The New Orleans Bee.

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NEW ORLEANS DAILY BEE.

DUFOUR & LIMET, PUBLISHERS, No. 73 Chartres Street.

TERMS OF THE BEE

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TERMS—PER YEAR.....$6

NEW ORLEANS:

FRIDAY MORNING, MARCH 18, 1870.

Announcements This Evening.

ST. CHARLES THEATRE.—Benefit of Mr. Emmett. "Pluto, our Cousin German."

ACADEMY OF MUSIC.—Engagement of Miss Kate Reignolds.—Benefit Night.

VARIETIES THEATRE.—Benefit of Mrs. Richings Bernard. "The Hunchback."

CRESCENT CITY MUSEUM.—Nos. 69 and 69 St. Charles street, opposite St. Charles Hotel.

THE EIGHTH DISTRICT COURT.

Below will be found the text of the law creating another district court, to be designated the Eighth District Court for the Parish of Orleans. This law was passed at the extra session of the Legislature, and has received the Governor's approval. *It object is to curtail the jurisdiction of the Fourth, Fifth, Sixth and Seventh District Courts in this city, so far as contests for office are concerned, and to invest such jurisdiction in the new court, whose judge is to be appointed by the Governor.* Our readers will perceive how determinedly the Radical leaders have marched forward to the consummation of their purpose to control all future elections, and how every law of a political character passed at the late session of the Legislature, has been made to conform to the general scheme the Governor and his associates have had in view The creation of an Eighth District Court is a link in the chain forged to bind the limbs of this now subject State. We analyze the law thus:

Section 1 merely creates the court.

Section 2 authorizes the Governor to appoint the Judge and Clerk by and with the advice and consent of the Senate. This appointment to last until the general election in November, 1872.

Section 3 declares that the Eighth Court shall have the exclusive jurisdiction to issue writs of injunction, mandamus, quo warranto, and to entertain all proceedings in which the right to any office, State, parish or municipal, is in any way involved. By the same section the Eighth Court shall also have the same general jurisdiction as the Fourth, Fifth, Sixth and Seventh District Courts, *provided* that this act shall not be so construed as to prevent any judge or court from issuing an injunction to stay or regulate the execution of any order of seizure granted or judgment rendered by said court.

Section 4 directs that in all cases in which an injunction shall issue from the Eighth Court, in suits pending before the other District Courts of Orleans parish, the judge and clerk of such court in which such suit was pending, shall immediately transfer the record of such suit to the Eighth Court. The Fourth, Fifth, Sixth and Seventh Courts are by this section divested of all jurisdiction over such cases. The Judge of the Eighth Court to have power to issue writs of prohibition or mandamus to clerks of courts or parties to suits or attorneys in cases where it is necessary to enforce his jurisdiction

Section 6 seems to contradict and revoke the provisions of the previous section, for it declares that the Fourth, Fifth, Sixth and Seventh Courts shall have *exclusive civil jurisdiction in all except probate proceedings and shall have such civil jurisdiction as has been conferred upon the Eighth Court* where the sum in contest is above $100; it also declares that the Eighth Court shall have in addition to the powers conferred upon it, the same general jurisdiction as is herein before conferred upon the Fourth, Fifth, Sixth and Seventh District Courts.

We presume that the Legislature intended by section 6 not to repeal the provisions of the previous sections, but only to declare what were the powers which the Constitution gave to those courts. Unless that was the intention of the Legislature, the 6th section contradicts in the most positive manner the 3d and 4th sections. The 5th, 6th and 7th sections seem to have been framed for the purpose of removing any doubt as to what would be the jurisdiction after this bill had become law, of the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth District Courts. The Legislature, however, have, instead of making their intention clear, only opened the door for misconstruction, or rather for such a construction as would defeat the apparent object of the bill. It was not at all necessary to define the jurisdiction of any court but that of the new court because the Constitution of 1868 has already defined the jurisdiction of all the courts hitherto in existence under that instrument. If the Fourth, Fifth, Sixth and Seventh Courts are, according to the 6th section of this law, to have the same "civil" jurisdiction as the Eighth Court, then the Eighth Court certainly cannot have the "exclusive" jurisdiction provided for by section 3.

The whole law, however, seems to us to be unconstitutional so far as it curtails the powers of the Fourth, Fifth, Sixth and Seventh Courts. These courts derive their authority only from the Constitution and the Legislature cannot take any of it away. The Legislature can add to their powers, but cannot restrict them. The constitutional provision on this subject reads thus:

Art. 83. The General Assembly shall divide the State into Judicial Districts, which shall remain unchanged for four years, and for each District Court one Judge, learned in the law, *shall be elected* for each district by a plurality of the qualified electors thereof. For each district there shall be one District Court, except in the parish of Orleans, in which the General Assembly may establish as many District Courts as the public interest may require. Until otherwise provided, there shall be seven District Courts for the parish of Orleans, with the following original jurisdiction: The First, exclusive criminal jurisdiction; the Second, exclusive jurisdiction in probate matters; the Third, exclusive jurisdiction of appeals from the Second; the Fourth, Fifth, Sixth and Seventh District Courts, exclusive jurisdiction in all civil cases, except probate, when the sum in contest is above $100; and such other jurisdiction as may be conferred by law.

From the foregoing article, it must be manifest that the Legislature has power only to create in the parish of Orleans as many courts of concurrent jurisdiction "as the public interest may require," for those are the very words of the law. The Legislature cannot take away in any civil case whatever, (contestations for office are civil cases) any part of the exclusive jurisdiction vested by the Constitution, and article 83, above quoted, distinctly says the fourth, fifth, sixth and seventh courts shall have exclusive jurisdiction in all civil cases, except probate, when the sum in contest is above $100.

But this new law violates article 83 of the Constitution in another respect. It empowers the Governor and Senate to *appoint* the judge, while the Constitution says the judge shall be *elected*.

The law, as we construe it, defeats itself. Some blockhead must have framed it.

AN ACT

To establish an additional District Court for the parish of Orleans, to define the jurisdiction thereof, and to reorganize and determine the jurisdiction of the existing seven District Courts for the parish of Orleans.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened*, That there shall be, and there is hereby established and created, an additional District Court for the parish of Orleans, which shall be known and designated as the Eighth District Court for the parish of Orleans.

Sec. 2. *Be it further enacted, etc.*, That the Governor, by and with the advice and consent of the Senate, shall appoint an eligible person as Judge of the Eighth District Court, who shall hold their offices until the same can be filled by election. At the general election for Judges of District Courts, to be held in November, eighteen hundred and seventy-two, a Judge and Clerk shall be elected for said Court, who shall hold their offices for four years. The Judge of said court shall receive the same salary as now is or may hereafter be allowed to the Judges of the District Courts. The Clerk of said court shall receive the same emoluments and shall possess the same powers and shall receive the same emoluments and shall possess the same powers and shall receive the same emoluments and shall possess the same powers and