nuova Appolo and four coasting lighters were sunk in the bay. Three ships, names unknown, were dismantles.

—The application made to the President to modify certain orders of Gens. Pope and Schofield have been refused. He takes the ground that the law gives him no power to modify or annul orders of district commanders.

—The President will commence the preparation of his message this week, but will not submit to it Congress at the first week in December, as the meeting on the 21st is only an adjourned one. The larger portion of his message will be devoted to the condition of the South and the financial question.

—The various telegrams about the progress of the separate Secretaries in preparation of their respective reports are fanny sketches in most cases. The subordinate reports are not yet complete, and these have first to be submitted, after which the Secretaries prepare their annual reports.

—In the fourth ward in New York Jas. Friel, a printer, was shot dead by two men named Harrigan and Hayes, while in an election fracas. A man named Kelly was shot in the thigh during the alteration.

—A dispatch from Ottawa, Canada West, says the Hon. Mr. Galt has retired from the Government for reasons of a private nature. No one is yet mentioned as his successor.

—The case of the propeller Georgian, which has been the subject of much public interest at Toronto, for some time, has been decided finally at Hamilton, a decree having been made in favor of the plaintiff handing the vessel over to the United States. The bill against Jacob Thompson, defendant, was dismissed with costs, the counsel disclaiming all interest in the vessel.

—The New York *Herald* thus chronicles a practical result of the late elections. We expect to witness many more such examples: Senator Patterson, of New Hampshire, is accounted a radical republican; but he seems to be one who is not to be carried away by all the fanatical notions of Sumner, Stevens, Phillips and Greeley. Senator Patterson, on the question of suffrage, in the course of a late speech at Boston, said, "that the obstinacy of the rebels forced us to give the ballot to the negroes, as the only alternative to keeping a standing army in every Southern town. But, while a strong advocate of impartial suffrage, he said he did not favor manhood suffrage except through manhood education. It might do in New England, but it would not do for California, with her ninety thousand Chinamen. He would not have suffrage exercised by Indians or Aztecs, and he believed that the man who is to help govern a nation needs intelligence in order to properly discharge the duties vested in his suffrage." Mr. Patterson thought the subject could be very wisely left to the several States, and we think so too. Light is beginning to break into the republican camp. Who speaks next?

# LATEST BY TELEGRAPH

## Night Dispatches.

[WESTERN ASSOCIATED PRESS REPORTS.]

LOUISVILLE, November 7.—The river is falling, with 3½ feet in the canal, 5 feet at the falls, and 3½ feet in the lower Ohio.

LEAVENWORTH, November 7.—Full returns in from all but a few counties, show heavy Democratic gains, though the State will probably give a small Radical majority. Chison county, the home of Senator Pomery, heretofore Radical, goes Democratic by a considerable majority. Leavenworth city and county gives about 300 Democratic majority, and 7 out of 9 Representatives. No estimate can yet be made of a party division of the Legislature.

BOSTON, November 7.—Returns from 316 towns, nearly the whole of the State, foot up: Bullock, 93,589; Adams, 68,862.

The Unitarian Church and Town House in Ware, Mass., were burned last night.

The *Evening Bulletin* (Rad) claims the State by a greatly reduced majority, but says the Constitutional Amendment is defeated by a larger vote than anticipated.

WASHINGTON, November 7.—The agricultural report shows the sugar crop to be twenty per cent. better than last year, and the cotton crop 2,500,000 bales of 500 pounds each.

MOBILE, November 7.—The Board of Health proclaims yellow fever no longer an epidemic and announces that it is safe for absentees to return to the city.

CHARLESTON, November 7.—Gen. Canby having suspended all municipal elections, it is understood that the present Mayor and Council will remain in office.

NEW YORK, November 7.—The Democratic majority in New Jersey sums up about 12,000.

The *Tribune* figures up the N. Y. Senate as follows: Radicals 19, Democrats 12. Assembly, Radicals 60, Democrats 68.

The New York *Herald* proposes to pay the public debt by a great bonfire of Government bonds, and offers to kindle the flames with a $100,000 thereof.

NEW ORLEANS, November 7.—R. King Cutler has organized "The Union party of Louisiana," with the platform universal suffrage, universal amnesty, education, and opposition to confiscation. The New Orleans *Times* is chosen as its organ, though it don't seem to covet the honor. Both papers view the new party with suspicion.

All the colored schools in this city, under control of the Freedmen's Bureau, were yesterday turned over to the Board of education. This transfer includes teachers as well as pupils. The Board agrees to retain such teachers as, on examination, may prove competent.

## FOREIGN.

LONDON, November 7.—Consols, 94 7-16c; 5-20s, 70¾c; Illinois Central, 81½c; Erie, 45½c.

The *Times* predicts that should Napoleon succeed in bringing about a general conference of European powers to settle the Roman question, he will abandon the defence of the Pope's temporal power and leave Italy to decide upon the future position of Rome.

FRANKFORT, November 7.—United States bonds, 76½.

LIVERPOOL, November 7.—Cotton closed firm. Uplands 8¾; Orleans 9d. Sales, 15,000 bales. Wheat firm at 17s. for white, and 13s 9d for red.

PARIS, November 7.—There has been serious riots throughout Italy. At Milan it was found necessary to call out the troops to quell the disturbance. Many rioters were killed and wounded.

HAVANA, November 7.—A revolution has broken out in Hayti in favor of Montz and against President Soluare.

BERLIN, November 7.—The election of delegates to the next Prussian Diet took place here to day. The successful candidates belong to the Progressive party.

ST. PETERSBURG, November 7.—It is reported that the Sultan is making unusual warlike preparations. Fifty thousand needle guns have been recently purchased by the Turkish War Department, while large shipments of rifled cannon have been made to the Turkish forces in Asia. The Government has also been strengthening its fortifications, etc.

## TELEGRAPHIC MARKETS.

NEW ORLEANS, November 7.—Sales of 1500 bales of cotton to-day; Orleans, 18c; receipts 2284 bales; exports 3900 bales. Sugar and molasses are unchanged. Flour dull; superfine, $10 12½@10 25; choice, $14 75. Corn is dull at $1 45@1 50. Oats are dull at 75@80c. Pork is dull at $28 25. Bacon, shoulders, 14½@14¾c; clear rib, 17½; clear sides, 18½c. Lard, 13½@14c. Gold, 138½@139; sterling, 47½@51; New York sight, ½ discount.

LOUISVILLE, November 7.—Tobacco sales, 73 hhds at $56@$17 25 for leaf and lugs. Wheat $2 40@2 50 Corn dull shelled $1; in ear 60@70c. Oats in bulk, 70c. Flour, superfine $8 25. Mess Pork $23. Lard 13c. Bacon, shoulders 12½; clear sides 17½. Whisky, in bond, 35c.

CINCINNATI, November 7.—Flour firm but unchanged. Wheat active, at $2 40. Corn firm; ear, 80c. Oats advanced to 64@65c. Rye dull and drooping, at $1 35. Barley, $1 30@1 50. Tobacco firm. Whisky unchanged. Pork held at $20. Shoulders, 13c; clear sides, 16½c. Lard dull, at 12@12½c. Hogs dull at $6 25@6 60 gross. Flax seed dull, at $2. Potatoes, $2 80@3.

ST. LOUIS, November 7.—Hemp, dull, dressed, $2 85. Flour, heavy, $6 25@$13 50. Wheat, lower, $1 95@$2 70. Corn, dull and drooping. Oats, 66@68c. Barley, firm, $1 30@$1 92. Rye, dull, $1 25@$1 35. Pork, $21 50; Bacon, Clear Sides, 16c; Shoulders, 13c; Sugar Cured Hams, 23¼@24c. Lard, dull, at 12½c.

NEW YORK, November 7.—Cotton, firm but less active; sales, 2500 bales of uplands at 18¼@20c. Flour, lower; superfine, $9 60@10 40. Wheat, dull and lower; amber State, $2 70. Corn, lower; mixed Western, $1 33@1 35. Oats, scarcely so firm, at 78@78c. Rye, quiet. Coffee, active. Sugar, firm; Cuba, 11¼@12c. Molasses, dull. Pork, firmer, $21 25.

The money market is steady at 6@7 per cent; sterling, dull, 9½@9¾; gold, 38¾; Government stocks, steady; Tennessee, 82¾. Receipts at the Sub-Treasury, $34,276 85; payments, $20,035 00; balance, $1,048,668 31.

## LEGISLATIVE.

In the Senate, on Tuesday, 5th inst: Prayer by Rev. M. Huntington.

The Speaker presented a communication from the Governor in reference to the gun factory machinery, shipped from Nashville, on the fall of Fort Donelson, to South Carolina, and which was turned over to him after the close of the war, and asking the Legislature to make some disposition of it.

Mr. Nelson offered a resolution to refer the communication to a special joint select committee of the two Houses, which was accepted, and Messrs. Nelson, Elliott and Carey appointed on the part of the Senate.

Senator Nelson gave notice that on to-morrow he would move the appointment of a standing Committee on Immigration.

The Senate bill for the enforcement of the collection of all bonds forfeited by Southern sympathizers, was referred to the Committee on Federal Relations.

House bill amending the charter of the Mississippi Railroad was passed on its third and last reading.

The Senate bill for the reduction of the military expenses of the State, was taken up and passed on its second reading.

In the House, on the same day, a bill was introduced by Mr. Bosson for the benefit of the Mississippi Agricultural, Educational and Manufacturing Society. Referred to the Committee on Incorporations.

By Mr. Bosson—A bill to amend the revenue laws of the state. The object of the bill is to equalize the tax on insurance companies, domestic and foreign. Referred to the judiciary committee.

By Mr. Galbraith—A bill amending the act regulating the tax on theatrical exhibitions. Referred to the Judiciary committee.

By Mr. Agee—A bill to prevent the sacrifice of personal property. The bill provides that property levied upon shall be valued by two disinterested freeholders, and shall not be sold at less than two-thirds of such valuation. Referred to the judiciary committee.

By Mr. Hamilton—A bill for the protection of cotton merchants, factors and brokers. The bill gives cotton merchants a lien upon cotton sold, for five days. Referred to judiciary committee.

By Mr. Rider—A bill to aid the loyal people of Tennessee in securing just compensation from the General Government for the loss of property during the rebellion. The bill authorizes the Government to appoint a board of three Commissioners in each of the three divisions of the State, to examine and audit all claims for such losses, and defines what classes of claims shall be recognized. Referred to the Committee on Federal Relations.

The report of the Committee on Elections recommended that Mr. Medlin was entitled to the seat occupied by Mr. Cockril, which was concurred in, and Medlin took his seat.

A bill to protect the labor (negro) classes of the State, was debated and referred to the Judiciary Committee.

—The cost of the original Capitol at Washington City was $1,400,000. The addition, now nearly completed, will cost $12,000,000.

—There seems to be no doubt that the commanders of the Southern military districts will be instructed by Gen. Grant to suppress all armed volunteer organizations, both black and white, in that section of country.

## DIED.

HARDWICK.—On Thursday, 7th inst, after a long and painful illness, MRS. SUSAN HARDWICK, wife of L. C. Hardwick, aged 50 years.

The friends of the family are invited to attend the funeral, at the Hardwick House, to-day at 2 o'clock p.m. The remains of this estimable lady will be conveyed to Somerville, their last resting place.

## FUNERAL NOTICE.

The friends and acquaintances of Captain Sam. H. Shock and family are requested to attend the funeral of his eldest daughter, ELLA E., from St. Peter's Cathedral, Adams street, this (Friday) morning at ten o'clock.


## NEW ADVERTISEM'TS

OFFICE MEMPHIS GAYOSO GAS COMPANY, MEMPHIS, TENN., November 7, 1867. To the Stockholders of the Memphis Gayoso Gas Company:

An additional call of twenty per cent. on the subscribed stock of the Company is hereby made payable at the Company's office, southwest corner of Main and Jefferson streets, on or before the 16th day of November, 1867.

JOHN DONOVAN, President.
GARLAND P. WARE, Secretary. nov8 10t

The works of the Company have been suspended, by an injunction granted by the United States District Court, at the instance of the Memphis Gas Light Company.

An appeal has been taken from the same to the Supreme Court of the United States, which will meet next month. We are confident of our ability to set the injunction aside, when the works will be resumed with renewed energy and rapidly pushed through to completion. The damages sustained by you by this stoppage, the Memphis Gas Light Company will be held strictly accountable for, and of which you will be participants.

You are aware a large amount of work has been executed, at considerable cost, and accounts still outstanding which must be paid; also in prosecuting the appeal, money is required; it is therefore to be hoped the Stockholders will promptly comply with the above call. They are legally bound for their respective am