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NEW ORLEANS:
THURSDAY MORNING, FEB. 11, 1869.

The New Orleans Bee.

OFFICE 73 CHARTRES STREET. NEW ORLEANS, THURSDAY MORNING, FEBRUARY 11, 1869. Vol. XLI.—Whole—14,672.

WHAT A LICENSE IMPORTS.

We discussed briefly yesterday, upon the ground of reason, the question: "Is a Hotel or Tavern Keeper a contractor?" and came to the conclusion that it was not — that it was only a receipt for the payment of a tax assessed against the holder of it—that no conditions or stipulations were attached to the document and that a citizen had a Constitutional right to pursue his avocation independent of the license, if he paid or offered to pay the lawful tax imposed upon him by the public authorities. We were not ignorant of the city ordinance requiring certain classes of business men to take out a license before commencing to do business, but we contend that the requirement to take a license is merely a means adopted by the authorities for the enforcement of the collection of the tax and fee for the purpose of substituting a contract between them and the holder of the license. Art. 1634, Lowry's Digest of the city ordinances which requires a license to be taken out by parties before commencing business, requires the word "license" to be synonymous with "receipt." It says "receipt or license." We are now able to produce authority in support of the argument advanced yesterday on this subject.

The question "what is a license?" was considered and answered by the Supreme Court of the United States in its decision on the "License Tax Cases" reported in the 5th volume of Wallace's Reports, page 462. Mr. Chief Justice Chase delivered the opinion of the Court. It was alleged in those cases that a license to carry on a particular business, is an *authority* to carry it on. What does the Court say upon that point? They say:

"The granting of a license must be regarded as nothing more than a mere form of imposing a tax." (page 471.)

"They are mere receipts for taxes," (page 472.) "The requirement of payment for licenses is only a mode of taxation on the licensed business, and the prohibition under penalties against carrying on the business without license is only a mode of enforcing the payment of such taxes," (page 474.)

We suppose this authority will settle the question, and commend it to Senator Campbell who asserted in his speech on the Social Equality Bill last Thursday that a license was a contract between the government and the citizen.

We now go further and say that writs of prohibition and mandamus would lie against an officer of the State or city who should revoke or refuse to issue a license upon the payment of the lawful tax whether the applicant obeyed or not the "Social Equality Bill." The Constitution of the United States guarantees to all citizens the right to pursue a lawful calling and annexes no precedent conditions, or stipulations, and we hope, should this bill become a law, that the question will be tested if need be before the Supreme Court of the United States. We hope the community will not yield to this infamous attempt to coerce them into negro equality, but that they will refuse obedience to so preposterous a law as that proposed in furtherance of Art. 13 of the Louisiana State Constitution so-called. We may then have an opportunity to test the question whether that Constitution was imposed upon this people by military force, or whether it is the organic law of the State adopted in pursuance of the principles of the Constitution of the United States, and embodies the will of the people of Louisiana expressed according to the theory of republican government. Forfeiture of license will amount to nothing if this argument be correct. To say a man shall not carry on business shall not support his family because he refuses negro patronage is perfectly inadmissible. It is supremely ridiculous, and it would clearly violate that provision of the Constitution of the United States which says "nor shall any person be deprived of life, liberty or property without due process of law." If you prevent a man from pursuing the calling by which he makes his living, you certainly deprive him of his property without due process of law.

We tender our thanks to Mr. D. B. Fogg, the gentlemanly and popular agent of the Memphis and Charleston Railroad, for appreciated favors.

COAL.—Messrs. Boyd, Wilmot & Co., 106 Poydras street, announce, through our advertising columns, that they have on hand two hundred thousand barrels of the best Pittsburg coal for sale at wholesale or retail, and they offer to deliver it on the levee, above or below the city, by the barge or boat-load at the lowest market price. They have just received four hundred tons, egg size, Anthracite. Special attention given to city orders.

NEW ORLEANS GAS LIGHT COMPANY.—Mr. M. O. J. Fadale, General Superintendent of the New Orleans Gas Light Company, gives notice, through our advertising columns, to the customers of the company that the directors have resolved to assume and pay the Internal Revenue tax on gas, without reimbursement from the consumer, on all gas consumed by meter from and after February 1, 1869.

CRESCENT CITY BANK.—Mr Charles Fauria, Jr., Cashier of the Crescent City Bank, gives notice through our advertising columns that books of subscription for three hundred thousand dollars additional capital to the Bank will be opened at the Banking House, corner Carondelet and Union streets, on the first Monday of March next, as authorized by the stockholders at their last general meeting.

PINCKBACK A STATESMAN!—Senator Robert N. Ogden is reported by the official journal to have made one of those words in his speech on the Social Equality bill on Tuesday last

"I say that a statesman—and there is no doubt that Senator Pinchback is one—ought to legislate before, throughout his life to come for a measure like this, which may be prejudicial to the interests of a whole community. A truth statesman will avoid an experiment of this kind, etc."

We respectfully submit to Senator Ogden and his Democratic colleagues that this is a misuse of language. We have no objection to our Representatives while they sit in that body, treating the negro members with politeness and with kindness, but that, not being intended as ironical language, is going a little too far. If Pinchback be "a statesman," as Senator Ogden says he is, then most assuredly philologists will have to invent a word to express the qualifications and states of such men as Chatham, Pitt, Hamilton, Webster and Clay.

THE ONE PER CENT. TAX CASE.—The State has appealed from Judge Collens' decision in the one per cent. tax case, and we are informed the appeal will be tried by preference and that it has been set down for argument next Tuesday. Mr. William H. Hunt has been employed to aid the counsel who have hitherto conducted the case for the State. Judge Spofford will argue for the tax payers.

DISCOVERY OF A SULPHUR BED IN LOUISIANA.—The Louisiana Petroleum Company in the course of their oil boring operations in the parish of Calcasieu have there discovered a bed of sulphur, one hundred feet thick. Samples of the article have been received in this city and tested. It proves to be pure. Previous to this discovery, we believe, Calfornia was the only State in the Union where sulphur had been found. Sulphur is worth $67 per ton in this market.

A busy man is a locomotive, and life a track. Every night he delves into "the future," and sleeps. Every morning he is fired up anew, and away he goes tunnelling off in one direction and then in another. In this restless business he forgets that the physical organization is the most delicate bind. If a hard time locomotive needs constant care, and to be well oiled up and rubbed off every day, how much more necessary is it that all arts and occupies should use PLANTATION BITTERS, which are the oil for the valves of every thing which is necessary to keep the system in a perfect state of health.

MAGNOLIA WATER.—Superior to the best imported Germain Cologne, and sold at half the price.

DON PIATT SAYS: "Boutwell's bald head forms not a prehistoric mould on the shores of the Mediterranean nations. His brow is well enough, even in its ugliness, but the bulky cranium set too much over the slender legs to impress one with a lively sense of intellectual power. Abraham —a French gentleman, now deceased—to whom I sometimes feel inclined to compare Boutwell, was also large in his girth, but he had order, heavy shoulders and good legs to match, and while his head was thoroughly by no means handsome, was splendidly powerful, his vision was one of great wisdom, and capable of varied expression."

Congdon, the Secretary of the Augusta & Ouachita Railroad, is one of the richest men in the world. In his pockets are scarcely lifted papers, certificates of deposit and bonds. And upon his person there is in progress an artificial lake which has already cost upwards of five millions.

LOUISIANA LEGISLATURE.

TWENTY-FIRST DAY—WEDNESDAY, FEB. 10.

SENATE.—Senate met at 12 o'clock m. pursuant to adjournment. Lieut. Gov. Dunn in the chair—19 members present.

The President announced that he had received a communication from Senator Boese, which the Secretary was directed to read. Mr. Boese wished his vote recorded against the passage of the bill to enforce the 13th article of the Constitution of the State, (the Civil Rights bill) giving his reasons therefor, and why the bill should not pass. The communication is of considerable length.

Mr. Day, (Dem.) moved that Mr. Boese be permitted to have his vote recorded, and asked the same privilege for himself.

The chair announced that such a motion required the unanimous consent of the House.

Mr. Blackman, (Dem.) moved that the communication be spread upon the minutes as requested by Mr. Boese.

A call being made for a second reading of the communication, by Republican Senators, who entered the Senate Chamber after its reading, and the vote being about to be taken on the question, the majority of the communication upon the journal, Mr. Blackman withdrew his motion.

Mr. Jenks, (Rep.) moved that Mr. Day be permitted to record his vote. Objected to.

A message from the Governor was received containing the annual report of the State Treasurer.

REPORT OF STANDING COMMITTEES.

Finance—Favorably by substitute on the bill to sell the wharf appropriated and pay the Senators their per diem and mileage in greenbacks. Laid over.

Corporations—Favorably on the bill to create the parish of Tangipahoa.

NOTICES OF BILLS.

By Mr. Day—To appropriate monies for the preservation of the State House and grounds at Baton Rouge.

By Mr. O'Hara—To provide for the relief of the drainage system of the parish of Terrebonne. Also for the relief of Messrs. Edmonson and Allen.

By Mr. Braughn—Relative to witnesses in criminal cases, and to exempt from taxation the New Orleans Methodist Depository.

Under a suspension of the rules Mr. Wittgenstein (Rep.) introduced a bill providing for the issuing of a license to a butcher of a warehouse and lot in the parish of St. James. (Amount $10,000.) Passed.

By Mr. Jenks—For the relief of the Sheriff of Bobbins parish.

Under a suspension of the rules Mr. Lynch (Rep.) introduced a bill authorizing the Auditor to cancel warrants and coupons issued by him. Passed.

Also, a bill to amend an act for the organization of works of public improvements and utility. Referred to the Committee on Corporations.

Also, a bill fixing the terms of the district courts in the Thirteenth Judicial District. Referred to the Committee on Judiciary.

Also a bill relative to the terms in the parish courts for the settlement of probate business. Referred to the Committee on Judiciary.

Under a suspension of the rules Mr. Todd (Rep.) presented a report against the claim of certain persons for building levees. Report received, and the bill was made the special order of the day for Saturday.

Mr. Ray (Rep.) introduced a bill relative to the duties of certain officers.

Also a bill extending the charter of the New Orleans Canal and Banking Company for twenty five years, and authorizing the reduction of its capital stock to one million dollars. Referred to the Committee on Banks.

Mr. O'Hara called up his bill relative to the draining of the parish of Terrebonne. Referred to the Committee on Internal Improvements.

Mr. Anderson, (Dem.) introduced a bill for the removal of the pilloring of Gen Pillsomee Thomas. Passed.

JOINT RESOLUTIONS.

Mr. Ray called up the substitute for the resolution reported by him this morning relative to the sale of the appropriation for the purpose of paying the *per diem* and mileage of the members in greenbacks.

The substitute authorizes the Warrant Clerk to draw certain amounts from the State Treasurer and cancel the same upon the papers stated above, and that an additional fifteen per cent be allowed on all such warrants already drawn.—Adopted.

Mr. Jenks, Rep. offered a resolution that C. H. Merrit be allowed the usual allowance of two dollars per day for twenty days, for appearing as a witness during the time he was before the Committee on Elections in the case of Sambola versus Campbell. Adopted.

REPORTS LYING OVER.

The report of the Special Joint Committee on city Charter, came up.

SPECIAL ORDER OF THE DAY.

The bill offered by the Committee on City Charter and subsequently altered by Mr. Ray, to amend the charter of the city of New Orleans and provide for the administration of the affairs thereof were taken up as the special order of the day, and on motion of Mr. Ray made the special order of the day for Friday.

The Ship Island Canal bill, as returned from the House with amendments, came up.

After speaking against the passage of the bill, Mr. Blackman moved its indefinite postponement.

The ayes and nays were demanded.

When Mr. Braughn's name was called, that gentleman asked permission to explain his vote. He stated that an opposition had been raised against the passage of this bill without any apparent cause and by parties interested in its defeat, that he saw no reason why the bill should not pass, that if his own personal convictions were alone interested, he should vote so, but as the majority of his constituents were opposed to its passage, (and through he was the introducer of a supplementary bill), he would set aside his own feelings in the matter, and vote yea.

The motion to indefinitely postpone the bill was lost by a vote of 21 ayes to 9 nays.

Mr. Wittgenstein (Rep) moved that the Senate concur in the House amendments.

Six of the amendments were adopted without discussion.

On the motion to adopt the seventh amendment, Mr. Lynch objected to the interpreters choosing the lands appropriated to them, from any portion of the State, but moved as an amendment that the selection of lands should be only in the Southwestern District of the State.

Mr. Pinchback seconded the motion. He was opposed to any party legislation on this or any other bill, and if the motion of Mr. Whitney prevailed, (to lay the amendment on the table) he (Mr. Pinchback) would oppose the whole bill.

The vote being taken on the motion to lay the amendment on the table, it was lost by a vote of 14 yeas to 14 nays, the Chair decided the question by voting no.

On motion of Mr. Wilcox the Senate adjourned until noon to-morrow.

HOUSE.—The House was called to order at 12 o'clock, M.—Speaker Lowell in the chair and 64 members present.

A communication was received from the Governor, transmitting the report of the State Treasurer for the years 1867-'68, which was ordered to be printed.

Mr. Whitney introduced a resolution directing the Governor to issue a proclamation ordering an election for a Representative in the Right Representative District, for the parish of Orleans, which was passed.

The Committee on Parochial Affairs reported favorably on the bill granting ferry privileges to A. Hemsberger, of the parish of DeSoto.

Mr. Wren introduced a bill to provide for the collection of judgments against the parishes of this State.

Mr. Gray introduced a bill locating the Metropolitan Police District within the limits of the territory of the State of [Louisiana] embraced in the parishes of Orleans, Jefferson, St. Bernard and Plaquemines. They are the St. Mary, Terrebonne and Plaquemines, which was ordered to be printed and referred to the Committee on Public Health.

Lost (on) introduced a bill to punish street car drivers for negligent or unskillful driving.

Imbobby (col.) introduced a bill fixing the compensation of the messengers and employés of the General Assembly, which was referred to the Committee on Ways and Means.

Barrett introduced a bill granting further powers to the Mayor and Trustees of the town of Shreveport, which was referred to the Committee on Corporations.

The majority of the Judiciary Committee reported on the bill to enforce article 13 of the State Constitution, recommending that no action be taken on the bill at present. The report was received.

Senate bill No. 16, to enforce article 13th of the State Constitution, the Civil Rights and Social Equality bill was taken up, read the second time by title, ordered to be printed, and referred to the Judiciary Committee, with instructions to report on Friday.

A joint resolution appropriating the sum of $10,000 in aid of the consecration of a national Lincoln monument, was read once and placed on the calendar.

The House Civil rights bill was made the special order for Friday at 12 o'clock M.

The Committee on Education returned the bill, under instructions of the House, to provide for the better organization of the public schools of the city of New Orleans. This bill provides that the public schools of New Orleans shall be under the control of a board of directors, composed of eighteen members, to be appointed by the Governor, with the approval of the Senate.

Mr. Carroll moved to postpone the bill until Saturday.

On motion of Mr. Darr this motion was laid on the table by a vote of 46 yeas to 34 nays.

Peter Hooper, of St. Charles, moved an indefinite postponement of the bill, because it provided for the education only of children in the city of New Orleans. He favored a bill more general in its character.

Mr. Carroll moved the bill be postponed until Monday, which bald preference over that to indefinitely postpone.

The motion to postpone until Monday was laid on the table by a vote of 39 yeas to 36 nays.

Darr, of Orleans, moved to lay the motion to indefinitely postpone on the table. He opposed any postponement of the subject.

A motion to close the doors to prevent members from leaving the hall, was lost by a vote of 22 yeas to 38 nays.

The Speaker then ruled that the doors were ordered to be closed under the rule of the House, that only members should occupy the premises of absent members.

Mr. Carroll appealed from this decision of the chair.

The Speaker held that fifteen members could close the doors with the view of obtaining a quorum.

The vote was then taken on the motion of Mr. Carroll to appeal from the ruling of the chair. The ruling of the Speaker was sustained by a vote of 54 yeas to 3 nays.

The vote was then recurred to the motion to lay the motion to indefinitely postpone the bill, of which motion provailed by a vote of 47 yeas to 37 nays.

Mr. Darr, of Orleans, moved to amend the bill, so that the discretion, under the bill, should be entrusted to the Governor of this State in connection with the Governor of the United States, in accordance to article 135 of the Constitution.

Pending consideration of this amendment, the House adjourned until to-day, (Thursday) at 12 o'clock.

CITY INTELLIGENCE.

Death of Major George McKnight.—We are pained to record the death of Major George McKnight, well known as a writer under the *nom de plume* of "Am Harris" during and subsequent to the war, and more recently as a writer for the press of this city. His style was witty and graceful, but either on account of protracted bad health or want of energetic application to his profession, his productions could be desired, and was, consequently, unfortunate in his circumstances. He leaves a wife and several children. His funeral will take place at 11 o'clock this forenoon from Christ Church.

Clever.—In connection with our fellow-reporters we are certainly under great obligations to our clever friend Mingle, Secretary of the Fire Alarm Telegraph, for very material convenience which he has taken pains to establish in the telegraph office for our accommodation. There is no pleasanter gentleman than John K. Mingle.

How a Doctor Don't Get His Fee.—In the Fifth District Court recently, there was tried quite an amusing case. It was the case of Walker vs. Lesek. Judge Randolfe and J. E. Wallace for plaintiff, and Judge Robertson for defendant. Dr. Wildner sued Lesek for attention to his child during a case of measles, claiming $205. During the treatment the child lost several positions of bones from its arms and was left badly crippled and deformed. Lesek, the defendant, claimed $2500 for malpractice and damage, and the jury to which the case was submitted gave a full verdict for Lesek, not only dismissing the Doctor's claim, but awarding judgment against him for the latter and costs.

Accidents.—A little boy, named Benjamin Miller, four years old, and whose parents reside in Annunciation street, was run over by a cart on the corner of Rose and Annunciation streets, about 9 o'clock yesterday morning, and severely injured. He was taken to his residence and a physician called in.

About 5 o'clock yesterday night a Mrs. Spencer, while attempting to descend a flight of stairs, at her residence on Carondelet street, near Josephine, fell to the bottom, injuring her arms and back so severely that it is not believed she will recover. A physician was called in, who rendered her every possible relief, but her case is considered dangerous.

A Question of Commerce.—In the Third Justice's Court a decision has just been rendered in a suit brought by the State against George A. Fosdick, of which the following are the statement of facts and the decision rendered: 1866 claimed against defendant for having violated section 3 of an act of the General Assembly of the State of Louisiana, approved February 18, 1868, entitled an act to amend the third section of an act entitled an act to establish the office and bureau of fees of the Civil Courts of New Orleans, and to regulate the duties pertaining to same, approved March 28, 1867.

Section 3 declares that it shall be a violation of the Constitution of the United States in this, that it attempts to regulate commerce among the several States, and that it violates that article of the Constitution which says no State shall lay any impost or duties on imports or exports.

The authorities referred to by the defense have no bearing in this case, for by an examination of these articles of the Constitution, which reads as follows: "No State shall, without the consent of Congress, lay any imports or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws," confers expressly upon the State the right to levy imposts or duties for the execution of its inspection laws.

The act being as not relative to inspection, it follows that the act far from being unconstitutional, as in violation of that article, is, on the contrary, strictly in accordance therewith.

It is therefore ordered, adjudged and decreed, that there be judgment in favor of plaintiff, the State of Louisiana, for the sum of $1866, as by Fosdick, in the sum of one hundred dollars, with legal interest from judicial demand, and cost of this suit.

New Orleans, this 10th day of February, 1869.

JOHN C. MONTAMAT,
Third Justice of the Peace.

Horner & Benedict for plaintiffs, and G. Campbell for defendant.

Thieves.—There were fourteen arrests made on the charge of picking pockets on Tuesday night.

Thomas Byrnes and Hugh Kennedy were re-arrested by Sergeant Malone on Tuesday night, together with James Joyce, E. Tyler, Miguel Cruz, Wm. Thomas, T. F. Bennett, Peter and N. Dawson, on a charge of being professional thieves and dangerous to the community. Byrnes had in his possession, it is said, the pocket-book of A. Verret at the time of his arrest, and there had in his pocket a silver snuff box, which he had apparently just taken from some one's pocket.

Wm. Hogan was arrested on the charge of being an accessory to the robbery of Robert Dunn on Tuesday night, at about 12 o'clock.

The latter was arrested by Lieut. Healy made the case was heard before Justice Wm. Fewers from T. Debat, on the steamer Dan Able.

Mr. E. Magner, during the crowd Tuesday on Canal street, was robbed of a gold watch and chain by one of the many light fingered gentry who congregate there and smartly. We saw several professional thieves narrowly escape among the multitude. The whole of them were driven away from the corner of Royal and Canal by our force on duty there.

Burglary.—The residence of Mr. H. D. Hamil, No. 128 Dorgenois street, was entered by unknown persons Tuesday night, and robbed of wearing apparel and other valuables. It appears that an entrance was effected by climbing a gallery window, and getting access to the house through a second-story window. No clue was left to the perpetrators.

Robbery.—A youth named William Maloney was been arrested by Officer Jackson, charged with robbing a gentleman in the Bonsport Market. He is a mere youngster, and has not a professional thief. His want of skill in the delicate art of manipulation led to his detection. He was locked up in the Recorder's street station.

Attempted Suicide.—A young girl named Maria Warren, recently from St. Louis, Tuesday evening, attempted to commit suicide at a house on the Gaz street, by using laudanum. She accompanied her lover here to enjoy his society and a winter in the South. With a lover's usual fidelity he left her to her fate, and she is very much injured, and then, finding some more attractive beauty, deserted. A physician fortunately happened in the house and her life was saved.

What a Public Debt Means.

The following extract from a recent speech of the Honorable George H. Pendleton, put forways in living colors what a great public debt means:

You know, gentlemen, that if the debt is not paid in specie, it will be a permanent debt, like the national debt of France, the debt of Germany. As what does a perpetual debt mean? Go to those men who come from Ireland, year by year, to our shores, because they cannot earn a living after they have paid the taxes necessitated by the public debt of Great Britain. [A voice—I am one of them. Cheers.] Go to the Germans, who come year by year from Germany to all our peaceful and build up new homes, because they cannot support their families after they have paid their taxes there. Go to the Castle Garden in New York. See the 250,000 men who have there. Look into their countenances and hear, one night during that season, the tales of misery they bring with them. Ask them what public debt means, and they will tell you, without a single exception, that a public debt means that the rich shall become richer and the poor shall become poorer. Applause.] They will tell you that a public debt is a public blessing for those who own it, and a public curse for those who pay it. They will tell you that a public debt means that the few shall be made princes and aristocrats, and the many shall be made poor and miserable. Applause.] And they