The New Orleans Bee.

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NEW ORLEANS:
SUNDAY MORNING, JUNE 27, 1869

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SHELLING THE LEGISLATURE, AND ITS REMEDIES.

The petition of the Butcher's Benevolent Association against the Crescent City Slaughter-house Company, presented to the Sixth District Court, charges that the act of incorporation of the latter company granted by the Legislature was obtained by the use of improper means—in other words, that the incorporators bribed with money or its equivalent the members of the General Assembly. The petition also alleges that the act contains intricate evidence that it could not have been assented to by the Legislature or approved by the Governor, unless such means had been used.

The Slaughter-house Company, instead of meeting this accusation and demanding the proof of by parties a charge, object to any evidence being heard by the Court leading to establish its truth, on the ground that the turpitude of the Legislature—admitting it to exist—cannot be inquired into by the Judiciary Department of the Government.

They say the only remedy for corruption in the Legislature is in the hands of those who elect the members of that body.

It is quite true the most effectual remedy for improper and corrupt legislation is with the voters, who can signify their dissatisfaction with their representatives by assailing them, and electing others who will make the injury by repealing the obnoxious grant of their predecessors, and more faithfully carrying out the wishes of their constituents.

But this remedy ought not to preclude parties who are injured by corrupt legislation, from resting up in a Court of Justice, in a proper case, the plea of fraud. Fraud vitiates everything. No title can be built upon it. It is a vice which contaminates the very fount for the introduction of every species of evidence tending to establish its truth. It would be monstrous that courts of justice should be called upon to give effect to an act of exceptional legislation—private statute—as not passed for the aggrandizement of individuals which was notoriously concocted by the parties who were to be benefited by it and obtained by them only by the free use of money or stock among the members of the General Assembly. Such a proposition is revolting and no Court of Justice having a proper sense of its dignity would tolerate for a moment any attempt to make it a partner in iniquity by enforcing such a statute. Law is defined in the elementary books to be "a solemn expression of legislative will." A statute drawn up and prepared by the grantees under it and worked through the law-making body by means and appliances without which it would be rejected is not "a solemn expression of legislative will." It may be called a law, but it is merely one in form. Its substance is an expression of the will of those who are its beneficiaries.

Carry out the proposition of those who say you cannot go behind an act of the Legislature and see where it leads to. That body which is the mere creature of the Constitution, if you concede the correctness of this theory, promptly becomes irresponsible, and may, through the use of similar means, perpetuate its own existence, in connivance with a corrupt executive, it may fill the courts of the State with its own creatures, as has already been done in some instances, and then the people are bound hand and foot and he at the mercy of this gigantic conspiracy against their liberties. Is that not very much the condition of Louisiana at the present moment? Has not the Supreme Court so far carried out these obnoxious measures, and has it not indicated its purpose to hold valid all the enactments and schedules of the people who appointed them?

If a statute can be tested in the courts for unconstitutionality, so as to deny every day, why not for fraud? *Fraud is a violation of the Constitution.*

If things are Legislature is the worst species of fraud, because it poisons the sources of legislation and indirectly nullifies the Constitution. The Constitution authorizes the Legislature to do certain things and prohibits it from doing certain other things. But it does not authorize the Legislature to sell or barter away any of the powers or privileges. These are held in trust only for the benefit of the people. It is as improper to sell an act of legislation as it would be if there were an article of the Constitution declaring that an act obtained by undue means should have no effect and should be held void by the courts. Such a provision of the Constitution should be understood to be in the act instrument. The Legislature is but an agent. Why should it not be held accountable on its principal?

The proposition that the judiciary may declare a statute void for unconstitutionality and must not declare it void for fraud, carries absurdity on its face. And if the judiciary must not admit evidence to prove the charge when made, how are they to correct the evil? I do not suppose it has been proved that improper means were used by parties interested in obtaining a privilege from the Legislature and that privilege deprives other parties of their property and rights, a case open them, is it to be said that those parties will vitiate entirely the enactment and strike it with nullity? Is it to be said that the Judiciary must be blind to the illegitimacy, the baseness of the statute they are required to ratify and enforce? Must its specimens, to counterfeit character cannot be proven before them?

The Slaughter-house Company's advocates say, however, that their act is a "police measure," and that the incorporators under it are mere agents of the State, appointed for the protection of the health of the people. How, suppose the Legislature at its next session were to repeal the act, what would the Company say then? They would say "No! You have granted us the privilege for twenty-five years. You cannot control her own police! The Legislature cannot undo what it has done! The true character of the act would then be declared by the Slaughter-house Company. It would no longer be "a measure of police." We should then hear of "vested rights." Perhaps we should hear the word "contract." But the act incorporating the Crescent City Slaughter-house Company has none of the features of a contract. It has all the features of a grant conferred without consideration to the State.

The State received nothing from these grantees in return for the enormous privileges bestowed upon them, and there is nothing in the act to prevent them from selling to others the privileges they themselves have been invested with. Nothing to prevent them from attaching their eyes to violations of the police feature of the act, and from a Spanish rule upon others but no provision for checking and punishing their own misconduct should they be guilty of any.

It has been decided by the United States Circuit Court in California that where a party in order to bring himself within a class of intoxicating grants must exhibit his commission or title. It may be that those were fraudulently obtained. See the case of Sanford versus Field, reported in the 1st volume of McAllis er's Reports page 63. The principle is well settled by previous decisions.

SCHOOL EXAMINATION AND SCHEME.—We are indebted to Miss Clara Lefranc for an invitation to attend the examination of the pupils of the St. Charles Institute, which will take place in the school buildings Nos. 184 and 186 Bourbon street, on Monday and Tuesday, the 28th and 29th inst., from 9 o'clock A. M. to 3 o'clock P. M.; also to attend a musical and literary entertainment which will be given by the pupils of the school in the Opera House, at 7 o'clock the next evening, Wednesday 30th.

Mrs. Lefranc, formerly Mrs. Moe, has achieved a high reputation for the school, the exhibition of which, consequently attract great attention.

ARMATOR ROOFING.—Messrs. Noble & Dalton, 315 Poydras street, invite the attention of property-owners, builders and others to the asbestos roofing of H. W. Johns, for which they are the agents in Louisiana. This is an elastic, water proof composition, laid on a strong canvas prepared for the purpose. It is proof against burning cinders, and does not yield to the heat of this climate.

They are also agents for John s Lake Superior iron ore paint, and they have for sale the celebrated "Texas" roofing stove.

See advertisement in another column.

Our friend an daughter, Mr. Charles Dimitry is about to leave the city for New York, where he intends to resume his residence. Mr. Dimitry's accomplishments as a writer and paragraphist will command him wherever he goes, and we hope his success in life will be commensurate with his merits.

CITY INTELLIGENCE.

Reportorial Repertory—There will be another church service in Spanish in Christ Church, Canal street, at 6 o'clock this evening, Rev. Dr. D. Vicente Ex y Rabio, officiating. He said to be a gentleman of culture as an orator.

There will be a grand firemen's festival at the Fair Grounds to-day, under the auspices of Mechanics' Fire Company No. 6, and Hope Hook and Ladder Company No. 3, for the benefit of the relief funds of the two companies.

The Slaughter-house Company—According to the following, which appears in the *Republican* yesterday, this company appears to be in a bad way:

The Slaughter house Company is using every endeavor to induce the butchers to remove to Algiers and patronize the monopoly, but with out success. The butchers know their rights, and knowing, dare maintain them. They are confident in the belief that their right to follow their occupation peacefully will be sustained by the judiciary of the State, as it already is favored by the public opinion of all honest citizens. The monopolists are evidently in trouble, they have dismissed their superintendents, Mr. Grilla, and elected Jonas Pickles—(O, how sear!) in his stead. They have called for another assessment on the subscription stock of ten per cent., payable to-day, and they have called a meeting of their stockholders, to be held at 12 o'clock M., to act on important business (vide the special notices in their organ, the *Times*). There is evidently trouble somewhere. Officers are changed, writs are being issued against them, further assessments to pay lawyers and costs of court are levied, meetings to change by laws and meet new emergencies are called, stock is depreciating, and, in the meantime, the hard working and honest Germans and Germans are keeping our market supplied with the best of meats.

The Confederacy a De Facto Government—Judge Touard, of the Fourth District Court, has rendered the following decision, by which it will be seen that he still adheres to the opinion announced by him in 1865, that the Confederacy was a *de facto* Government:

Indiana A. Sloan vs Stevenson & May and the Louisiana State Bank—In January, 1863, in the parish of De Soto, in this State, the administrators of the succession of Hamilton Sloan sold to J. S. Stevenson a tract of land at private sale. This cotton was subsequently purchased by John A. Stevenson, for account of the Louisiana State Bank, and in the bill of sale was approved by Major Gen. Herron, who ordered the delivery of the cotton to Stevenson.

The administrators in this suit allege that Stevenson has no legal right to said cotton, because the sale to Green was without any judicial authority, and because the price was much under-valued, and because the vendee was also vendor, and they pray that the cotton, or value thereof, be returned to them.

This suit is untenable for the following reasons:

1. Administrators cannot take advantage of their own wrongs. That cannot allege their own turpitude. A subsequent administrator might complain of the wrongful acts of his predecessor, but not the guilty party himself.

2. The sale is other wise valid, because it was made under a de facto government.

3. The Confederate States given in payment were the only currency at the time, recognized by the de facto government and by the people. The plaintiffs, besides, in failing to return the identical notes, or what they have been bound to, have not done that.

4. The delivery of the cotton took place by virtue of an order from Maj. Gen. Herron, the military commander acting in the name of the Government. That order is a full and complete ratification of the sale.

For three reasons, plaintiff's claim is rejected with costs.

Decision Touching the Discharge of a Dry Goods Clerk—Judge Durell, of the Fourth District Court, has rendered the following decision touching the salaries of dry goods clerks:

T. B. Kelker vs Reiman & Friedlander—The plaintiff entered the house of defendants as a clerk in October, 1868. The period for which she was employed is not clearly established by the evidence; but the verdict seems to be that her goods business is to engage clerks for the business season or by the year, so that the presumption of law is in favor of plaintiff's claim that he was engaged for the whole season. He is, however, contradicted by the defendants, who offered in evidence the rules of their store, by which they have the right to discharge a clerk at pleasure and without cause. But, then, it must be shown that the rules were communicated to him, which was not done in this case, as confessed by Friedlander himself. So they have nothing complain of.

Judgment for plaintiff as prayed for.

A Pleasant Gathering—Yesterday, about noon, there was a most delightful gathering of the young folks at the Bellevue Corps in honor of the courtesy and kindness received from him while on board. Their thanks are also due Lieut Fuller, of the Engineer Corps in command of the dredging operations of the United States steamer "Resayona," at Pass-a-l'Outre, for valuable information imparted.

Chamber of Commerce,	H. BOSHAMEL, G. L. LAUGHLAND.
Academy of Sciences,	JOHN ROY, C. BOOMER, G. B. KNIGHT.
	GEO. W. AVERY.

The Cuban Republic Recognized by Peru.

RECOGNITION BY PERU.

OFFICE OF THE MINISTER OF FOREIGN AFFAIRS,
REPUBLIC OF PERU, LIMA, January 15, 1869.

SIR—His Excellency, the President of Peru, has received with particular satisfaction the letter which your Excellency has addressed to the senate in the 19th December last, in which your Excellency after having explained the policy, the object and the progress of the Cuban revolution, requests the government of Spain to solicit that the Peruvian government will recognize as belligerents the Cuban patriots who are fighting for their liberty and independence, and lend them the support which our identity of origin demands, and, that we should interpose our influence with other nations in order that the Spanish government should regulate the operations of war.

His Excellency the President of Peru, faithful interpreter of the sentiments of his country, sympathizes deeply with the noble cause of which your Excellency constitutes himself the worthy representative, and I will do his utmost to mark the interest which that island, so worthy of taking its place with the civilized nations of the world, inspires. The Peruvian Government recognizes them as belligerents the party which is fighting for the independence of Cuba, and will strive its utmost to secure their recognition as such by other nations, and like that the war, which unfortunately continues, should be properly regulated in conformity with the principles of civilization. To such ends I write by order of his Excellency to your Excellency at Washington.

Please accept for your Excellency the consideration of his Excellency the President of Peru and the very respectful and distinguished consideration with which I have the honor to subscribe myself. Your Excellency's very humble and very devoted servant,

J. A. BARRENECHEA.

To His Excellency the Captain General of the Liberating Army of Cuba, CARLOS MANUEL CESPEDES.

The Cuban Revolution.

The New York *Herald*, of the 20th, contains several communications from points in Cuba, giving details of the battle of Puerto Padre, and Spanish accounts of the military situation; also General Quesada's official report of Cuban triumphs. A letter from Manzinas, dated June 11, their conclusion, and we suppose it is not far from the truth:

On the 19th ult. a day after the engagement, said the Rev. Father Mips, a German, given to name as John Jager, presented himself here, was taken by the Spanish gunboat Africa. He stated that the steamer Virginius, from New York, Captain Fletcher; that he sailed from New York on the 7th ult. with thirty-one Americans, twenty-six aided Germans and 140 Cubans. Her cargo consisted of 1,800 rifles, 18 cannon and other articles of war, with provisions. The steamer arrived at Nipe on the 14th, and after landing her passengers and cargo, left again in charge of the same, in the act of jumping overboard to make his escape, as any on Spaniards. He was a native of Germany, twenty-six years of age, a citizen of the United States, and served in the Federal army during the late war.

In having said in substance here, it is evident that the struggle will continue a long time. I do not see any any advantages on either side which promise an early restoration of peace to this unity, entered a drug store on Manzinas street, and said they would like to exchange some coin for currency if they could find some one who would not take the advantage of them. They found a gentleman who was willing to exchange