MEMPHIS APPEAL

—BY—

GALLAWAY & KEATING.

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MEMPHIS APPEAL

THURSDAY, : JANUARY 27, 1876

THE INDEPENDENT BOSH.

The insignificant, sore-headed coterie of Independents, dissatisfied Whigs, and Liberals, find no sympathy outside of their own diminutive ranks. Nobody can tell what they want. When Busby was made an independent candidate by a people's mass convention, the malcontents growled, and some of them voted for the Republican nominee. Then, again, when Flippin was nominated by the Democratic party they clamored for an independent nomination. These chronic haters of Democracy have found an ally in an "Old Virginia Union Whig," but we are rejoiced to know that the old Whig party is a unit in condemning the policy and folly of this mischief-making correspondent, and we are satisfied that it is the desire of true and reliable Democrats to rid themselves of the little faction who hate the name of Democracy, and who are continually concocting schemes in opposition to its organization and success. Observation has proved that an "Independent" is to a Radical exactly what the chrysalis is to the butterfly. If the Independents only knew it, the public has heard quite enough about them, and would be glad to see them take themselves off the political stage. The measure of their strength in the country was developed in the last Presidential election. We all know precisely what they can do, and it is not much. If the Independents expect to get up another "new departure" Liberal movement, they will be mistaken, for no man has joined the Liberals since 1872, although almost everybody has deserted them. The Liberal movement mustered up all its strength and struck its hardest blow three years ago, and since then it has been losing ground until it has nothing more to lose. Nearly all its followers have run away, and the Independent-Liberal New York *Tribune* is preparing to run into the bosom of the Radical party, which most of the Independents prefer to the Democratic party, whose name and organization they loathe and abhor. The Liberals will never again be able to draw reinforcements from the Democrats. In the last Presidential election many of the ablest and most respectable Democrats refused to cooperate with the ragged squad. Those who surrendered to the party call, against their inclinations and better judgment, gained nothing by it, and hereafter they will fight their own battles in their own way, and we predict that they will make a good deal more of a show than they did when they followed the advice of the chronic haters of Democracy. To be successful, the Democratic party must no longer heed the counsels of its enemies. There are but two parties in this country and their differences need no defining in characteristics. One looks to the growth, prosperity and true honor of the country, and the other to anarchy, public plunder and sectional hatreds. We need no new distinctive party. England has brought herself gradually to her highest freedom in centuries under the banners of Whig and Tory. What is to be gained by organizing a flock of bats to hover over the battlefield and then take the subsidies of the winning camp? The hope and salvation of the nation is the Democratic party. Every true man who loves his country should aid it in its noble efforts to overthrow Radicalism and redeem the land from the blighting curse of corruption, oppression and disorder. Nothing but the Democratic party can do this. There is no hope from any other source. We take it for granted, then, that all good citizens will aid in its great work. Let us stand by our name and party organization. The Liberals and Independents are shams and frauds. Aye, but says some timid Democrat, if we don't mind we will lose the Independents. Who cares? They hate Democracy, and the history of war and politics has demonstrated that a treacherous friend is more to be feared than an open enemy.

"WHAT must that man be whose God is a monkey?" Let Mr. Hyde take this interrogatory home to his heart and conscience, for upon its answer depends a proper estimate of his own mental and moral stature.

This is a sample of the journalistic courtesies that are just now passing between the St. Louis *Globe-Democrat* and the *Republican*. Mr. Hyde is of the latter paper, and besides the above is treated to the following tit-bits by Mac, of the former paper:

But if "honest opinions" are in order, we suppose we are entitled to one respecting the Messrs. Knapp. It is that they are capable of conduct of which Fagin the Jew would be ashamed; that they are devoid of decency and unworthy the association of honorable men. The sneak or the thief who tries to swear away a man's character in the courts, under promise of pardon to himself, has some incentive to his baseness; but the newspaper proprietor who volunteers his aid in the foul work betrays all the blacker heart, because the motive of self-preservation is wanting.

All this comes of an attack by the *Republican* upon M'Kee, who is now on trial before Judge Dillon, of the United States district court of St. Louis, as a co-conspirator of Joyce, M'Donald & Co., and the rest of the whisky-ring thieves. The *Republican* expressed itself as believing in M'Kee's guilt, which, to say the least, was not, under the circumstances, the right thing to do. At least it was not within the limit of true journalistic courtesy.

IN view of the evidence which has been presented against him, the Confederate brigadier generals in the house, the northern doughfaces in the house, and the Confederates in the whole south and copperheads of the north, might as well understand now as at any other time that the Union people of the north will never forgive the real butcher of Andersonville. If justice had not been cheated of her due, he would have expiated his crime on the gallows long ago.—*Bloody-Shirt Chicago Tribune.*

The above is the conclusion of a brutal and infamously false and lying attack on Jefferson Davis, to the last sentence of which we have this to say, that Mr. Davis has never for a moment, since his capture in 1865, been beyond the reach of the courts of the country; that he stands now and has always since that time stood ready to answer any charge that may be brought against him in any of these same courts; that when Wirz was on trial all that the *Tribune* charges against Mr. Davis was attempted to be made to appear, and that even Wirz was offered his life if he would only say that Mr. Davis knew of the condition of the Andersonville prison; but all this failed because Wirz would not tell the lie which the Chicago *Tribune* gloatingly repeats.

THE Republican campaign committee, appointed by the congressional caucus on Saturday night, consists of Senators Cragin and West, and Representatives Wheeler, of New York; Hunter, of Indiana; Lynch, of Mississippi; Burchard and Page. The duty of this committee is to select one member of congress from each State and Territory to act as a congressional executive committee in Washington, and the duty of this second committee is to provide documents and speakers for campaign purposes, and to levy contributions on government clerks and other officers of the government, in order to pay the expenses of the campaign. The committee selected will confer with the delegations from the various States and select the persons recommended. "It is probable," the New York *Tribune* says, "that Senator Howe will be chairman. Henry D. Cook, who has been treasurer of the campaign funds for several years, has resigned, and his place will probably be filled by Jacob D. Tome, of Maryland, who is an officer in the Citizens national bank of Washington.

SHARP REPROOF.

Our State Supreme Court, Through His Honor Judge Turney, Administers a Lesson to Lawyers.

The Brothers of the Bar Must Stick to the Law and the Facts, and Not Lug in Extraneous Matter.

Nashville American.]

The following supreme court opinion in a murder case that has attracted much attention in Williamson county, was delivered yesterday by Justice Turney, and created considerable stir among the bar on account of the sharp rebuke administered in the next to the closing paragraph—which, by the way, the Tennessee correspondent of the Cincinnati *Commercial* might as well cut out and paste in his scrap-book of southern horrors:

Joby *alias* J. H. Rambo *vs.* the State.

The indictment charges that Richmond Rambo and Joby Rambo *alias* J. H. Rambo, on the fourth of January, 1875, did kill and murder one James Edmondson. The plaintiff in error was alone put upon his trial. The character of the evidence introduced by the defense, and the manner of presenting it, shows that one of its grounds was that the plaintiff in error did no act connecting him with, or in any way making him responsible for the killing. That Edmondson was killed in the presence of plaintiff in error, is undeniable upon the proof in the record. That he participated in the killing is as yet an open question. The court in his charge to the jury defining what the State must prove in order to make a case against the accused, among other things, says: "3. That he was killed by the prisoner at the bar, or that he was present aiding and abetting therein, for all persons aiding and abetting, or ready and consenting to aid and abet in a criminal offense, are principals. And that the killing was done under such circumstances, and in such manner, and by such means, as will establish defendant's guilt as to one of the grades of felonious homicide heretofore defined." Immediately following this, and in a distinct and complete paragraph, he charges:

"The defense admit the killing, but say in the first place it was done in self-defense."

While we are satisfied it was merely the purpose of the court to say to the jury that the abstract fact of killing was not denied, and not that the killing by plaintiff in error was admitted, yet in connection with the immediately preceding charge, and with the fact of the joint indictment against two, we must hold that this charge was calculated to, and very probably did, mislead the jury to the conclusion that the defense admitted the killing either by plaintiff in error alone, or by him and his brother together. The language, "The defense admit the killing," etc., must be understood to have direct reference to the charge in the indictment, and to have been made with a purpose to the trial of the only party before the court, with the undertaking on his part to show the killing to have been done in self-defense. We are of the opinion the jury was so impressed, and limited its investigation to the question of self-defense. In this discussion of the case, a rather wide range in the portrayal of crime in the State is proposed, and reference had to unreliable newspaper correspondence, doubtless in a large degree incendiary in purpose and intended to be so in results. These things are no part of the record, and we take occasion to remind attorneys that we can only try cases upon the record. To introduce other matter is foreign to the issue involved and wasteful of public time as well as a violation of duty on the part of attorneys attempting it. It is the duty of every court, from the magistrate to the court of last resort, to confine attorneys and parties to the issue involved, and promptly check any effort or disposition to bring into a trial, either civil or criminal, any matter disconnected with the merit, especially if such matter is calculated to excite passion or prejudice, or mislead the judgment of the tribunal trying the case. For the present we express the hope that such attempt will not be repeated, either in brief or argument, in this court, and earnestly commend to all inferior jurisdictions that such practice be not for a moment tolerated before them; that all causes be tried strictly and exclusively on the merits of their respective and particular facts. For the error indicated the judgment is reversed.

TURNEY.

The Australian Pacific Mail Service.

SAN FRANCISCO, December 22.—In the New South Wales parliament on the second of December, in debate on the condition of the Pacific mail service by way of San Francisco, the minister, in reply to questions, stated that the contract had been properly fulfilled thus far. One member declared that the colony had been swindled to the amount of fifty thousand pounds sterling under the late contract, and there was no reason to expect better things from the new contract under the present control of Manager Hall. The matter was discussed by other members. A full statement of the condition of the service was promised so soon as communication could be had with the government of New Zealand, and the contractors would be held strictly responsible for any failure to fulfill the terms of the contract.

THE HOT SPRINGS.

Summary of Attorney General Pierrepont's Argument before the United States Supreme Court, Concerning Title.

His Conclusion is that Neither of the Five Claimants have any Title, Either Legal or Equitable.

New York Times, 19th.]

The attorney-general made an argument in the supreme court on Wednesday last in a case involving the title to the valuable hot springs in Arkansas. This is an appeal from the United States circuit court of Arkansas by five claimants, who claim that the title lies in the government. As far back as 1812 the hot springs was resorted to by invalids for the benefit of its waters. John Percifull, one of the original claimants, built a house at the springs in 1813, and he claims that he holds the title under the pre-emption act of 1814. This pre-emption act provides that every person, or his legal representative, who has actually inhabited and cultivated land, shall be entitled to the right of pre-emption and purchase thereof. Two of the claimants base their claims on the pre-emption act, and three claim title under what is known as the New Madrid act, passed on February 18, 1815, a law passed by congress providing that persons whose lands have been materially injured by earthquakes shall be authorized to locate a like quantity of land on any of the public lands of said Missouri territory, the sale of which is authorized by law. Mr. Pierrepont claimed that those who claimed title under the pre-emption act were people who, like the ordinary hunters of the present day, follow about fashionable watering places for the purpose of making money, and that it could not be shown in any sense that they were actual cultivators of the land which they had claimed to have pre-empted. In relation to the New Madrid act he stated the principle—that no officer of this government could, by any act, divest the United States of the title of their lands, except by a strict accordance with the provisions of the law. No lands could be located under this act except the public land of said Territory, the sale of which is authorized by law. It is entirely clear that at the date of the pretended location, the sale of these lands was not authorized by law. No person had authority to sell them; hence the location of them was void. No act of congress can be cited which authorized the sale of this land at the date of the pretended location, or at any other time. When a man's farm has been destroyed by earthquakes, or flooded, it is not of common law right that he can claim that the government should give him another. If a government makes a donation to one of its citizens, and attaches a condition to the gift, the precedent condition must be complied with before the title to the thing given can vest in the donee. The New Madrid act gave land to those who lost by earthquakes on certain specific conditions, which had been complied with by the people who claimed land under that act. The attorney-general also showed by the most elaborate authorities that the laws relative to the survey of these lands had not been observed by any of the claimants. At the close of his argument he said that these claimants further predicated their title upon the entry allowed at their special request and for their particular purpose by Mr. Secretary Stewart. It is certain that while that entry may have given a technical legal right, it imparted no equity to the case of these claimants, they obtaining it under the expression declaration that it should not be used against the government, and then seeking thus to establish it on the technical ground that the representations of the party and the purpose of the secretary cannot control his action. This was no foundation on which to place an appeal for the favorable consideration of a court of equity. The entry was illegal, because the secretary was forbidden to allow it. The previous rulings of the court have been against these claimants, and it is not possible that the decision of the supreme court will differ much from that of the court below. The title of the lands is extraordinary, however, and has been the subject of legal attention for the last thirty-five years. Every conceivable method which ingenuity could devise has been resorted to to obtain, directly or indirectly, the adjudication of the courts upon the rights of the parties. No one had received or pretended to acquire a legal title, but each again and again insisted that he was the equitable owner of the property. Congress has been at various times invoked for the granting of a title. In no case, however, have any laws been passed that concede any intention of the United States to confer upon others any right, legal or equitable. The reservation act bound all parties equally, and the claimants could take nothing by their violation of the statute. The conclusion is that these claimants have no title, either legal or equitable.

THE CLAIMS.

The court to-day took up the Hot Springs cases, and will be engaged in hearing them for several days. There are four of these cases, the principal one of which, on account of the value of the claim as located, is that of Henry M. Rector. They are all argued together on appeal from the court of claims, where the judgment was for the United States. In that court there were five claimants, three of whom sought to recover upon the same title. The first, known as the Percifull title, is represented in the litigation by Mr. Hale, and is founded on the pre-emption act of April, 1814, and the prior inhabitancy and cultivation of the tract by Percifull. The second, known as the Rector title, is founded on the New Madrid act of the seventeenth of February, 1815, and the location of what was known as a New Madrid certificate by Samuel Hammond and Elias Rector in 1824. This title is represented in the litigation by Rector, M'Kay, Gitt and Russell. The third, known as the Belding title, is founded on the act of May 20, 1830, and the actual possession and cultivation of the tract in that year and on that day by L. Belding. It is represented in the litigation by Gaines and others. In 1812 these springs, then in an unsettled region, began to have a reputation for the healing power of their waters, and were the resort of invalids for the benefit of their health. John Percifull, as claimed, built the great house at the springs in 1813, and the claimant under this title insists that under the pre-emption act referred to, he has title. In consequence of an earthquake which occurred in 1814, and destroyed the lands of certain settlers in the county of New Madrid, in the Missouri territory, the act known as the New Madrid act was passed in 1817, authorizing persons whose lands had been materially injured to locate the like quantity of land on any of the public lands of the territory, the sale of which was authorized by law. The claimants in each insist that as a matter of fact, they complied with all the conditions of law made, and that they are each entitled to the claim set up. If the court should decide that the title of any of the claimants is valid against the United States, it will then have to determine as between them which has the earlier title. The government maintains that the earlier titles set up are invalid, because at the time of their inception the Indian title was not extinguished, and title by pre-emption could not be acquired. As to the Rector claim, it is said that it is void, because it is set up under the New Madrid act, which gave lands, or the pre-emption, only to those who had lost lands by the earthquake, and that Elias Rector never had lost lands thus, and was, therefore, not entitled. Also, that the sale of the land pre-empted by him was not authorized by law as required by the act, because the lands were not surveyed. The building title is said to be void, because the pre-emption was not made until after the act of 1837, which provides that the Hot Springs "shall be reserved for the future disposal of the United States, and shall not be entered, located or appropriated for any other purpose whatever. The cases, although familiar, excite a great interest, and the claimants are represented by a great array of counsel. For the Percifull title, F. P. Stanton; for the Rector title, W. H. Carpenter, Albert Pike, R. W. Johnson, John B. Sanborn and Charles King; for the Belding title, E. W. Mumford and John A. Grow; also, Messrs. Pike, Johnson and King, who also appear for all the claimants.

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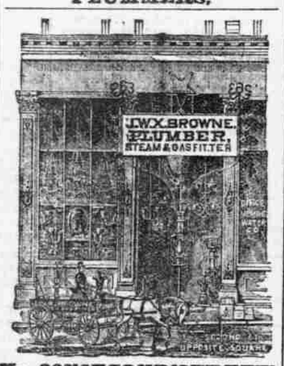

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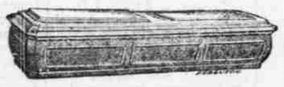

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BANKRUPTCY.

NOTICE IN BANKRUPTCY.

District of West Tennessee, ss.—At Memphis the 18th day of January, 1876.

THE undersigned hereby gives notice of his appointment as assignee of D. H. Townsend, of Memphis, in the county of Shelby and State of Tennessee, within said District, who has been adjudged a bankrupt upon his own petition, by the District Court of said District.

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COTTON FACTORS AND GENERAL COMMISSION MERCHANTS,
256 FRONT STREET, MEMPHIS, TENNESSEE.

We keep constantly on hand the largest and most complete stock of Groceries and Plantation supplies in the city, Making Flour, Bacon, Virginia Tobaccos, Bagging and Ties a specialty. Sole agents for H. C. Cole & Co.'s celebrated brands of Flour, viz: FFFG, Cole's Extra, FF, Orange, etc. Also, agents for the Gallatin Mills Sheetings and Cotton Yarns, and Virginia Shot. Merchants will consult their interests by calling and examine our stock before purchasing elsewhere. Our Mr. Louis Hanauer presides over the Cotton Department, giving his personal attention to selling and weighing au28

MISCELANEOUS.

NEW FIRM.

JAMES E. MOODY has this day been admitted a partner in the firm of Wright & Co. The business will be continued under the name and style of

WRIGHT & MOODY.

WRIGHT & CO.
BARTLETT, TENN., January 1, 1876. ja1

REMOVAL.

RANDOLPH, HAMMOND & JORDAN, ATTORNEYS, Have removed to 133 Second Street, west side, north of Poplar. ja1

SAFE INVESTMENT.

STOCK PRIVILEGES one per cent. from the market, at low rates, will pay large profits the next thirty days, on large or small investments. Gold, Stocks, Cotton and Tobacco bought and sold on the most favorable terms. Liberal advances on consignments. Price lists and circulars free.

CHARLES SNEDLEY & CO.,
Bankers and Brokers,
40 Broad St., near Gold and Stock Ex.,
ja15 dw (P. O. box 3774) New York.

Memphis and Kansas City R. R. Co.

BIDS FOR WORK.

BY order of the Executive Committee, bids will be received until February 20, 1876, for the Clearing, Grading and Furnishing Crossties on the following divisions of the Memphis and Kansas City Railroad; payments in County and Town Bonds, as specified on each division.

First.—Between Batesville, Independence county, Arkansas, and Jacksonport, Jackson county, Arkansas. Payment in Independence and Jackson County Bonds.

Second.—Between Jacksonport and Augusta, Woodruff county, Arkansas. Payment in Jackson and Woodruff County Bonds and Bonds of the Town of Augusta.

Third.—Between Augusta and Wittsburg, Cross county, Arkansas. Payment in Woodruff and Cross County Bonds.

The Board reserves the right to reject any or all of said bids.

Bids to be addressed to

JOHN OVERTON, JR.,
President M. and K. C. R. R.,
Memphis, Tenn.

Memphis, Tenn., January 18, 1876. ja20

MATTRESSES

THE F AND L $8.50
CELEBRATED METALLIC SPRING MATTRESS
FREE FROM BED BUGS

Has seventy-two spiral steel springs. Is very light and easily handled, and far superior to any other springs now in use costing two or three times as much. Can be shipped to any part of the country at small expense. None genuine except stamped with our trade-mark, "The F. & L. $8.50." Send for descriptive catalogue to

FITCH & LINDSEY,
No. 75 Fourth Street, Louisville, Ky.
SOLD BY FUR. STORE DEALERS GENERALLY.

MARDI GRAS.

ORDERS FROM REX.

REDUCED FARES

TO MEMPHIS.

WHEREAS, By Royal Proclamation, the King has declared his intention to enter His loyal city of Memphis on the 28th day of February, 1876.

And, Whereas, It is His sovereign pleasure that His subjects from all quarters of the realm shall assemble to honor His imperial person. For the better execution of His will, and for the comfort and economy of his people, It is Decreed, by Royal Mandate, that

AD. STORM

Be and is hereby empowered to take charge of all Water Crafts touching at the good port of Memphis, and to cause the Masters thereof to publish reduced rates of fare during the Carnival; AND THAT the authority of the aforesaid AD. STORM may be respected, His Majesty, The King, does hereby create him Admiral of the Fleets.

By command of the King.

PUCK.
Pursuivant to the King.

By Royal Mandate, It is further decreed, that

BARNEY HUGHES & JAS. SPEED

Be and are hereby clothed with plenary power over all Railways in His Majesty's realm, and shall order them at once to promulgate Reduced Rates of Fare to and from Memphis; AND THAT their authority may be respected, His Majesty, The King, does hereby create them Quartermasters General, with the rank of Grand Marshals of the Empire.

By command of the King.

PUCK,
Pursuivant to the King.

Done at the Palace of Misrule, this 13th day of January, 1876. ja14

DENTISTS.

A. WESSON & SONS,
SURGEON DENTISTS!

ARE doing the best dentistry in the city and at the most reasonable rates. Why is it? Simply because they are doing the largest practice, and do not employ irresponsible men, at an exorbitant salary, to do it for them. Teeth extracted without pain by laughing gas. Do not forget their number,

No. 243 Main Street

INSURANCE.

WASHINGTON
FIRE
—AND—
MARINE INS. CO.
OF MEMPHIS.
OFFICE—NO. 5 MADISON ST.

DIRECTORS FOR 1876:

J. W. Jefferson	of J. W. Jefferson & Co
J. N. Oliver	of Oliver, Finnie & Co
T. B. Dillard	of T. B. Dillard & Co
Wm. Simpson	of Pettit & Simpson
L. S. Suggs	of Pearce, Suggs & Co
John W. Dillard	of Dillard & Coffin
A. Hatchett	of Hatchett & Boggs

OFFICERS:

J. W. JEFFERSON, President.
J. N. OLIVER, Vice-President.
JOHN JOHNSON, Secretary.

Does a general Fire and Marine Insurance business. Policies issued for one to five years on dwellinghouses. Losses equitably adjusted and promptly paid. ja8

PEOPLES
Insurance Comp'y
OF MEMPHIS, TENN.
OFFICE- 16 MADISON ST.

CASH CAPITAL, : $300,000 00
CASH ASSETS, : : 444,046 87

OFFICERS.

WM. M. FARRINGTON, President.
H. T. LEMMON, Vice-President.
J. A. SIMMONS, Secretary.

DIRECTORS.

WM. M. FARRINGTON.	H. T. LEMMON.
C. H. CHURCH,	J. H. ROBINSON.
ENOCH ENSLEY.	JNO. OVERTON, JR.

W. E. GREENLAW

LUMBER.

ENABLE & RAWLINGS,
MANUFACTURERS OF
LUMBER, LATHS AND SHINGLES

HAVE ON HAND A FULL STOCK OF White Pine Doors, Sash, Blinds, White Pine Moldings, etc., all of first quality.

SALESROOM, No. 14 UNION STREET.

☞ Sawmill, north of Bayou Gayoso.