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TERMS OF THE BEE.
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NEW ORLEANS:
WEDNESDAY MORNING, MARCH 4, 1868.

AUCTION SALES THIS DAY.

By G. de Feriet, at 11 o'clock—A. M., at No. 56 Bienville street, furniture and a large and varied assortment of splendid Bohemian glassware, without any reserve or limit.

DEATH OF REV. FATHER TURGIS.

The excellent priest whose name heads this paragraph is numbered with the dead. Mr. Turgis died yesterday (Tuesday) morning at half past 9 o'clock A. M., after a sickness of one month, his disease being cancer of the stomach.

The Reverend Isidore François Turgis was a native of Carampy, Marigny county, Department of Manche, France. At the time of his death he was 63 years of age, having been for 38 years in the priesthood. He was a Chaplain in the French Fleet and Army during the Crimean war, that of Italy and Cochin China. He came to Louisiana about the year 1860, and was for a short time vicar of the Cathedral of St Louis, in New Orleans. In 1862, he became Chaplain of the Orleans Guards accompanying them to the Battles of Shiloh and Farmington, and was subsequently Chaplain of the 3th Louisiana Regiment. He received a wound in the head before Atlanta and returned to New Orleans with the remnants of the 30th, at the end of the war, and since then has been in charge of the little chapel on Rampart street corner of Conti.

Fr. Turgis was a man of extraordinary benevolence, and was most assiduous in nursing the sick during the late yellow fever epidemic. His unceasing labors at that time no doubt hastened his death. He was always engaged in some good work, and was known as a kind-hearted friend of the poor, a Director of the Asylum for Maimed Soldiers and of other charitable institutions. After a most laborious and useful life in the service of his Divine Master, he was dismissed from the trials and the turmoil of earth to hear the plaudit "Well done good and faithful servant."

DEATH OF ROBERT SLARK, Esq.—We regret to announce the death of another of our most valuable citizens, Mr. Robert Slark, of the eminent hardware house of Slark, Stauffer & Co., Canal street. This event took place yesterday. We were not able to ascertain the particulars of his decease. It is but a few weeks ago that we were called to announce the death of one of his daughters—Mrs. Lockford. Mr. Slark has been engaged in successful business for many years in this city, and had accumulated a large fortune. No man stood higher in the community. His name was the synonym of commercial probity and honor. New Orleans can ill afford thus to lose one after another of her best men, and deeply do we sympathize with the bereaved among us. He could not have robbed fly of a more useful member of society than the venerable man whose departure we are now pained to record. Such losses create voids in the community not easily filled.

THE DEMOCRATIC CONVENTION.—Several of the delegates to this Convention from the interior parishes of the State, have already arrived in the city, but so far there has been no announcement made of the place and hour of meeting. This will no doubt be done in season. The Convention will meet to-morrow. Among the delegates we have had the pleasure of receiving a visit from Joel H. Sandoz, Esq., proprietor of the Opelousas *Courier*.

We suggest to the Chairman and Secretary of the Central Executive Committee that the place and hour of the meeting of the Convention be communicated to the delegates by advertisement or otherwise, and that the location of the headquarters of the committee be announced, so that delegates may know where to communicate with the committee.

THE McCARDLE CASE.

It will be remembered that this case was assigned for argument yesterday in the Supreme Court at Washington City. The *National Intelligencer* has stated that Judge Black, of Pebsuylvania, and Hon. David Dudley Field, of New York, (brother of Mr. Justice Field of the Supreme Court and of Mr. Cyrus W. Field) would represent Col. McCardle, and that Congress would be represented by Senator Trumbull, of Illinois, and Mr. Carpenter, of Wisconsin. The question of jurisdiction was to be finally argued and disposed of at the same time as the question of the constitutionality of the Reconstruction Laws, under which the petitioner was restrained of his liberty by Gen. Ord.

The following is an abstract of the argument made by Judge Sharkey, counsel for Col. McCardle, and Mr. Trumbull, for the Reconstruction Laws, in favor of the motion to dismiss the appeal for want of jurisdiction:

Judge Sharkey said the statute of February 5, 1867, was a remedial one, and should therefore receive a liberal construction, and that the cases which are appealed from the District Court to the Circuit Court and from the Circuit Court to the Supreme Court of the United States, should not intend to confine the appeal to the Supreme Court to cases which can only be removed in the District Court, but to give the appeal to cases which commenced originally in the Circuit Court. There was, however, no reason for Congress to make the distinction between the two cases. The exception in the case of the statute of 1867, to persons charged with military offences, did not apply to the case, for no military offence was charged against the party. A military offence, like every other offence, was something to be specified by law. It was a matter of no consequence in this argument whether Mississippi was a State or not. Even assuming it to be a mere Territory, it was still under the Constitution, and the people in it enabling it were entitled to its protection to its fullest extent.

Senator Trumbull (of Illinois) supported the motion to dismiss the appeal. The appellate jurisdiction of the Court was conferred by the Constitution, which declared that the Supreme Court shall have appellate jurisdiction both as to law and to fact, with such exceptions and under such regulations as the Congress shall make. The cases of Wiscart, ex parte Kearny (5 Cartis, 212,) of Barry vs. Mercier (16 Cartis, 328,) and of Metzer (16 Cartis, 384) gave construction to that clause of the Constitution, and settled beyond controversy that the Supreme Court can only entertain appellate jurisdiction in pursuance of some act of Congress giving it; and that in the cases cited alone were made, no statute existed giving jurisdiction in a case like the one under consideration. He argued that authority to issue writ of *habeas corpus* was conferred on the United States Court, and the Justice and Judges there of, by the fourteenth section of the Judiciary act of 1789; but that section gave no appeal or writ of error was allowed from the Circuit Court to the Supreme Court in a *habeas corpus* case, and that for nearly eight years after the government was founded, no such thing as an appeal or writ of error in any case like this was known. To determine whether an appeal lay in this case, it was necessary to first determine whether the proceeding was under the act of 1789, or under the act of 1867. If under the former then he contended that no appeal lay. Under it, Circuit Courts had authority to issue writs of *habeas corpus*, to relieve from imprisonment under it by color of the authority of the United States, *ex parte Dorr*, 3 *Howard*, 103.) McCardle was held, as his petition showed, under color of the authority of the United States, and hence his case was clearly within the act of 1789, and from the decision of the Circuit Court, under that act, no appeal lay.

As to the act of 1867, it was passed to confer additional jurisdiction, and to release persons deprived of their liberty under State authority; but as McCardle was not so held it had no application to his case. It expressly excluded from its provisions persons held or restrained or charged with any military offence, and as McCardle was in such custody, under such charge, his case did not come within the act allowing an appeal. At the present time, should this case ever come to a hearing on its merits he should undertake to show that the act for the more efficient government of the rebel States was unconstitutional. But for the purposes of his motion it was immaterial, whether it was or was not Constitutional. The guilt or innocence of McArdle, or whether he was rightly or wrongly convicted, was not the question. If it was the Court should have to take jurisdiction to ascertain the facts—the very thing which Congress had not authorized it to do. This Court did not sit to correct the wrongs in the country, and could only afford relief in the particular cases where the law gave it jurisdiction; and then only to the extent of relieving the parties immediately before it. He contended that even if there was a case arising under the act of February 5, 1867, still this appeal would not lie, for the reason that it did not get into the Circuit Court by appeal, whereas it was only cases that came into the Circuit Court by appeal which could be appealed to the Supreme Court.

In the opinion delivered on this motion, the Chief Justice held that under the Act of Congress of Feb. 5, 1867, an appeal lies to the Supreme Court from the judgment of a Circuit Court of the United States, in an original case in *habeas corpus*. Upon the other point made in argument that McCardle was in military custody, charged with a military offence; that the jurisdiction conferred by the Act of February 5, 1867, being additional, therefore the Circuit Court sitting in Mississippi had no jurisdiction of McCardle under that Act, the Court expressed no opinion, but held there were questions going to show the jurisdiction of the Circuit Court.

*The Democratic State Convention.*—The Democratic nominating Convention meets to-morrow, the 5th inst., in the Olympic Theatre.

Mace, the English champion, and O'Baldwin, the Irish giant, are soon to contest for the pugilistic championship of England.

# The New Orleans Bee.

OFFICE 73 CHARTRES STREET. NEW ORLEANS, WEDNESDAY MORNING, MARCH 4, 1868. Vol. XLI.—Whole—14,380.

## CITY INTELLIGENCE.

*New Iberia Brass Band.*—The New Iberia Brass Band, composed of amateurs, arrived last evening from New Iberia, and are to perform to-day in the grand Fireman's Celebration. The troupe is composed of the following gentlemen: Messrs Theodore Mouvielle, (leader) Eusebe Nesville, John Emmer, Numa Hacker, John Lampere, George Robert, Jules Blanchet, James Robert, Laurent Renoudet, Felias Gossonrie, U. Larouindet, Felix Dufour, and Jules Dannaud.

We are indebted to them for a most delectable serenade at our office last night.

*Examination of Alfred Bourges and T. J. Cunningham, on the Charge of Forgery.*—Mr. Alfred Bourges and T. J. Cunningham yesterday appeared before Recorder Neville to be examined, on the charge preferred by Deputy Controller Brower and T. A. Field, Warden of the Work-house, of forgery, and uttering a false and fraudulent certificate, with intent to defraud the city. Mr. Castellanos appeared as counsel for Mr. Bourges, Col. A. P. Field defending Cunningham. By consent of attorneys, a separate defence was agreed upon. The Cunningham case was called first.

J. H. Silsbee, sworn—Said: I am Chairman of the Committee on Workhouse and Prisons; the two signatures on the bill are not mine.

I know nothing about the case, except what I read in the newspapers. I understand Cunningham was employed by Mr. McNeil, the Assistant Secretary. There were but one signature necessary on the bill. I have seen Mr. Bourges's handwriting very often, but I paid no attention to it, and could not swear to it.

When articles are needed for the Workhouse, I sign the application. The Controller issues a requisition, it is approved by the Finance Committee, the goods are purchased, and the requisition, attached to the bill, comes back to the Controller for payment.

Upon being shown the power of attorney alleged to have been given by John Steward, he was asked if the body of the authority and the signature were in the same handwriting. He said in his opinion it was not.

S. McNeil, sworn—Said: Up to the 14th ult. he was Assistant Secretary of the Board of Assistant Aldermen and Secretary of the committees. I employed Cunningham as Clerk. In January I of my own pocket. Mr. Cunningham tendered me the position of Secretary to the Committees on the express condition that I would employ him on a salary of $50 a month. I accepted with that understanding. I am satisfied the body of the bill is Mr. Cunningham's (the father) hand writing. The body of the power of attorney is also Mr. Cunningham's. Young Cunningham did nothing in the office except what he was directed to do by me. The Secretary of the Board of Assistant Aldermen had nothing to do with bills and requisition. On Thursday Cunningham came into the Finance Committee room and asked me to enter the bill on the Steward Matter. I remarked, "I will take that bill down myself," and took it to the Controller's office that day. I never noticed on him the bill. Major Carr said nothing about Mr. Bourges's coming after the bill. Mr Brower was the first one who told me anything about it. I have been assisting Major Carr since last Thursday. Mr. Bourges and Major Carr were not on good terms. Mr. Bourges very rarely went to the Finance Committee room.

Frank H. Wilson, sworn—Said: I am a bookkeeper of Hassen & Cooley. On December 17, 1867, I made out a bill against the city of New Orleans for lumber furnished the Workhouse on a requisition by my employés. It was $173 for lumber and $14 cartage. It was for 9685 feet. The requisition shown witness corresponds with the requisition furnished them.

E. McDonald, sworn—Said he is employed in the Controller's office to examine requisitions. The requisition was made out for Hassam & Pooley. The witness corroborated the statements made by Messrs. Noble & Brower. The requisition in question is made out for $173, but the name of Hassam & Pooley has been extracted by acids. Mr. Carr told me young Cunningham and Mr Bourges had sent him (Cunningham) for the bill. I supposed Mr. Carr to say Mr. Bourges came up, but I afterwards discovered I was mistaken.

Major Carr, Secretary of the Finance Committee, sworn—Said: I recognize the papers in question. I had no suspicion of it then, but it was not broken as it is now. I am satisfied young Cunningham brought the bill in the name of Mr. Bourges. I did not notice that the name had been extracted by any acids. I am satisfied that Mr. Bourges never came into the office at all, either about the bill or for any other purpose. Mr. Bourges and I have not been on good terms.

Confession of T. J. Cunningham—Col. Field here made a motion that the accused Cunningham, make his voluntary statement. Having been advised by the Court as to the nature, he said: My name is Thomas J. Cunningham. I am past seventeen years old. It was the first Tuesday in January Mr. Bourges had some bills in a small piece of paper. He wanted me to take a copy of it; before my under his control I did so; I took a copy first in lead pencil, and afterwards in ink. He said I must not attention to it, and could not swear to it.

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