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THE BULLETIN. SATURDAY MORNING, JUNE 17, 1871. JOHN H. OBERLY, EDITOR AND PUBLISHER. TERMS OF THE DAILY BULLETIN: (Subscription) One week, by carrier, 20; One month, by mail, 75; Three months, by mail, 2.25; Six months, by mail, 4.25; One year, by mail, 8.00.

THE DOLLAR WEEKLY BULLETIN. John H. Oberly & Co. have reduced the subscription price of the Weekly Cairo Bulletin to One Dollar per annum, making it the cheapest published in Southern Illinois.

NARROW AND BROAD GAUGE. In the New York Tribune we find the following as to the practical losses by the railroads of that state incident to the unnecessary width of gauge: The passenger traffic of the New York Central amounted to 208,000,000 passengers carried one mile but they carried 306,250,000 tons of dead weight with them, i. e., a ton and a half of dead weight per passenger, exclusive of the weight of baggage. The Erie did worse than this. They carried 128,500,000 passengers one mile, with 425,500,000 tons of dead weight; which is three tons and a half of dead weight per passenger. In the freight traffic the Central moved 474,500,000 tons one mile with 410,700,000 tons of dead weight, or 3.10 of a ton of dead weight for every ton of paying freight; while the Erie moved 818,000,000 tons of freight with 1,083,833 tons of dead weight, or 1 1/3 tons of dead weight per ton of paying freight.

DECLINE IN EXPORTS. The New York World calls attention to the fact that the high tariff and protection policy does not enable our manufacturers to sell more of their productions out of the country than before. Indeed, in 1860 our total exports of manufactured articles were \$64,382,127, or 17 1/4 per cent. of the aggregate of exports; while last year the amount was \$66,274,129, or only about 13 per cent. of the aggregate. This, too, while the country has increased 30 per cent. in population. Protection puts a premium on bad management, carelessness and lack of ingenuity and enterprise, and, in the end, is as destructive to the best interests of the manufacturer as it is costly to the people at large.

The ingratitude of ex-Senator Warner in declining his appointment by the president as governor of New Mexico, has engendered some hard feeling between him and the chief magistrate. Grant, with a thoughtfulness, which could not have been greater if Warner had been a brother-in-law, in order to make a place for him transferred the minister to Venezuela to Rio Janeiro, and the former minister to New Mexico from there to Venezuela, and in the face of all this Warner declines the appointment and sulks toward the president because the latter didn't make him collector of customs at Mobile. Grant was actually compelled to leave the pleasures of his retreat at Long Branch and return to Washington yesterday, to attend a cabinet meeting, at which it was expected the difficulty would be adjusted.

POLITICA. Charles E. Bennett, a prominent citizen of Ohio, who traveled extensively through the south last winter, is to be summoned before the ku-klux committee. Probably Horace Greely, also. The democratic press show symptoms of improvement in their mode of speaking of the president of the United States.—Radical Journal. Sorry we cannot announce a corresponding improvement in the conduct of Grant.—Det. Free Press.

In 1860 the total exports of manufactured articles were \$64,382,127 or 17 1/4 per cent. of the aggregate of exports; while last year the amount was \$66,274,129 or only about 13 per cent. of the aggregate. During these ten years the country has increased 30 per cent. in population. The New York Evening Post is severe on its radical contemporaries. It says: "They carefully print the details of every insignificant quarrel in the southern states, and startle the lines as if they were outrages, and carefully exclude all news that looks like peace and order, or even ridicule."

lives. The governor also lives there, and represents that Alabama is thoroughly peaceful. CURRENT NOTES. (Personal and Impersonal). The bluffs in front of the city of Memphis is to be graded. Some southern turn outs will be seen at Saratoga this year, the first since the beginning of the war. Olive F. Risley, who has been adopted as a daughter by Mr. Seward, and is now known as Miss Olive Seward, is keeping a full and complete journal of the travels and doings of the party on their extended journey, with a view of giving it to the public on their return to this country. Dr. Bruhl, a Cincinnati physician, politician, and newspaper correspondent, visited Laura Fair, the free-love murderess, in her prison in San Francisco, and describes her as an affected, vain, and unintelligent woman, with a disagreeable voice. He does not even think her beautiful. He says her face is round, her form quite handsome; but her eyes are too deeply set, and she has a low forehead. During his interview with the woman a letter came to her from some crazy female in Tennessee, offering to endure imprisonment in her stead. The sheriff, as he was compelled to do, had opened this letter, for which Mrs. Fair beaped on him the bitterest reproaches, speaking in such affected tones, and using such affected gestures as to make the exhibition an evident display of bad acting. The doctor had been told that she was in the last stages of consumption; but he says she had not a symptom of that disease, and that the story had been started by some of her friends to create sympathy in her behalf. H. D. Newcomb, president of the Louisville and Nashville railroad, one of the wealthiest men in Louisville, and about 65 years of age, was married on the 14th inst. to Miss Nina Smith, the young, beautiful, and accomplished daughter of Jno. B. Smith, a banker of that city, and immediately left for a tour in Europe. Some six weeks since, Newcomb, by a special act of the Kentucky legislature, obtained a divorce from his wife, who for 15 years has been an inmate of a public insane asylum in Massachusetts. By the special act Newcomb was permitted to set apart \$2,500 per year for the use of his late wife, instead of dividing equally his immense estate, as required by the general law of the state. The insanity of the ex-wife is of a dangerous form. Its first manifestations were the throwing of several of her children out of the window of her residence, killing one. The old family residence where the tragedy occurred was torn down and every vestige of the place removed last week. All of the Episcopal ministers in the state refused to perform the ceremony, and Rev. A. C. Hill, of Toronto, Canada, was imported at a great expense to unite the pair.

THE TICHBORNE LOLE. In reference to the great case now before the English courts, the following from the Winchester Observer of 1857 or 1858, is not without interest: The family of Tichborne date their possessions of the present patrimony, the manor of Tichborne, so far back as 200 years before the conquest. When the Lady Mabella, worn out with age and infirmity, was lying on her deathbed, she bequeathed her husband, in her last request, that she would grant her the means of leaving behind her a charitable bequest, in a dole of bread to be distributed to all who should apply for it annually on the feast of the annunciation of the blessed virgin Mary. Sir Roger, her husband, readily assented to her request by promising the presence of an assize, and she could go over in the vicinity of the park while a certain brand or billet was burning, supposing that, from her long infirmity, (she had been bedridden for some years), she would be able to go around a small portion only of her property. Her attendants to convey her to the corner of the park, where, being deposited on the ground, she seemed to receive a renovation of strength, and to the surprise of her anxious and admiring lord, who began to wonder where this new vigor came from, she crawled round several rich and goodly acres. The field which was the scene of Lady Mabella's extraordinary feat retains the name of "Crawls" to this day. It is situated near the entrance to the park, and contains an area of 23 acres. The task being completed, she was conveyed to her chamber, and summoning her family to her bedside, predicted its prosperity while the annual dole existed, and left her malediction on any of her descendants who should be so mean or covetous as to discontinue or divert it, prophesying that when such should happen, the old house should fall, and the family name would become extinct from the failure of heir-male, and that this would be foretold by a generation of seven sons being followed immediately after by a generation of seven daughters and no son. The custom thus founded in the reign of Henry II, continued to be observed for centuries, and the 25th of March became the annual festival of the family. It was not until the middle of the last century that the custom was used; when, under the pretense of attending Tichborne Dole, vagabonds, gipsies, and illers of every description resorted from all quarters, pilfering throughout the neighborhood, and, at last, the gentry and magistrates complaining it was discontinued in 1696. Sir had seven sons, and when he was succeeded by the eldest, there appeared a generation of seven daughters, and the apparent fulfillment of the prophecy was completed by the change of the name of the late baronet to Douglas, under the will of his king's man. (This allusion is to Sir Edward Douglas, ninth baronet, who inherited the "Doughty" estate, then Mr. Edward Tichborne.)

HOW SCHOLARS ARE MADE. Costly apparatus and splendid cabinets have no magical power to make scholars. In all circumstances, as a man is, under the master of his own fortune, so he has so constituted the human intellect that it can only grow by its own action and free will—it will certainly and necessarily grow. Every man must, therefore, educate himself. His book and teacher are educated until he has the ability to number in vigorous exercise to effect his proposed object. It is not the man who is in danger of being borne down like a beast man's thoughts. Nor is it the man who can boast of native vigor and capacity. They had the pre-eminence because self-discipline had taught him how to use his own—Daniel Webster.

THE STREET FILING. THE DECISION OF THE SUPREME COURT IN THE CASE OF FALLS V. THE CITY.

THE CASE DECIDED IN FAVOR OF THE CITY. State of Illinois, Supreme Court of January Term, 1871. Central Grand Division. Walter Falls v. City of Cairo. Appeal from the Circuit Court of the City of Cairo. This was an action of assumpsit for money had and received, brought to the April term, A. D. 1870, of the Alexander Circuit Court by appellant against appellee, to recover back certain monies paid by him as special assessments upon appellant's lots in the city of Cairo. In the year of 1868 the city of Cairo, through the City Council, ordered Washington avenue and Poplar street, two streets of the city, to be graded and filled. To defray the expenses of these improvements a special assessment was laid upon the lots fronting upon the streets to be graded and filled. The assessments for the filling of Washington avenue and Poplar street, and for the filling of both streets, and four other lots fronting on Washington avenue, and assessed for the filling of said avenue. The assessments were made by the Board of Public Works, and confirmed by the City Council, and warrants issued to the collector of city taxes directing the collection thereof. The amounts assessed upon appellant's lots were not paid within the time fixed by the City Council, and after publishing his lots as delinquent in a judgment of the court, they were rendered in the County Court of Alexander county. After the rendition of these judgments and the issuing of process to sell said lots, the appellant paid the amount assessed upon his six lots, amounting in the aggregate to \$13,662.56. The city then abandoned the collection of assessments in which were included appellant's lots, and for the filling of Poplar street and Washington avenue, and after applying the amounts collected by virtue of the special assessments, to the payment for the filling and grading of said streets, issued the bonds of the city in payment for the balance, and all property, real and personal, in the city is held to be subject to interest on these bonds, as well as the interest of appellant, upon which he has paid his assessment, as other property. To recover back this amount with interest from date of payment, the appellant brought this suit, and he insists upon the following points, upon which he bases his right to recover: 1st. The assessments were illegal, unconstitutional and void. 2d. The payment of the assessments by appellant was compulsory. 3d. To retain the money paid after an abandonment of the assessments would be in violation of the constitution, and contrary to equity and good conscience. 4th. The consideration for which the money was paid has wholly failed. By reference to section 5, article 6, of the Charter of Cairo, private laws 1867, vol. 1, page 382, we find the City Council is empowered to cause any street to be filled and graded, "and to assess and collect the expense and cost of such improvements together with the expense of collection, from the real property benefited thereby; to the extent of the benefit so conferred by such improvement, the balance of the cost of such improvement to be paid out of the improvement fund, said assessment and collection to be made, as the City Council may by ordinance or resolution, provide." To carry into effect this provision of the charter, an ordinance was passed by the City Council. Section 3 of this ordinance provides: "After said contract has been awarded or said material furnished and work performed by the city, the Board of Public Works may, by ordinance, proceed to make an assessment of the proper proportions of the expense and cost of such improvement upon each lot or part of lot fronting, bounding or abutting upon the street, avenue or highway filled or to be filled, according to such lot or portion of lot the special benefit derived by such improvement upon such lot or portion of lot; the total amount of such special benefit, however, not to exceed the total cost of such improvement or proposed improvement." The same section imposes upon the Board of Public Works the duty of examining the locality where the proposed improvement is to be made, and all the lots or parts of lots that will be specially benefited thereby. Admitting these assessments to have been illegal, unconstitutional and void, because the making of the assessments was confined to the particular property fronting upon the street which might be specially benefited, it was not extended to all the property which might be so benefited. After having paid them, under the circumstances in this case, is the appellant entitled to recover the money back on the ground of the illegality of the assessments, and not a voluntary act. The compulsory and not a voluntary act. The precept which was in the hands of the officer at the time these assessments were paid, did not authorize him to levy upon the goods and chatties of the appellant, but directed him merely to make sale of the lots to satisfy the assessments. In Bradford v. the city of Chicago, 25 Ill. 411, it was held that the payment of an assessment made to a collector of taxes, which having in his hands a warrant to levy and collect the amount of the assessment of goods and chatties of the owner, might be considered compulsory, and made under such circumstances as would authorize the party paying the money to recover back the same, if the assessment was illegally made. But it was decided in Stover v. Mitchell, 45 Ill. 218, that a levy of an execution upon one's land did not make a payment made to prevent the sale of the land under the execution could be recovered back as a compulsory payment. It was held to be a voluntary payment and not made under duress, and it is there said, "It is insisted that the levy of the execution on Stover's land was the exercise of such compulsion as to interfere with his free will of action. No case is cited giving to this extent, and we venture to say none can be found. In order to render such a payment compulsory, such a pressure must be brought to bear upon the person paying as to interfere in some way with the free enjoyment of his right of person or property, citing Bradford v. the City of Chicago, supra, and Eston v. City of Chicago, 40 Ill. 614.

There was here no interference with the plaintiff's free enjoyment of his property, and there would not have been, by making sale of it under the precept which was in his hands, if he would then have had two years to redeem from the sale, and if at the end of that time the purchaser had obtained his tax deed and brought his action of ejectment for the recovery of the possession, the illegality of the assessments could have been shown in defense and the recovery of the possession defeated. Or had the plaintiff desired to remove any cloud which might be brought upon his title by such a sale, he could have had his remedy for that purpose. It is very unlike the case of the payment of money made to avoid the seizure of goods, or to gain the possession of them, where there may be a pressing necessity for their immediate use, and being of a movable and perishable character, a legal remedy might be inadequate for full protection. The reasons upon which it is

held, that where a party is compelled by duress of his person or goods to pay money for which he is not liable, the payment is not voluntary but compulsory, and that he may rescue himself from such duress by payment of the money and afterwards on proof of the fact recover it back, do not apply to the case of real estate threatened with such action as the present case. And we think the payment of these assessments was not made under such circumstances of constraint and compulsion as to except it from the operation of the legal principle, that a party with full knowledge of all the facts of the case, voluntarily pays money in satisfaction of or discharge of a demand unjustly made on him, he can not afterwards recover back the money.

As to the third point, the reason does not appear why the collection of the other assessments was abandoned. If they were illegal and void as claimed, we may presume it to have been because they were not paid voluntarily, and the city could not enforce the collection. But the improvement was not abandoned; it was completed, and the money paid for the filling of the streets, and retained by the city, but it was applied towards the expense of the improvement. The plaintiff has but paid the amount of the special benefit which his property derived from the improvement. It was equitable that he should do so; the circumstances that others failed to make payments for their special benefits, does not vary the case. It does not appear to us, to be contrary to equity and good conscience for the city to retain this money, and apply it in relief of the general property owners from the payment for a special benefit conferred upon the plaintiff.

As to the consideration for the payment having wholly failed, the improvement having been made, it is to be considered that the plaintiff has received a full equivalent or compensation for the money paid, in the enhanced value which his property has derived from the improvement. (Citing Trustees, etc. of the city of Chicago, 12 Ill. 493, Sharp, et al. Spier, 4 Ill. 76.) In Bradford, et al. v. the City of Chicago, supra; the cases of the Bank of New Orleans, et al. v. the city of New Orleans, 12 Louisiana, 341; the city of Louisville v. Lane, 1 Mt. Ky. 151; and Walker v. city of St. Louis, were cited, which decide that where an illegal special assessment for special benefits has been voluntarily paid it is not recoverable back, on the ground that a consideration was received for the money paid, in the special benefit conferred by the improvement, and one so benefited was not in good conscience entitled to recover back against the money paid.

The case of Bradford, et al. v. the city of Chicago, supra, is distinguished from the present one, not only by the fact that there the collector had in his hands a warrant against the goods and chatties of the plaintiff at the time the payment was made, but the contemplated improvement was not made, but was abandoned; so that the consideration for the payment had wholly failed. The judgment of the Court below having been for the defendant, it must not be affirmed. Judgment affirmed.

I, William A. Turney, Clerk of said Supreme Court, do hereby certify that the foregoing is a true copy of the opinion of said Court, in said cause, as the same appears of record in my office. In testimony whereof I hereto [L.S.] set my hand and affix the seal of said Court, at Springfield, this 14th day of June, A. D. 1871. W. M. A. TURNNEY, Clerk, Supreme Court.

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