The New Orleans Bee.

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TERMS OF THE BEE

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NEW ORLEANS:

THURSDAY MORNING, JUNE 30, 1870.

JUDGE COOLEY ON THE POWERS OF SUPERIORS.

Whatever we may think of the State of the law which leaves the community without any protection from the numerous vagrants and criminals who prowl through the city, the correctness of the late decision of Judge Cooley, of the Sixth District Court, with regard to the powers of the city Recorders, cannot be disputed. They have undertaken to imprison parties accused of no specific offence, and to affix a term to that imprisonment. In the case before Judge Cooley, the prisoner had been ordered by one of our Recorders to be confined for six months in the Workhouse. This process, it is shown very clearly in the opinion upon which Judge [illegible] order of release, has not [illegible] party imprisoned. We presume, was arrested under Act No. 87 relative to vagrants, approved March, 1869, which authorizes the Recorders to commit such persons to the Workhouse for any period not exceeding six months. But article 94 of the Constitution provides that "no judicial powers, except as committing magistrates in criminal cases, shall be conferred on any officer other than those mentioned in this title, except such as may be necessary in towns and cities; and the judicial powers of such officers shall not extend further than the cognizance of cases arising under the police regulations of towns and cities in the State."

Judge Cooley is of opinion that the charge of vagrancy, if an offense at all, is an offence against the State and not an offence under the laws and ordinances of the city. And that if it be a State offense, as it the determination of the guilt or innocence of a party accused of such an offence is a judicial question, it cannot be confided to any other officer except those mentioned in section 4 of the Constitution, as excepting the Judiciary Department of the State.

This is all very plain, and act No. 87, of 1869, providing for the arrest and imprisonment of vagrants is clearly unconstitutional to the extent of investing Recorders with judicial powers. Judge Cooley's decision is a timely check to those unauthorized assumptions of power.

We concur with our cotemporary the Times in its endorsement of this decision which we find in its issue of last evening:

The following remarks of Judge Cooley in his judgment in the Carre habeas corpus case deserve reputation of the thinker endorsement and practice of all good citizens:

We have under a government where a citizen is entitled to a trial according to law. And there cannot be a more heinous offence against liberty than for individuals the usurpation of a power which results in the deprivation of the liberty of a citizen, after he has been tried, and tried according to the laws of the State, and not according to the whims and caprices of any petty local officer or magistrate.

Nothing could tend more to stop by will by calling into anarchy and misrule, and as the results of this into absolute despotism. To-day, the individual who stands before us may be a scoundrel, he may be an inveterate thief for all I know, and to-morrow they may come by like suppression which deprives him of his liberty; but to-morrow that usurpation may deprive a citizen, the best accomplished citizen, and incarcerate him in the parish jail: because usurpation never makes a distinction—because it levels all classes. And in order to protect our citizens, it is necessary the law should be strictly adhered to.

Sanitary, Condition and Vital Statistics of New Orleans.

We are indebted to the author, Dr. Stanford Chaillé, Professor of Pathology and Pathological Anatomy in the Medical Department of the University of Louisiana, for a pamphlet entitled "THE YELLOW FEVER, SANITARY CONDITION, AND VITAL STATISTICS OF NEW ORLEANS DURING ITS MILITARY OCCUPATION FROM 1862 TO 1869, being his second article on these subjects.

Dr. Chaille brings forward facts to prove the existence of yellow fever in New Orleans during its occupation by the United States Army each year, from 1862 to 1868. He says that "the account he has given of the fever in 1862 might be outranged by numerous even newer, but sufficient has been given to prove all which greater research could prove, viz: that in spite of an impregnable quarantine, and an efficient sanitary police, yellow fever existed, but did not become an epidemic, nor extend to any high degree."

Dr. Chaillé's own opinion as to the origin of yellow fever is thus expressed:

"In 1864 the first cases occurred, the disease originating on various vessels, some, at ancre in front of New Orleans, and others several miles distant from the city. The rigid quarantine failed to discover any cases whatever, *coming from New Orleans*. The clearest observation of the medical and other U. S. officers, exercised under the greatest advantage of the strictest military and naval discipline, failed to trace any cases to any foreign or exotic infection. These facts strongly confirm the opinion long and ably upheld in this city, that yellow fever is one of our own domestic products, and that New Orleans is very certainly within the yellow fever zone, whatever the limits of such zone may be. This evidence also indicates for the poison a choice of birthplace in "marshy," said, says Dr. Fagot, "their fields;" as is known, there is much evidence to the same effect."

Those who really know most, feel very sure that as yet there are but very certain means which can be confidently recommended to avoid yellow fever, viz: to get out of the place whilst it prevails, or have it once and thus by done with it forever.

The doctor is an anti-quarantinist. He says:

As to quarantine, and all practical sanitary questions involving professional discussion and doubt, the public is perfectly justifiable, even praiseworthy, which acts upon the side of safety in doubt.

If the New Orleans Quarantine has any one important object, it is to keep out disease, every one knows that the suspension of a power which results in the deprivation of the liberty of a citizen should not have been tried, and tried according to the laws of the State, and not according to the whims and caprices of any petty local officer or magistrate.

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MAGAZINES FOR JULY.—We have received from the publishers "The New Eclectic Magazine" for July, 1870—published by Turnbull & Murdock, Baltimore. It contains the following articles: I. Country Delights; II. The Liberation of American Industry; III. A Singular Narrative; IV. The Burden of Life; V. A Perfect Treasure; VI. Festivities; VII. In the Firelight; VIII. Duke's Borough Tales; IX. Monte Generoso; X. The Dove at Sea XI. Limp People; XII. The Writings of Dr. W. H. Holcombe, by Daniel R. Whitcher; New Orleans; XIII. Allegory, by John Ruskin; Verona and its Rivers; XIV. Erwin Drood, by Charles Dickens; XV. The Antarctic Ice; XVI. Love and Angling; XVII. Music; XIX. Reviews; XX. New Books; XXI. The Green Table.

BALL AT MAGNOLIA, MISS.—We are indebted to Mr. H. Gentig, house of the "Central House," at Magnolia, Miss., for the courtesy of an invitation to attend a grand fancy dress ball, to be given at that popular house on the evening of the fourth of July. Some, of course, would be gratified to be present, if convenient. Excursion trains will leave New Orleans for Magnolia at 7 o'clock Saturday and Monday mornings, July 2d and 4th. The excursion tickets are good for returning on any of the passenger trains Sunday, Monday and Tuesday mornings.

We acknowledge receipt of invitations to attend a Grand Fancy Dress Ball, to be given by H. Gentig, of the Central House, Magnolia, Miss., on Monday evening, July 4th, 1870.

Senators Kellogg and Harris, of Louisiana, and Senator Casserly, of California, have our thanks for valuable and interesting public documents.

THE LADIES ARE OF RIGHTFUL at the invitation of PHALON'S HALLIA, OR SALVATOR FOR THE HAIR. This grand discovery can hardly term to shake their ringlets at the dressing stand of time in endless use. From brow ray sediment it readily carries the gravest heads.

Sold by all druggists and fancy goods

[COMMUNICATED.]

The Rice Crop.

DEPOT OF THE EMPIRE PARISH STEAM RICE MILL, No. 35 Peters street, New Orleans, June 29, 1870.

Editors New Orleans Bee:

This season, though rice inevitably stands very thin on the ground, and in many localities is threatened with ruin for lack of river water, yet some splendid fields are here and there to be seen, especially in the parish of Plaquemines. In that section of the State, on Mrs. Valcy Dobard's farm, which is under the management of Mr. Adolphe Barrois, a crop of 50 acres of Carolina common white seed and 30 acres of Louisiana seed is growing, looking its best, health, vigor and color are the few stalks which disappear; this notwithstanding it will soon commence to head, and with a favorable season henceforth, will be ready for the sickle early in August.

In the parish of Lafourche, the planting in general is represented as small and suffering for want of irrigation, which is also the case with scarcely an exception in St. James, St. Charles and St. John Baptist. In Plaquemines, which is the great cereal parish of Louisiana, the fields are still flooded freely and give hope of a fair harvest, though altogether, the present crop compared to that of last year, the largest ever raised in this State, is a partial failure, as it will barely reach 30,000 barrels of clear rice. The harvest of 1869, 70,000 barrels of rice have already been marketed, and the stock left in the country will probably swell this number to 53,000 by the end of August. The total receipts for 1868, summed up 41,300 barrels clean. It may remark, by the way, that the stock in hand here amounts to-day to about 600 barrels. On the 23d inst. thereof were but 97 barrels offered for sale at Charleston. Yours, truly,

JAMES WOOD.

CITY INTELLIGENCE.

Grand Base Ball Festival.—We are in receipt of polite invitations to a grand base ball festival to be given at the Base Ball Park, Thursday, July 7th, and a grand ball and promenade concert, to be given at the Paris Pavilion, corner of Canal and Villere streets, on Friday evening, July 8th, 1870, by the Lone Star Base Ball Club, for the purpose of raising funds to defray expenses for the first annual tour of the club. The invitations are extended to us through Mr. David Schwartz Secretary of the Tour Committee.

The Slaughter House Controversy.—Judge Dibble has not rendered his decision in the contempt case in this matter against Wm. Fagan and others, which was submitted to the Court Tuesday.

Eighth District Court.—State ex rel. Sargent J. Prentiss, Alfred Shaw, Administrator of Accounts of the city of New Orleans. In this case the relator having obtained a judgment against the city for $100, applied to Alfred Shaw, Administrator of Accounts, for a warrant on the Treasurer for the payment of the amount. Defendant having refused to comply with the demand, relator asks for a mandamus, and respondent files an exception as follows:

That he ought not to be required to make return to the writ of mandamus issued herein, neither this honorable Court nor any other Court has "authority or jurisdiction to allow, order, hear, entertain or make any summary process or proceeding, or writs or orders of the nature of an ordinary writ of mandamus, against" any officer of the State of Louisiana, or of the city of New Orleans, the object of which shall be either directly or indirectly to enforce the payment of any claim or demand against the city of New Orleans to any person or persons, and that the relator's proceeding has such object in view.

That if, after judgment is obtained against the city, any officer shall delay its payment wilfully, the remedy is by direct proceeding against such individual officer in his official capacity; that this officer is an auditing officer of said city. Wherefore he prays that relator be sentenced, and the suit dismissed.

(Signed) MORRIS WAPLES,
Assistant City Attorney.

The case was fixed for trial on Friday next.

Eighth District Court — Louisiana State Lottery Company vs. Alabama Mutual Aid Association.—The following rule has been filed in this case:

On motion of J. P. Horner and W. R. Whitaker, attorneys for plaintiffs, and on suggesting to the court that J. T. D. Lefevre, one of the defendants herein, has been arrested on an affidavit by his father-in-law,