NEW ORLEANS DAILY BEE,

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TERMS OF THIS BEE.

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Weekly Bee Edition.

TERMS—PER YEAR:.....$5.

NEW ORLEANS:

TUESDAY MORNING, DEC. 19, 1871.

Amusements This Evening.

OPERA HOUSE—"La Fille du Regiment" and "Les Enfants de Tiperrasse."

VARIETIES—"London Assurance"—John E. Owens.

ACADEMY OF MUSIC—Abbott Pantomime Troupe—"Three Hunchbacks."

ST. CHARLES THEATRE—"Paul Clifford."

Mr. Collins.

TIVOLI CIRCLE LOT—John Robinson's Circus and Menagerie.

DECISION IN THE BENJAMIN-MICOU CONFISCATION CASE.

The Supreme Court of Louisiana decided on yesterday a case of great importance—that of the Heirs of Mrs. William C. Micou against Judah P. and Joseph Benjamin and L. Madison Day. It was a case of confiscated property under the act of Congress of July 17, 1862.

The facts are these: A proceeding in confiscation was taken by the District Attorney of the United States against certain property situated on the Carrollton Railroad, in the parish of Jefferson, alleging the same to be the property of Judah P. Benjamin, one of the class of persons against whom the act of Congress was intended to operate. No appearance or defense having been made, the property was sold at Marshal's sale to L. Madison Day.

At the time of sale, and long before the war, Mrs. William C. Micou held a mortgage on the property, granted by the brothers Benjamin to secure the sum of $10,000, but having died prior to the institution of the proceeding against the property, and her succession not having been opened in consequence of the war and the absence of her heirs from New Orleans, her mortgage was not presented to the United States District Court as a bar to the decree sought for by the United States, and judgment was pronounced in favor of the latter.

After the war the heirs of Mrs. Micou returned to New Orleans and instituted a suit in the District Court for the parish of Jefferson, Judge Pardee, presiding, against the Messrs. Benjamin and L. Madison Day, the purchaser of the property at Marshal's sale and then in possession of it. In this proceeding the heirs set forth the debt of the Messrs. Benjamin and the mortgage, and prayed that the property might be sold to pay the same; for Pardee rendered judgment in favor of the heirs and against Day the purchaser, on the ground that Congress did not intend to punish Mrs. Micou and her heirs for the act of J. P. Benjamin, and that her mortgage had not been extinguished by the decree and sale under the confiscation proceeding against the latter. It was therefore ordered that the Sheriff of Jefferson parish should seize and sell the property in question to pay the sum of money for which it had been made liable by its owners, Messrs. J. P. and Joseph Benjamin. The purchaser, Mr. L. Madison Day, appealed to the Supreme Court of the State and asked for a reversal of the judgment, which reversal has been refused. We append the points of the very long opinion rendered by Mr. Justice Howell, in which Ludeling, Chief Justice, and Howe and Wyly, Associate Justices, concurred. Taliaferro, Associate Justice, rendered a dissenting opinion.

Per Howell, Associate Justice—Points: 1st. That under the cases of McVeigh versus the United States (11 Wallace, 259) and Bigelow vs. Forrest (9 Wallace, 339) the interpretation given by the Supreme Court of the United States to the act of Congress of July 17, 1862, and the joint resolution passed in connection therewith, the force of proceedings in rem is modified to a material extent. In a former case, similar to the one at bar, the court held that it was so unlike a proceeding purely in rem where no citation and monished and none appears until the final decree that the party who is proceeded against is entitled to appear and contest the charge on which the forfeiture is claimed, and that his guilt and ownership are fundamental in the case. That the acts and resolution are to be construed together and admit of no doubt that all other than those which could become property of the United States, or could be sold by virtue of a decree of confiscation, was simply property seized, terminating with life of offenders, and that the estate acquired by the purchaser at Marshal's sale expired at the death of said persons (see Bigelow vs. Forrest 9, Wallace 339).

Taking these decisions as founding on the indisputable and sound construction of the legislation of Congress on this particular subject, we must conclude that the purchaser in these cases acquired only the right to the property sold, which is to terminate with the life of Benjamin; and we think it follows as a necessary result of these decisions that the mortgage granted by him prior to the passage of the confiscation act was in no manner affected or impaired by the sale. The law makes no provision for the extinguishment of mortgages on real estate. It makes no reference whatever to the subject of mortgages, and as it authorizes the sale of only a life interest in the real estate and not the property in fee simple, the title to the subject of the mortgage. It seems clear that the mortgage still exists on the property unimpaired.

The property in full ownership was not sold under the provisions of the statute but an imperfect ownership, the life interest of the usufructuary—in other words, the right of enjoyment and dominion thereof for life, without injury to the rights of those who had real rights in reversion thereon.

No can it be asserted that the mortgage was extinguished by reason of the proceedings had in the case, and the title conveying a title good against all the world because, according to the doctrine of Bouvier vs. Forrest, no such title was conferred. The title acquired by the purchaser is not good against the heirs of Benjamin and Benjamin, be pretended that he could be died soon after the sale, his heirs would have taken the property free of the mortgage which he imposed on it.

It was never contemplated that the confiscation of an enemy's property should operate the extinguishment of his obligations and transmit his property to his heirs in a better condition than he himself could have done. No construction of act of Congress which works such results can be accepted.

But it is argued that the case of Bigelow vs. Forrest is overruled by the later cases of Miller vs. U. S., 11 W. 268, and Tyler vs. Defrees, 11 id. In this we are not prepared to concur.

Until deliberately overruled, we must accept the Bigelow case as the law on the question material to the case at bar. The question then is: now was not what Congress might have done in the way of confiscating enemy's property, but what Congress actually did.

We are constrained, therefore, to conclude that the sale made by the Marshal under the order of the United States District Court, did not vest in the purchaser a fee simple title to the land in question, and that not extinguish the mortgage existing on it at the time, and that the plaintiffs have established the legal right to enforce their mortgage upon said property in the hands

Judgment affirmed.

The *Daily Gazette and Bulletin* of Williamsport, Pennsylvania, is represented in New Orleans at the present time by its editor and proprietor, John F. Meginness, to whom we acknowledge the compliment of a call. We trust he will find his visit to our city agreeable.

Messrs. H. Valeton & Co., of 25, 29 and 31 Bienville street, invite the attention of our readers to their stock of imported goods for family use, such as mushrooms in oil, Paris green peas, Brussels cabbage sprouts and truffles. These articles are of the best preparations and are highly recommended. The house of Valeton maintains its high reputation.

The St. Andrews Society of this city have elected our fellow citizen, Professor Daniel K. Whitaker, an honorary member of their body. In so doing they have paid Mr. Whitaker a well-deserved compliment.

CONSTITUAL FELICITY.—Nothing tends more to constitutional happiness than cheerful and healthy infants and children. Mrs. Whitcomb's Syrup is the great children's soothing remedy

An exchange says that Mr. William M. Tweed has kept a record of his transactions in the purchase of legislators, noting in each case the name, date of purchase, and amount paid, and that if he is pushed to the wall he will give the contents of his book to the public. If "the Boss" has really acted with the prudence with which this report credits him, it is hardly likely that he will ever be called to account for his alleged delinquencies.

CITY INTELLIGENCE.

Jefferson Davis, President of the late Confederate State, is on a short visit to the city, and is stopping at the St. James Hotel.

C. Chavanne, proprietor of the grocery, At the corner of Terpsichore and St. Charles streets, which was destroyed by fire, on Saturday night, has been arrested by the police, together with his clerk, on suspicion of having set the house on fire. The stock was insured for $1000. Not long ago the previous proprietor, Mr. Martin, was bought out by Mr. Chavanne for $2000.

A man named Charles Rodman fell from the second story gallery of the house No. 309 Victory street, on Saturday night, and broke his leg.

The First District Court, yesterday, was engaged in receiving the pleas or pris-ons to preliminaries, and in trying unimportant cases. None of the proceedings were of general interest.

In the Sixth District Court, several insurance companies of this city, viz: the Factors' and Traders', Hope, Hope Louisiana, Louisiana State, Mechanics' and Traders', Union, Atlantic, Commercial and New Orleans Mutual, have installed suit in the Sixth District Court, parish of Orleans, to recover back license taxes paid by them since 1865, under ordinances alleged to be unconstitutional.

The number of deaths in the city last week was 118—males, 70; females, 45; not stated, 3; whites, 70; blacks, 23; mulattoes, 19; not stated, 3.

Emma, a young woman of the town, attempted to commit suicide by hanging herself, in a cell at the Treme police station, where she was confined, on Saturday night, for drunkenness. She hung herself with a rope, to bars, in the cell, having made the rope by tearing strips from her garments. She was discovered and cut down before she had suffered much. This is her second attempt at suicide, and it is a remarkable coincidence that it was made in the same cell where the first effort was made, and where two other women had hung themselves—one of them to death.

A burglar, who effected an entrance into the dwelling of Mr. Western, No. 117 Pleasant street, at about half-past 2 o'clock, on Sunday morning, in endeavoring to rob the house thought it necessary to beat Mr. W., who is eighty years of age, with a club, and was in the act of choking of his wife, a lady sixty-two years of age, in another room, when the old gentleman recovered, sufficiently, to call for assistance, and the burglar fled, leaving one of his shoes behind him. The old gentleman and his wife were seriously injured.

W. L. Thompson, Attorney at Law, having been charged, lately, by Wm. Morris, with having obtained $100 from said Morris by fraudulent representations, on which charge he has been required to give bonds for his appearance before Recorder McArthur, has made a counter affidavit, accusing Morris of committing perjury in swearing to said charge.

Judge Lesumont appeared on the bench yesterday, for the first time since he and Judge Ludeling were stricken down by the severity of which has kept him off the bench for some time.

The annual exhibition of the Young Ladies' Institute, at the corner of Barracks and Royal streets, takes place to-morrow evening. We have been favored with an invitation to witness the exercises.

There will be a grand Christmas celebration at the Turners' Hall, corner of Lafayette and Dryades streets, on Christmas Eve and Christmas night, under the auspices of the Turner Association and for the benefit of their gymnasium. We acknowledge complimentary tickets.

The Church of Notre-Dame du Sacré Coeur, lately erected on the corner of Annette and Claiborne streets, was formally blessed on Sunday morning, a large number of Catholics, principally residents of the Third District, participating in the religious exercises. The ceremonies prescribed for such occasions were impressively performed by the Rev. Father Borias, Vicar General Raymond and other clergymen, and the music by the admirable choir of the church contributed materially to the interest of the services.

We have received complimentary tickets to a grand fancy dress and mask ball, which Washington Conclave No. 20, S. W. M., will give on Saturday evening next, at the Odd Fellows' Hall, Jackson Hall.

The Sunday School Room of the Coliseum Place Baptist Church, at the corner of Coliseum and Terpsichore streets, which has lately been enlarged and painted, was dedicated on Sunday afternoon. The room will accommodate a thousand children and is handsomely and appropriately decorated, a fountain in the centre cooling the air, when the weather is warm, and giving the hall a very unique appearance. The services were participated in by the Rev. J. W. Lewis, M. A., H. Nelson, Secretary of the school, the Rev. Mr. Tudor, the Rev. Mr. Taylor and the Rev. Wm. Rollinson. 670 children are attending the school.

A burglar while looking for plunder in the house of Mr. Jeff. Thompson, State Engineer, No. 362 St. Charles street, about one o'clock yesterday morning, awoke a boarder who fired three pistol shots at him, but the burglar proved his escape, with some articles of wearing apparel.

Patrick Toner and James O'Shea, seaman on the steamship Tillie, on the passage from New York to this port, fell overboard, on Saturday, near Fort Jackson, as the vessel was coming up the river and were drowned.

A vacant warehouse, the property of Mr. Chas. Raymond, and situated at the corner of General Taylor and Tchoupitoulas streets, was slightly damaged yesterday by a fire supposed to have been set by an incendiary.

The Supreme Court, in the case of Weber vs. Billings, which the former claimed that he had been unlawfully put out of the office of Recorder of the Fourth District, and contended that the appointment of the Governor to the vacancy to the place was unlawful, has rendered a decision in favor of the defendant, whereby he holds the office until the expiration of the term.

Robinson's Grand Circus and Menagerie Combination.—Judging from the immense spread of canvas of Robinson's route last evening on Tivoli Circle, occupying nearly the entire area of the circle, where he will give exhibitions every night, besides a matinee during the afternoon, lovers of the sports of the arena and admirers of the curious in nature will find much to interest them in Robinson's menagerie. From what we saw indicated at a hasty glance, embraces a larger collection of curities in the animal kingdom than has been exhibited in this city. Among the curiosities are three walruses or sea lions, whose voracciousness, when fed by the keeper, is astonishing, they are every night with fish, makes them a peculiar novelty in the way of sea-monsters. The elephant on exhibition is a very large one, weighing, it was stated, eight thousand pounds, and the collection of animals, birds, etc., is exceedingly large and well selected. Robinson's determination to present the public with an exhibition in conjunction with the circus that will be peculiarly attractive in its classic elegance. The name of Robinson is a synonyme for excellence in circus amusements, and Tivoli Circle will doubtless be crowded at all performances during the week and a perfect world of wonders to the little folks who may be fortunate enough to get inside the canvas.

Another Habeas Corpus in the Half-Open Asylum.—Last week a writ of *habeas corpus* taken by Mrs. F. Fisher, formerly Mrs. Charles Shelly, when she was in a strait-jacket in the Asylum of Music, which writ was prayed for to obtain possession of her two daughters, Florence, aged 14, and Edith, aged 12, kept in the Half-Open Asylum, at the corner of Seventh and Constance streets, was dismissed by Judge Abell, in the First District Court, the proof showing that the children were, by a written contract with the lady managers of the institution, to remain in it until they became twenty years of age. Another *habeas corpus* was taken out in the Fifth District Court, after Judge Abell had rendered his decision, and the case came up for trial before Judge Lesumont yesterday. Counsel for the Asylum pleaded *res judicata*, and the other side argued that the plea could not be applied to writs of *habeas corpus*, contending that whatever amount of courts gave an adverse judgment, as long as one remained that had not passed upon the question at issue, the party claiming to be aggrieved had the right to ask relief from it. Judge Lesumont held the plea to be good and dismissed the writ, remarking that he shared public opinion as to the honesty and capacity of Judge Abell, and could not think of entertaining an application which had been dismissed by him, unless some very serious charges compromising him were made.

Fire.—Sunday afternoon, about 4 o'clock, a two story brick building, at the corner of Gravier and Tchoupitoulas streets, owned by Mr. Ed. Conery and occupied by Mrs. John Nagle as a coffee-house and restaurant, and styled the "Old Woods House," was entirely destroyed, together with its contents. The building and contents were valued at $65,000. Insured. The contents of N. Miller's shoe store, the stencil works of O. G. Schultz, and the store of D. Tiarne's tailoring establishment, adjoining premises, were all somewhat injured by water.

An Erroneous Accusation of Wife-Killing.—Mrs. Nolan, found dead sitting in a chair in her house, at the corner of Elisha and Elmira streets, in Algiers, on Sunday afternoon, was supposed to have died from having been beaten by her husband, but upon an inquest being held by Coroner Creagh, it was found that her death was the result of disease of the brain, liver and heart, the effect of intemperate drinking. The husband, John Nolan, who had been arrested, was of course discharged from custody when it was discovered that she had died a natural death.

Death of a Citizen Shot by having Near an Affray.—On the 18th inst. Mr. Luigi Ricipartin, proprietor of a confectionery at the corner of Carondelet Walk and St. Claude street, was shot in the groin and died of the wound Sunday morning. Two men had a quarrel in the immediate vicinity of his house, early in the morning, when he was in the act of opening the establishment, and they fired several pistol shots at each other, one of which hit the deceased as stated. Who the men were is not known, as both fled when Mr. R. fell, and were out of sight before the police arrived on the ground. Coroner Jackson, by whom an inquest is being held in the case, has not succeeded in obtaining any evidence that would lead to the detection of either of the men.

BY TELEGRAPH.

To the New Orleans Bee.

Summary of the Latest Dispatches

FOREIGN INTELLIGENCE.

Paris, Dec. 18.—The members of the Republican left and the Union Republicans had a meeting to-day for the purpose of opposing the session of the Orleans Princes in the Assembly. Gambetta presided.

London, Dec. 18.—The Queen left Windsor for Osborne, where she proposes to spend the holidays.

Processions or assemblies in London derry have been forbidden. No trouble is apprehended from Catholic inhabitants, but it is feared the "Boys of Derry" may make offensive demonstrations.

The ex-Empress Eugenie has sailed from Gibraltar for London.

An unknown vessel ran down the French bark Costa Rica, from Havre for Buenos Ayres; 17 lives were lost. The vessel passed on regardless of the cries of the drowning.

London, Dec. 18.—There is great public rejoicing at Windsor over Prince of Wales' convalescence. Oxen and sheep were roasted by the town authorities.

The prentice boys of Londonderry, under the lead of Mr. Johnstone, member of Parliament, persisted in having a parade. The cavalry and police charged and dispersed them. Several were injured. Affairs are quiet this evening.

London, Dec. 18.—A special dispatch from Versailles to the *Standard* announces that Romero has gone to Washington to negotiate a loan for the Mexican Government.

London, Dec. 18.—Blegg, the groom of the Prince of Wales, died of typhoid fever to-day.

Geneva, Dec. 18.—Count Lelapia, the Italian member, was chosen President of the Arbitrators, and the body adjourned to June 15th.

FROM HAVANA.

Havana, Dec. 18.—Signor Gaznor, the well-known baritone and husband of the celebrated soprano, died to-day of vomito.

FROM MEXICO.

City of Mexico, Dec. 11, via *Havana*, Dec. 18.—Gen. Carrillo has pronounced at Perate against the Government. Governor Vargas, with a large body of troops, pursued him. Carrillo is now lying in the port of San Angel, recently closed by the Federal Government for the purpose of carrying the Diaz brethren away from Mexico. The result of their defeat will be known to-day.

Leyles for the national army have been stopped. The revolution is decreasing in strength and extent.

The Indian chief Lozada is still alive.

FROM WASHINGTON.

Washington, Dec. 18.—Paymaster General Brice has been retained at his own request.

Major Alvord, acting Controller, has called for bank statements at close of business on the 16th inst.

The Southern Claims Commission resumes its sessions immediately after New Year.

Washington, Dec. 18.—United States Supreme Court: In the case of Security Mutual Life Insurance Company of Hartford, the Court holds that when parties fix a limitation by contract within which an act is to be done and the performance within time, prevented by war, and the time expires without the performance of said act, the Court will not interfere to make a new contract but leave the controversy to be determined by legislation of Congress; that in Hartford is all years. Judgment reversed and a new trial ordered. The case is from Mississippi.

Washington, Dec. 18.—New York cash interests have united against the proposed reduction of the duty on salt.

The entire day was consumed discussing the character of the Reconstruction Retrenchments. Mr. Bayard insisted that there should be two Democrats on the committee, and Mr. Sumner announced the exclusion of his wing from the committee. The Senate is still in session.

HOUSE.—No bills of general interest were introduced under the weekly call this morning.

Mr. Maldeman introduced resolutions regretting the severity of the Thiers Government towards the Communists. Objection being made to their consideration a suspension of the rules, which resulted in a vote of 95 to 96. Not two-thirds, and the resolutions fell to the ground.

A resolution sympathizing with all foreign people who are struggling for self-government, were unanimously adopted.

SENATE.—The Senate bill in relation to steam boilers used on the Eastern rivers passed. It exempts steam tugs from certain restrictions.

The Committee on Elections made a formal report in favor of seating Norwood, from Georgia.

Mr. Scott nominated Mr. Connerly as additional member of the Committee on Retrenchment.

In taking the character of the debate, the following remarks from Mr. Logan are telegraphed:

Mr. Logan said it seemed to be assumed by certain Senators that all who supported Mr. Trumbull's proposition were trying to injure the administration. He had no such desire, yet he had voted for that proposition and would do so again, because he believed it to be a wrong that the place was unlawful, has rendered a decision in favor of the defendant, whereby he holds the office until the expiration of the term.

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[Previous Dispatches.]

Liverpool, Dec. 18, Noon.—Cotton quiet, prices easier; estimated sales 12,000 bales; 8,000 for export and speculation; Uplands 10d; Orleans 10¼d.

New York, Dec. 18.—The latest advices from Mexico represent that Lozada is in a firm attitude, and speaks confidentially of crushing the rebellion. The Cabinet remains unchanged. The people continue to manifest opposition to Diaz against the Cabinet than against Juarez.

The revolution in the Western States is extending.

Extraordinary powers have been given the Juarist Governors of States.

Business throughout the Republic is paralyzed. The question of United States protectorate or annexation is boldly discussed.

No important engagements is reported in the Central or Western States.

World's special, from the city of Mexico, via Havana, 18th, says: Lozada is probably prove a failure. Only two States have risen, and there is no popular expression. The country is only disturbed by robbers.

A special correspondent of the *Herald* from Havana, says, the revolutionary feeling was not threatened as alleged. The glad covering of the niche was not broken. Everything about the grass in the country was not touched. Under the circumstances, it is not likely to be very positive on any measure which originated during the session deserving of Democratic support, and which they may give offense to. The policy of preparing themselves for overturning necessarily inactivity on national questions. The same is true of the pacific and public minority in the Senate who have borne the brunt of opposition to the measures of the Radical party to remodel politicly or break up the Constitution. It is not to be expected that the more conservative Democrats will be conducted solely on platforms similar to those which parties fought under three years ago. As wise authorities have already pointed out, the coming battle of the campaign, up to the present time, however there is no more room for doubt that the Democratic leaders will do than there was previous to the first Monday in this month. All think that the time for action is now, and that upon good political conviction, and that is that the abandonment of the party is to be considered as out of all question, whatever else may happen.

The Bonapartists—Important Declarations of the Ex-Emperor Napoleon—Two Interviews.

[From the London Times.]

We have received from a trustworthy source the following account of a conversation which was held yesterday at Chislehurst between the Emperor Napoleon and an interpreter, who interpreted for the benefit of the Emperor the latest news from Paris. It will be seen that the Bonapartists are conspiring. So do the Orleanists. They help each other, and feel themselves in a minority in the country who have recourse to secret practices. It is easy to see, when all is said, that there is a great deal more the large number who conspire. When a man has been, as I have been, during 20 years at the head of a great party, and when that party has been suppressed by a single stroke—the overthrow of the constitution—he preserves the sentiment of his dignity. The conviction of his rights, and casts away from him the low intrigues which, in the midst of the general corruption, he sees around him. Without illusions and without disappointment, I rely upon the reason of the French people, and I am prepared to accept any result from the decrees of Providence. Moreover, when one has fallen from such a height, the first thing to do is to consolidate one's fall, and to avoid making one's self ridiculous by attempting to climb up again. It is only while remaining one's self that one can hope to see others return to reason