UNITED STATES CIRCUIT COURT.

The case of Osborn vs. Weston, ounded upon stock notes of the City of Weston, was novel in one respect—the defense that the instruments in suit were issued without authority of a vote of the tax-payers of the city, was open to the defendant. The facts in the case are briefly as follows:

On March 30, 1859, the Weston and Atchison R. R. Co. was organized under the general laws of Missouri, R. S. 1855. At a meeting of the city council of Weston, held on May 12, 1859, a resolution was passed authorizing the mayor to subscribe $50 000 for the city to the capital stock of said railroad company, to be paid in bonds running ten years with six per cent interest. Soon after this the mayor made the subscription so authorized; but no stock certificates were ever delivered to the city, although the mayor voted the stock subscribed in the name of the city for two successive elections for directors of said company, and the stock so voted controlled both elections. No authorization to the mayor to vote such stock, however, appears on the records of the city.

The stock notes issued in payment of the subscription were issued on and prior to April 4, 1861, and were properly authenticated. The law at that time (§ 30 p. 405, R. S. 1855, as amended Jan. 4, 1860, required a proposition for the issue of bonds, etc., to be first submitted to tax payers of said city for information. And the charter of the city required that the legal voters of the city shall first declare by vote that the improvement contemplated is necessary for the public good. On the 27 April, 1860, the council provided by resolution for an election to ascertain the sense of the people as to whether the railroad company was a public improvement, and on the 7th May, 1860 further proceedings were had looking to the same end. This election was held and resulted in favor of the proposition that is to say it was decided that the enterprise was a public improvement; but no election appears from the records to have been held authorizing the stock subscription or the issue of the stock notes under § 30, page 405 R. S. 1855. There were several circumstances relied upon by the plaintiff to prove that such an election was held, notwithstanding the silence of the record. These were, first, an address of the mayor delivered to the council at a regular meeting on March 28, 1861, in which, it was claimed, the mayor alluded to the proceedings in regard to the issue of the notes with approbation.

Second, a mutilation of the city council records containing the minutes of a meeting held on April 3, 1878—twelve lines having been cut from the same with some sharp instrument; third, the delivery of the notes in suit to the railroad company on April 4, 1861, in payment of the subscription of the city; fourth, the loss or destruction by the city of the bond register and its refusal to produce the same at the trial or account for their loss. Two witnesses on the part of the defendant swore that they were members of the council which met on April 3, 1878, and were present, and that the council did not pass any resolution authorizing the issue of the notes. The plaintiff was a holder and owner for value of the notes before maturity. The instruments contained no recitals whatever—being bare promissory notes.

The City of Weston never recognized the validity of said notes and bonds. It never paid, received or redeemed the same or any of them, or the coupons attached thereto, and never levied any tax for the payment thereof. For some reason the holders thereof did not for many years present the same for payment In or about 1865 a suit was brought before a justice on one of the coupons; the city resisted and after some years the suit was dismissed, and so the matter rested until this suit was brought.

These being the facts in the case the court held:

1. The defense that said instruments were issued without the authority of a vote of the tax payers of the city is open to the city.

2. The act of January 16, 1860, does not authorize the city to issue its negotiable paper, nor undertake to validate the resolution of May 12, 1859 or the actions of the mayor thereunder.

3. That the bonds in suit are not the valid obligations of the city, and are not binding upon it, either by their original intrinsic force, or by estoppel and the defendant is therefore entitled to judgment.

NOVEMBER 27, 1878.

During the present term of Court H. Clay Dean presented a petition to Judge Dillon, asking leave to sue the receiver of Burlington and Southwestern Railway, for personal injuries. In passing upon the petition, after refusing the specific prayer thereof, the Judge stated that the proper practice in suits of this nature is to present an application for the appointment of an examiner of the petitioner *pro inter esse suo*, and also the testimony of such witnesses as either the petitioner or receiver may desire, and report the same to the court for its action thereon. Upon the filing of the report the court will proceed to ascertain whether the controversy is over a matter of fact or of law; if the former, a jury trial will be ordered, if the latter, court will proceed to determine question at issue. In the case referred to the court made an order referring the matter to an examiner for the purpose stated above.

It was the practice to give leave, in all cases arising in trivial damage suits for the loss of cows or horses, etc., killed by railroads under the charge of the court, to sue in the state courts; but in cases arising from personal injuries, the controversy must decided by this court.

In the Callaway and Buchanan county mandamus cases, the judges of the county courts answered the orders to show cause by appearing in person and filing answers. They were discharged upon promise of obedience to the writ.

The case of Niccolls vs. Frisby which has occupied the attention of the court for the past week was terminated Wednesday by a verdict for the defendant. The controversy arose out of transactions twenty years old, and the evidence laid before the jury, immense in quantity and contradictory in substance, was better calculated to bewilder than to settle their minds.

The case of Baker vs. the Kansas City Times Company is at present occupying the attention of the court. It is on trial before a jury and will probably last during the balance of the week.

Who Is DeWitt?

The Kansas City Times says: Officer Albert Schrumpf yesterday afternoon strolled out upon the square to see what might be there going on. He had not been long a spectator of the horse auction sales before he saw a very fine pony knocked down for $28, and comprehending that such prices were not ordinarily accepted for animals of the value this one appeared to be, he quietly arrested the man who claimed ownership of the bit of horseflesh and escorted him to the station house. Under a cross-examination as to his identity, residence, occupation, habits, friends and possessions real and personal, skillfully conducted by Captain Malloy, the young man said that his name was DeWitt; that he lived near Sedalia; that he had lived in Leavenworth and Lawrence; that he had ridden his horse from Sedalia to get a good price for it here; that he could have sold it in Sedalia for $75, and altogether gave such a contradictory account of himself that he was locked up to await future investigations. De Witt is a young man and appears to be intelligent. He may be an honest farmer, but his story warrants a contrary belief, and it is more than probable that the police have nabbed a horsethief just in the moment of his ridding himself of his stolen property. The inquiries made will no doubt be answered to-morrow, and if De Witt is what he claims to be he will of course be at once set at liberty.

TAKEN TO JEFFERSON.

Five Convicted Criminals Transported to the Pen--Tough Cases.

Yesterday morning a hard crowd went down to Jefferson City, in charge of Deputy Sheriff Steve Homans. They are destined for the penitentiary, where they will remain for a number of years. The first and probably the worst by nature, is George Wilson. He goes for horse stealing, and will remain four years. The case will be remembered by readers of the Democrat. Wilson and a partner stole a team of horses from a man named R. W. Warren, about four months ago, and in attempting to get away with the prize, got lost, and daylight found them near Flat Creek, where Wilson was captured by Assessor Middleton. He waived a preliminary examination, and on his case being called in court, he applied for a continuance, but it was refused, and he then plead guilty, and was sentenced as above stated.

Next on the list came Elijah Wilson accused of stealing Bob Morrow's watch. He is the celebrated three card monte man, and has but recently returned from serving a term in the penitentiary. He is a sharp one, and if he has the disposition would make a dangerous criminal. He goes down for two years this trip.

John O'Brien is the boarding house thief. He went through Pat. Sheehan's house, north of the railroad, and stole a quantity of clothing and a watch. He is lost to all shame, and seemed to look forward to his future residence with something akin to pleasure. He laughed and joked with the other prisoners in a happy manner, and was the most light-hearted Roman of them all. He will take in the pen for a brace of years.

Samuel Shaffer was yoked to Wilson. He is another horsethief, and was arraigned before the court yesterday morning, plead guilty, and got two years. He seemed rather vindictive, and told a colored man who asked him what crime he had committed, that he had a peculiar habit of killing negroes whenever he got a chance, and it was thought best to place him under restraint. The darkey watched the remainder of the proceedings from the other end of the platform.

Sam Brown, the darkey who forged an order on Burkhart for a pair of shoes, and another on D. Levy for a suit of clothes, got two years on each count. He busied himself in looking out of the window, and maintained a persistent silence. He took the situation harder than any of the rest.

It would be difficult to select five harder cases from the county, and it will be a relief to the community to know that they are where the wicked cease from troubling and hard work is too numerous to mention. A large crowd gathered to see them leave, and some of the comments were not very complimentary.—Sedalia Democrat.

COL. T. T. CRITTENDEN.

A Correction in His Behalf.

On the 11th day of November last there appeared in the Evening Post an article on the failure of the First National Bank at Warrensburg, in which was the following statement: "By some strange intuition several of the heaviest depositors in the First National all took a notion to draw out their money about the same time. Among those who were in such luck were Senator Cockrell, brother-in-law to Mr. Ridings, Col. T. T. Crittenden, law partner with Senator Cockrell, and Col. Clay King, of Kingsville."

Col. Crittenden, one of the gentlemen referred to, called at the office of the Post to-day and said, so far as he is concerned, the statement is not true. He says, on the contrary, that he made a deposit at the bank just before it closed, and that he has proved up some $3.000 deposits against it, and, furthermore, that he was as greatly surprised at the suspension as anybody. While he does not speak for more than himself, he says he has no doubt that the statement is also untrue as regards Senator Cockrell.

There is not a more unimpeachable man in Missouri than Col. T. T. Crittenden, and his statement must be accepted as the truth. The information upon which the article was based came from a citizen of Warrensburg, a joint proprietor of a newspaper and a man of supposed reliability.—St. Louis Post.

KEHOE AND BERGIN.

Their Death Warrants Read to Them.

Yesterday the death warrants of Martin Bergin and Jack Kehoe, who are to be hung at Pottsville, on December 18th, were read to the doomed men. Sheriff Matz and a party of ten, including the prison officials, reporters and others, assembled in the Warden's office at 11 o'clock yesterday morning, and Bergin was the first man brought in. He was neatly dressed in black pants and vest and white shirt, but collarless. He nodded to the assembled group, and then took a seat near the desk, from which Sheriff Matz read the warrant.

The Sheriff said: "Martin Bergin, the Governor has sent to me, as the Sheriff of Schuylkill county, your death warrant, which it becomes my duty to read." He then proceeded with the reading, at the conclusion of which Bergin said:

"Thank God it's no worse." He and the Sheriff shook hands. The latter then made some consolatory remarks, when Bergin exclaimed: "Oh, how can I stand it." passed out of the office, and returned to his cell.

After a few minutes Kehoe came in. He was dressed similar to Bergin, but wore a hat and was smoking a cigar. He met the Sheriff just outside the office door and shaking hands with him, he said, "Well, Billy, have you got it again?"

The Sheriff took a seat, laid aside his hat, and said, "John Kehoe, the Governor of Pennsylvania has sent to me, as the Sheriff of Schuylkill county, your death warrant, which it becomes my duty to read to you." Kehoe nodded assent and the warrant was read, and upon its conclusion he said: "I accept his death warrant."

"Well, that's the end of it. I accept his death warrant."

Sheriff Matz said, "May God have mercy on you John?" but Kehoe, without heeding this remark, continued: "It comes from an honest man."

Then turning to the reporters who sat near, he said, "I hope you reporters will have nothing more to say about me." Then pointing to a particular reporter, he said, "And you in particular—you have told lies enough now, God knows, and you do not know when God will call on you yourself."

Sheriff Matz then spoke a few words of caution to the unfortunate man, and all retired.—Harrisburgh, (Pa.) Independent.

A small fragment of a tablet containing part of the annuals of Nebuchadnezzar has been acquired by the British museum.

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