# THE NEW ORLEANS BEE.

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NEW ORLEANS:
FRIDAY MORNING, JULY 21, 1865.

On our second page will be found short and section notes, bank notices and various miscellaneous advertisements.

## BY TELEGRAPH
FROM SOUTHWEST PASS.

THE EVENING STAR FROM NEW YORK ACROSS THE BAR.

*S. W. Pass*, 9 a. m. July 20.

The steamship Evening Star, from New York crossed the bar at 7 P. M.

## BY TELEGRAPH.

### One Day Later from the North.

Gold on the 18th in New York 143 3-4 —Cotton 1 to 2c lower.

LATER FROM EUROPE—RESIGNATION OF THE LORD CHANCELLOR—COTTON RECEIVED IN LIVERPOOL.

Restored Health of President Johnson.

FAILURE OF NON-CONDUCTIVITY OF THE ATLANTIC CABLE DENIED.

Satisfactory Condition of North Carolina.

### Reported Intention to Sell the Surplus in Gold to the National Treasury.

*The Four Conspirators to be Sent to Dry Tortugas.*

(To the New Orleans Bee.)

*Father Point*, July 18—The steamer North American, from Liverpool on the sixth, arrived at this point to-day.

The steamer Booth had arrived at Queenstown on the sixth, on her way to Liverpool.

The news brought by the North American is somewhat meagre.

The Lord Chancellor had announced his resignation.

The *News* thinks that Lord Cranbrook will succeed him.

American securities were active.

Advices received from Port au Prince says the rebels continued to hold Cape Haytien, but that the remainder of the island was tranquil.

*New York*, July 18—Gen. Joe Hooker has promulgated his first official order, assuming command of the Eastern Department and relieving Gen. Dix.

Gen. Hancock has entered upon his duties as commander of the Middle Department at Baltimore.

The 1st Army Corps is to be discontinued.

Lieut. Hard denies Schaffnaer assertions as to the non-practicability of the trans-atlantic cable.

The President's health is fully restored.

Secretary McCulloch of the Treasury Department, is determined that soldiers' bounties shall be paid promptly and in full.

Large numbers of ex-rebel officers, leading citizens of Virginia, near Washington, came in by the evening boat. They openly avowed their adherence to the Confederate principles and allegiance is to guard from confiscation and loss of allegiance, and say that after the restoration of their property and State government they will speedily restore the former slaves of slavery.

Cotton was in demand to-day.

Fresh accounts have been received of prosperous operations in North Carolina, and that the majority of her planters are pursuing a humane and judicious course towards their late slaves.

*New York*, July 18—The cotton market rules heavy. Middling is quoted at 1 to 2 cts. lower.

The prices of flour are 10 to 15c lower.

Whisky at $2 10.

Coffee market quiet; sugar active and firm; molasses dull.

Sterling exchange dull.

*Cleveland, Ohio*, July 18.—Gov. Brough, of this State, is still seriously ill.

*New York*, July 18.—A street rumor supposes the intention of Secretary McCulloch to order the sale of a large amount of the surplus gold in the Treasury Department.

*Washington*, July 18.—Dr. Mudd, O'Laughlin and Spangler were to-day sent to the Dry Tortugas, instead of the Albany Penitentiary, as originally sentenced.

Colonel R. Johnson's private secretary, has been sent to Fort McHenry.

Bob McCullough, the alleged perjurer, is out over six millions of dollars.

Attorney General Bowder, of Virginia, has delivered an opinion to Governor Pierpont, that no persons who held office under the "Confederacy" are eligible to hold any constitutional offices under the Federal Government.

The present order of the 7 30 loan will probably be absorbed within ten days.

It is understood that General Almonte is in New York city, en route to Austria and Belgium for more assistance for Maximilian.

*New York*, July 18—p. m.—Sterling Exchange heavy 109; Gold 143¾.

[More report to come, but the lines went down North of Brookhaven, Miss.]

### Later from the North by Telegraph.

(Special to the Mobile News.)

*Gold in New York on the 17th 142 7-8*

Loss of the Ship Wm. Nelson and 400 Live Lost—Latest News from Europe—Financial and Commercial—Advance in Northern Dry Goods Market—Executive Pardons—Appointments for Georgia and Alabama—Legal Limit of National Bank Circulation.

*New York*, July 17—Gold is dull but firm, and closing at 142¾.

Captain Hart, of the bark Meteor, says he searched one day and a half for the unfortunate passengers of the ship Wm. Nelson, wrecked. No boatly wreck is not stated. Portions of the wreck were scattered for miles over the water.

The Nelson was accidentally set on fire and entirely burnt with 400 human passengers.

Capt. Hart brought a ship five or six miles from him saved some of the passengers who had been three days and nights in the water.

*Boston*, July 17—Among the rebels generally released from Fort Warren are Gen. Jackson, Slaughter and Battle.

*Liverpool*, July 5—The steamer Lafayette has arrived here from New York, having landed of from three boats 45 passengers at the Saloon.

On Sunday, the 25th ult., the steerage passengers were all mentioned above, and the Saloon was thoroughly washed and fumigated, and at one o'clock in the afternoon the fire broke out, and the Captain with his family and the officers and crew, left in two boats. At three o'clock on the same afternoon, several other boats attempted to leave, but were capsized and swamped.

*Washington*, July 17—Ex-Rebel Congressman Orr, of Ala., and Quitman, of Ark., have been pardoned by the President.

*New York*, July 17—The steamer *City of Washington*, with Liverpool dates of the 5th inst., has arrived.

The cotton market opened firm and closed flat, but arrived upon.

Gunpowder.

The Paris Rm at 65 to 67c.

*Washington*, July 18—The legal limit of National Bank circulation is nearly reached. The entire number of banks is 1600.

Five millions were subscribed Saturday in sales to the 7-30 loan.

*New York*, July 18.—There is a general buoyancy of tones in dry goods market, leading brands of shirting have advanced 2 1-2 cents per yard.

The woollen trade is more active, and sales greatly advanced.

Carpets are unchanged.

Among the recent appointments at Washington, is Joseph Webster, Assessor of the Internal Revenue in the second District of Georgia, and Julius Kempton in the Third District of Louisiana.

A delegation has arrived from Florida to protest against the displacement of Judge Marvin as Provisional Governor of that State.

Fifteen steam steamers sailed Saturday last, and 24 are advertised to leave next week.

Beverly Tidmarsh has gone to Richmond as counsel for the rebels whose property has been confiscated.

Gov. Pierpont estimates that one thousand Virginians are entitled to pardon under Lincoln's proclamation.

The news from the East is meagre and unimportant.

## Extracts from Later Western Papers.

By the steamer Pauline Carroll, from St. Louis, we have Western papers of the 13th, from which we derive the following:

### From Charleston and Savannah.

ADDRESS OF EX-GOVERNOR BROWN—COLORED CELEBRATION IN AUGUSTA, GA.—SUBSTITUTE SHOULDER DYING—RIOTS BETWEEN BLACKS AND WHITES IN CHARLESTON.

*New York*, July 15—The steamer Bulton brings Savannah and Charleston dates to the 11th.

The Savannah *Herald* contains an address by ex-Gov. Brown to the people of Georgia, in which he urges them to support not only the Government of the United States, but the administration of the President, and if the Magistrates appointed to them to take the amnesty oath, they should do so and keep it in good faith. He argues that slavery is now dead for ever—as to his slaves he will at once emancipate them and treat them as free, giving them a part of the crop, or wages for their labor. To those who cannot support the Constitution of the Government he suggests emigration from the country.

The Savannah *Herald* says that the Sixth U. S. Infantry are to garrison Charleston.

The 4th of July was celebrated in Augusta by a negro procession, with banners on which were inscribed "Death to discussion and slavery, freedom and equality." In the afternoon the troops paraded and the evening fire works.

Railroads are being completed in the interior and communication re-established.

Large numbers of negroes are dying in and about Macon, entirely destitute of medical assistance.

Capt. Clark, of the 2d Michigan was shot to death by disorderly soldiers of the 4th Regiment, near Macon, on the 1st.

The Charleston *Courier* complains of riots and outrages, saying that the people cannot walk the streets at night without fear of being robbed or killed. This condition of affairs appears to have risen from the dissolution of order maintained there. Negroes attack white citizens and white citizens attack negroes. The white and black soldiers also attack each other.

THE CONVENTION—SUBJECTS COMMENDED TO STATE LEGISLATURES—DEBATE ON THE RECIPROCITY TREATY RESUMED—ANNEXATION TO THE UNITED STATES—POPULAR IN THE PROVINCES—SPEECH OF THE COMMISSIONER ON COMMERCE—ANNOUNCEMENT "PEACE PAX."

*Detroit*, July 14.—J. A. Brown, of Chicago, from the Committee on Commerce, made a report, commending to the consideration of the legislative bodies of the States the following subjects: The consideration of the Dilouis River and Niagara ship canal; improvement of the Fox and Wisconsin rivers; enlargement of canals for Lake Erie; encouraging of railroad freight and increase of capacity; relief of our shipping and railroad interests from severe Government taxation; an improved system of surveys and soundings, and improved and lighthouse provisions; early improvement of the Western rivers and harbors; judicious encouragement of regular lines of steamships to countries upon the continent and Europe; such legislation as will connection and carrying trade with the Canadas and Europe as will best promote the general interests of our own merchants, farmers, manufacturers and citizens; and asked the convention to give the weight of its influence in favor of building up our common country in such manner as to give the United States property union and peace. The report was accepted and adopted.

Debate on the reciprocity treaty was resumed. Mr. Howe, of Nova Scotia, speaking. His speech was important in the announcement that annexation to the United States had no place in any of the provinces, and any one who should go to the trouble and adequate annexation would be treated as a fugitive from loyalty and allegiance free from him as a British subject.

Mr. Bloodgood had consent to place on the journal of the Convention his report on the ship canal from the St. Lawrence to the Hudson. The same privilege was extended to Mr. Hill of Boston, favoring Congressional aid to canal enlargement.

Mr. Alexander's report in favor of a National board of trade was referred to a special committee to report forthwith. Also his report in favor of a decimal system of weights and measures was referred to a special committee from the United States and the Provinces.

On motion of Mr. Bannerman the convention agreed to adjourn sine die at 3 A. M. to-day.

Convention adjourned sine die.

SOUTHERN RESIDENTS IN BOSTON TAKING THE OATH OF ALLEGIANCE — GEN. SEWARD AND WIFE AT CAPE MAY.

The Times special says that evidence is daily being received of the repentance of many of the rebels who resided abroad during the war. A large number of them are applying to our ministers and consuls for permission to take the oath of allegiance, which is freely given. Among the some thus administered, and now here for registration, are those of Mrs. Jefferson Davis, formerly wealthy residents of the Beaufort district, South Carolina—they don't come within the $20,000.

Assistant Secretary Seward, and wife, will leave for Cape May in the course of a few days, to spend a few weeks, at the close of which Mr. Seward expects to be able to resume his official duties.

A SECRET LEAGUE IN GEORGIA REPORTED.

[From the Macon, Georgia, Telegraph, July 8.]

The firemen of the Fourth was monopolized by the colored population. About ten o'clock, a large body of them, headed by marshals duly capacitated, and a full band, marched through the city, and proceeded to the grove surrounding the M. E. colored church. The whole proceeding were conducted by the parties interested. Not a single white man participated; indeed, the reporter saw but a few, who appeared to be filling the capacity of regular provost guards.

*It appeared that this demonstration was a meeting of a league which has been formed in this city.* This was developed, after the opening religious services, by the President calling upon members of the league to give expression to their opinions. Two addresses were delivered, of the tenor of which it would be impudent to speak, beyond the fact that they mostly resisted the idea of colonization—they had determined to remain here—they had acquired rights which must be respected, &c. An election of officers was gone through with, in which as well as in the establishment of by-laws, none but members of the league were allowed to participate. Upon general questions the whole audience was allowed to vote, and the granting of this special privilege only served to establish the fact of the existence of a sworn *league of the extent of which the public has had no previous conception.* The constitution perfected, was ordered to be printed in circular form, when a sworn understanding of its features can be formed by our readers.

BLACKMAILER AND SLAVER.

*New York*, July 15.—The *Times'* Mexican correspondent says that the Imperial Government has announced that it never entered into any negotiation with Dr. Gwin, and never contemplated making him duke, governor or viceroy.

### New York Markets of the 15th.

*New York*, July 15—Cotton quiet.

Flour—Sales and generally firm: $6 75 to 6 80 for extra State; $6 75 to 7 for R. H. O.

Wheat—Dull and 1 to 2c lower; receipts 105,000 bush.

Corn—Quiet; $1 to $1 for sound.

Oats—Dressing; 56 to 60 for western.

Pork—Firmer; $38 75 to 39 for new mess; $36 75 to 37 for old do; 36 to 36 50 for prime.

Lard—Firm; 18 1-8 to 21 1-2.

Whisky easier; $2 for Western.

Freights—Quiet and nominal.

Sugar—Dull; prices nominal at 9 per cent. O. A. R 11 1-2 1-2; Louisiana 10 3-4; Muscovado 10 7-8; O. A. R. W 10 1-8; O. P. D 9 1-4; R. H. O 10. Rice 10 1-4; Burton, old, 7 3-8; 7 3-8; choice, new, 1; choice 8; common, 7 1-4; 5 3-8; molasses, 10c; do. coppers, 1 05 1-8; do new lime, 1 05 1-8; 10.40c, 97 1-8; molasses, 95.

Gold—Opened at 1 42¾, rose to 1 43¾, closed 1 43¾.

### Western Markets.

*Cincinnati*, July 14—Flour unchanged—extra $6 to 6 10; extra $6 25 to 6 75.

Whisky steady, at $2 05.

Provisions buoyant, and prices higher. Clear mess pork sold at $38 50 to 39; country at 36 62; bulk shoulders advanced to 14 3-4, to 15c; sides held at 18c, with considerable market, and it is difficult to give accurate quotations; buyers having withdrawn from the market to a great extent; buyers shoulders could not have been bought at 17c; clear sides held at 19c. Lard firm—tierces refined, sold 20 1-4c; kegs extra 21c.

*St. Louis*, July 14, P. M.—Tobacco—The demand was active to-day, and bright manufacturing leaf largely advanced. Sales were 12 hhds green tags at from 3 10 to 4 70; 15 hhds factory do at from 3 20 to 5 20; 17 hhds planters' do at from 5 50 to 7 30; 37 hhds common shipping leaf at from 3 to 12 50; 10 hhds medium do at from 12 50 to 15 25; 3 hhds common manufacturing at from 15 25 to 15 50; 2 hhds medium do at 25 25 to 28 50; 4 hhds good do at from 32 to 39 50; 3 hhds fine do at 42, 52 50 and 56 75; 13 boxes at from 3 00 to 20 50; 100 pounds.

Gunnies—Sale of 21 bales new at 31c.

Lead—Market steady, with sales 65 pigs soft Bismuth at 6c per pound.

Flour—The demand was not very active, but the market was quite firm, holders generally being above buyers' views, which tended to restrict business. Sales embraced 54 bbls low super fine, delivered, at $5 25; 80 bbls do do at $5 50; 400 do super, to arrive, on its merits, at $5 87; 50 do blended extra at $6 75; 90 do full super, to two lots, at $6 25; 385 do, delivered, at $6 25; 462 bbls do to arrive at $6 50.

Oats—Receipts were 3,157 sacks, and the market was slightly lower, and sales were 150 sacks at 55c; 1115 sacks, prime to inspection, at 56c; 115 sacks, in owners' hand sacks, at 57 1-2c; 79 sacks at 58c; 225 sacks choice at 59c, and 183 sacks do at 60c per bushel.

Corn—Receipts were 9467 sacks, and the market appeared to be firm in the prices of yesterday. Sales were 198 sacks at 78c; 1396 sacks mixed and yellow, subject to inspection, at 78c; 7060 sacks prime at 79c; 96 sacks mixed white at 80c, and 647 sacks choice white at 81c per bushel.

Rye—Sale of 50 sacks at 80c per bushel.

Provisions—Sales reported were 1,300 bbls mess pork at $38; and we understand that $36 were refused for a round lot; 50 tierces plain cured hams at 19c; 100 tierces do at 19c, and 22 sacks shoulders at 15c per lb.

Whisky—The market is firmer and higher, with sales of 66 bbls to-day at $2 10 per gallon.

Eggs—Sold 7 barrels at 20c, shipper's count, and 3 barrels again.

Hay—Sales were 501 bales light pressed timothy in lots at $19, delivered.

Hides—Market steady at 11c for flint.

LAW OF THE SHERIFFALTY CASE—Elsewhere is given the opinion of Judge Theard, of the Fourth District Court, concerning the order rejecting a motion for appeal on the part of Mr. Alfred Shaw, late Sheriff, from the mandamus recently granted to Mr. Chas. Bienvenu, the new Sheriff. The legal questions involved are treated in an able and interesting manner by Judge Theard. His decision in this instance terminates the contest for the Sheriffalty, inasmuch as all the other Courts have already recognized Mr. Bienvenu as Sheriff.

### The Faneuil Hall Programme.

The address to the people of the United States, prepared by the committee to whom its preparation was assigned by the last meeting at Faneuil Hall, Boston, has been published. It may be regarded as the platform of State reorganization and programme of future political agitation on the part of the New England Radicals. Nor is it too much to say that the document is also a declaration of war against the Federal Constitution, in so far as it does not conform with their doctrines or promote their aims, and against every State which neglects to accept their conditions of civilization. A few extracts will set this assertion beyond controvertible doubt. After declaring that "every person of color in the rebel States and their posterity forever must be secured a complete and veritable freedom;" that "treasonous the rebel States have sunk so, in the words of Webster, impressed upon the soil itself an inability to bear up any two freemen;" and that "the systems of the States must be truly 'republican,' the address" proceeds:

Unless these points are secured, the public faith will be broken, and there will be no safety for the public peace or the preservation of our institutions.

It must be remembered that, under the Constitution, most of these subjects are exclusively matters of State jurisdiction. Once withdraw the power of war, and admit a State to its functions, and the authority of the Nation over these subjects is gone.

So great a change is, no doubt, fundamental, and goes to the bottom of their political system. If it is made now, before civil society becomes settled, before the States come into the full exercise of all their powers, it will never be made, in all human probability, by peaceful means.

Any restoration would be dangerous which did not secure, beyond all reasonable peril, the abolition of slavery, absolute freedom, just rights to the free; and what we mean, "a Republican form of government."

We advance no extreme or refined theory as to what may be included within the term "a republican form of government." In the great class of extraordinary to intervene in the General Government to determine whether a State Constitution is "republican," there must be practical wisdom and do refined theories. If the constitutions with which the rebel States have emerged from their rebellion, in each reasonable and practical sense as national politics; if they are so far antipathetic as to challenge public power and the stability of our institutions, then we may treat them as not "republican," in the American sense.

A passage in another part of the address is also singularly significant, it says:

For thirty years and more Southern society has been moving steadily in an opposite direction from our own, until its entire system and (if we may call it so) its civilization have become hostile to and at last inconsistent with our own.

Here it is broadly admitted by those for whom this manifesto speaks that they deem it a sufficient ground of deadly quarrel with any portion of the Union for it to cultivate a civilization different from their own. It is broadly stated that their designs can not be accomplished if certain States are allowed the benefit of the Federal Constitution, nor within the Union, nor by peaceful and civil methods.

Therefore they propose as regards those States, to abrogate the Constitution, to enforce division, and to perpetuate war until they shall have established the dominion of their ideas and their policy, not only in present complexion, but against any uncertainty and perad-ventures in all time. It would be impossible to frame a scheme of politics more replete with revolutionary agitation and civil war.

### Cotton Business and Prospects at Memphis—Movement of the Growing Crop.

[From the Memphis Argus of the 12.]

Only a week or two ago the prospect for an abundant crop of the great staple of the South was never better. Some time, however, the appearance of the bottom fields have undergone a great change. Our information from almost every portion of the States of Mississippi, Alabama and Tennessee gives a rather more gloomy picture of the present condition of the growing crop than we would wish to have seen. In many parts of the country there has been little more than a half of the usual number of acres planted, and in some localities not more than a third of the usual quantity of land has been planted. Superadded to this, the disease known as the "red rust," has invaded the fields, which in many places appear to be quite withered.—This will results the stop a short one, which, when we consider that not more than one-third of the area usually devoted to the cultivation of cotton is planted this year, we can form some idea of the shortness of the crop of the coming season.

A correspondent from Memphis in the St. Louis *Dispatch* of the 15th says:

Memphis is quite dull at the present writing as also Little Rock. Cotton is coming in slowly into both cities. Eastern merchants are purchasing it largely on speculation in all the principal cities and marts in the South. Steamers loaded with goods are leaving Memphis for Red river and other points, for the purpose of establishing stores, and supplying by trading out of Yazoo boats of notions. The arrivals of boats at Memphis show a great falling off.

The crop this season will amount to a mere trifle from all we have seen and can learn, hence the rise in the article. Since the surrender of the rebels, business has materially improved.

Recovering rebels are receiving orders many of them will remain in the South. While rich cotton lands in planting land East of Mississippi, Alabama, Middle East Tennessee and other points, but little in the Delta. It is in fine growing.

The Stage of Louisiana on the Abolition of Slave. Discussion by Slidell, Shaw.

FOURTH DISTRICT COURT—SITTING IN CHAMBERS.

JULY 8, JUDGE THEARD.

The only question under consideration in whom the Sheriff is entitled to a mandamus. Appeal in the above proceedings from the order of the preliminary mandamus, which was issued by this Court on the 5th inst.

He is Sole Sheriff or not—This is not a case for preserving whether is to be decided who is rightfully the present Sheriff of the Parish of Orleans, but simply on order issued in favor of Chas. Bienvenu, who holds a legal commission from the Executive of this State, whether under this official mandate he is legally entitled, and consequently was legally issued or not. (See Vinzing vs. Hynes, 12 A. 719—Blevoyne vs. Bean, decisions reversed 2 days, 1864.)

Bienvenu appeared, takes his oath of Clerk and presents his commission. It was elected with all the requisites of the law. For the reasons assigned in his written opinion delivered on the 19th inst., Judge Theard, ordered the writ, in the behalf of New Orleans. He thereupon applied for a writ of mandamus in order to obtain the books, papers, etc., belonging to the office of Sheriff. The being had ruled that the writ issued was made perpetual by all that this Court had ordered by the judgment. Either Shaw or Bienvenu was entitled between counsel, both could not be.

Where is the cause for an appeal in these proceedings? There is no dense relative to the right of office. If Shaw can contest the validity of Bienvenu's commission, he will try it in the proper proceedings and in the proper tribunal. He can not certainly be deprived of his rights to assert his claim if he has any. Nor in these proceedings he should be allowed any appeal because it is a simple order of the Court, and not a judgment between parties; and consequently in the fact of an order, does not work him an irreparable injury. (C. P. 546.)

2d. The party claiming to a public office has a right to the books and papers appertaining to such office. (C. P. 96) and the Courts of law demand the delivery of them over by unwilling men. (Tapping on mandamus p. 99.)

Bienvenu having been recognized as Sheriff, is, in the opinion of this Court, the only party entitled to the books, papers, etc. belonging to that office. He should therefore have them immediately.

Public interests require that there should be no disturbance between the administration of Justice. Thus appoints the same Officer, bound to the law, for the purpose of carrying into execution the decrees and orders of the Court. The Court said then determined instanter and without any interruption to action what is the proper present in Sheriff, or deputy, known to the law, holding the Commission. Procrastination would be a denial of justice to the suitors in Court.

The appellant, it is true, says that being in office under the law and the Constitution, he cannot be ousted, until the right has been determined by the regular Court, if he should be permitted to remain in office, and in the mean while the ends of justice will progress to end.

The fallacy of this is easily exposed. The Executive in coordinate branch of the Government, to which this Commission has delegated the sole power of granting commissions, and in other words, of making known to the people the persons authorized to act within their respective spheres, (Const Art. 34, 55, 56) This act of which the Commission is the evidence, if it is not admitted that he who bears the Commission is the Officer, the political policy of the government may be thwarted, and the persons entrusted with the duties and who have support to do, may be put aside. The question is not whether the Executive has transcended his power, but, who is the person apparently invested by the law entitled to be the rightful Sheriff. Such a question in its solution must be made instanter, and in fact, if the contrary were established the Court would be unable to perform the duties assigned and permanent and the Governor; in a word, the Judge would be the Governor, he would be deciding and counseling into certain matters, such as the death, the resignation, the absence &c. of functionaries in office.

A remedy of the decision of Bell vs Hally, (XI A 308) which went to the Supreme Court on a direct appeal only, will amply prove and this a Court, passed go behind the Commission issued by the Governor. In that case "Appellant Hally, in the Sheriff of Orleans, was ousted by the Court, and the Supreme Court said: "If there is any question as to the right of the Sheriff of Orleans, when a judge is removed and having given the bond and taken the oath prescribed by law, will some days elapse, recognized by this Court as the executive officer.

"In so recognizing him this Court acted upon the presumption that all things had been rightly done, there was no *contestation* filed to put the regularity in question *parte* it was apparent of regular in the fact.

This language is clear.

Now, as to the right of the office, this is with in the peculiar province of the Court to decide, upon a *prima facie* to be made in the proper Court.

The action of the Court in this Mandamus is merely the exercise of a power in an interior story form, known as equity within the polite power of a Court. Shall it be a disorder of a tribunal in the Constitution in the presence of the Court. He may be considered as guilty of a contempt of Court.

The appellant cannot be not from a judgment or in a controversy between individuals as to a right of office or right of property where the matter in dispute exceeds three hundred dollars. The Mandamus merely orders the delivery of public records. They are the subject matter of individual ownership. Shaw has no right to property in them. Therefore the matter in dispute is not appreciable in property.

A Court will not permit its order to be neglected or disregarded by any of amounts which, in its nature, public interest demands immediate execution. The end proposed is somewhat with the administration of justice in the impartially and promptly exhibit.

3d. A Mandamus issued in such a judgment in the real meaning of the term (Tapping on Mandamus p. 43) and not being a judgment no appeal from the same will lie.

The appellant has not shown a right to appeal from the Mandamus to be a judgment, it is not that is simply an opinion against Shaw's right to office, it is simply an interlocutory order, which leaves to Shaw the right to test the validity of Bienvenu's appointment in other legal proceedings, if any that Shaw may see proper so to do. Decisional appeal from a judgment not final, which an irreparable injury has been shown.

4th. There are orders or judgments which must be executed immediately.

This order does certainly belong to that class. The law has provided that such judgments shall be executed provisionally, although an appeal has been taken by the Clerk which the law has prescribed and necessary strictly given in the matter of the Sheriff, which relate to the maintenance of order and security of witness, of persons, &c. (C. P. 285.)

The article of the Code of Practice is not confined to the cases therein mentioned. These cases are simply illustrative. Hence the Supreme Court of Louisiana has applied Art. 549 to Habeas Corpus 4 A. 438, and Liquidation of Partnership 14 A. 246.

The principle or reason upon which the law refuses a suspensive appeal in cases of minors, slaves, Habeas Corpus, (Bell vs. Hally) is that one who is not recognized as having a right to an office by the Court, ought, and must be permitted, by taking *a suspensive appeal*, to from illegally exercising the Office as such officer, and thereby place the Office in a false light, and injure private interests. The same reason applies with greater force to a public office, in which private and public interests are affected. The appellant has taken the law to the contrary.

After this Court has rendered judgment, the full force and effect must be given to Shaw's commission, and thereby indicently hold that Shaw is in a transition in the office of Sheriff of the Parish of Orleans, and that he is entitled to the possession of the Office, by an order for a mandamus issued. Shaw should yield up the *lawful* Sheriff and keep Shaw, the trespasser, in an official position, which will enable him, by the illegality of his act, to work great private and public injury?

For the same reason that the law refuses a suspensive appeal is made having reference to minors, outsiders, subordinate and dependent in performance, the Court will not suspend the judgment rendered herein. If Shaw is properly seated of office, he has his remedy in other proceedings. The Court must give full effect to the Governor's Commission, and not permit it to be thwarted by an application for suspensive appeal.

5. There is no appeal in cases of contested elections. (See Act of 1855 and 1856.—Shaw vs. DeBuys, 1 A. 308—Shaw vs. Cooper, 6 A. 38.)

This is not a contested election, it is true, but it is certainly a contestation in regard to an official appointment. The broad ground apply to the case under consideration, the provisions of the Code of Practice, in contested elections. And hence in the following, as general from the first paragraph, *a fortiori* would not grant one on a suspensive appeal. Nor is the writing to the effect of the proceedings, and the judgment to be not only in suspensive, but in a peremptory order.

Therefore: Considering that this is not a suspensive proceeding which is to be decided that is rightfully the present Sheriff of the Parish of Orleans, but is simply order issued in favor of Chas. Bienvenu, who is recognized by the Chief Executive of this State, and who has taken the oath of office, and who is entitled to the possession of the Office, and the books, papers, etc. belonging to that office, and that the Clerk of this Court is ordered to deliver the same to the said Chas. Bienvenu, and that the said Clerk