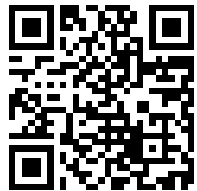


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# THE LOUISIANA HISTORICAL QUARTERLY

Vol. 4  
January-October  
1921

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**JOHN DYMOND, EDITOR**  
(See note on next page)



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**NOTE**

The 1921 volume of Louisiana Historical Quarterly was prepared for the press by Mr. Henry P. Dart, who succeeded Mr. John Dymond as Editor in 1922, after the latter's death. He died without having published any of the numbers for 1921.

September 15, 1922.

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26

# THE LOUISIANA HISTORICAL QUARTERLY

Vol. 4, No. 1.

January, 1921

*The Celebration of the Centenary  
of the Supreme Court of Louis-  
iana*

*Ye Olden Tyme*

*Remembrances of New Orleans and  
the Old St. Louis Hotel*

*Interesting Fossils*

*The Last Captured Slaver*

*Louisiana Land Titles Derived from  
Indian Tribes*

Published Quarterly by

**THE LOUISIANA HISTORICAL SOCIETY**

CABILDO, NEW ORLEANS, LA.



# THE LOUISIANA HISTORICAL QUARTERLY

VOL. 4, No 1

JANUARY, 1921



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## TABLE OF CONTENTS

VOLUME 4, NO. 1

JANUARY, 1921

The Celebration of the Centenary of the Supreme Court of Louisiana.....	5
Ye Olden Tyme.....	125
Remembrances of New Orleans and the Old St. Louis Hotel.....	128
Interesting Fossils .....	130
The Last Captured Slaver .....	132
Louisiana Land Titles Derived from Indian Tribes.....	134



# THE LOUISIANA HISTORICAL QUARTERLY

VOL. 4, No. 1

JANUARY, 1921

## THE CELEBRATION OF THE CENTENARY OF THE SUPREME COURT OF LOUISIANA\*

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Supreme Court Room,  
New Orleans, Saturday, March 1, 1913.

The Supreme Court of Louisiana met at 11 o'clock a. m. on this day in special session to celebrate the centenary of the organization of the Court. There were present on the bench his honor, Chief Justice Joseph A. Breaux, and their honors, Associate Justices Frank A. Monroe, Olivier O. Provosty, Alfred D. Land, and Walter B. Sommerville, the Clerk of the Court, Mr. Paul E. Mortimer, being also in attendance. There were also sitting with the Court as its guests the following judges of the Federal Courts in Louisiana, namely, Hon. Don A. Pardee, David D. Shelby, and W. T. Newman, Judges of the United States Circuit Court of Appeals for the Fifth Circuit now sitting in New Orleans, and Judge Rufus E. Foster, United States District Judge for the Eastern District of Louisiana.

The Governor of Louisiana, Luther E. Hall, the Mayor of New Orleans, Martin Behrman, Very Rev. J. D. Foulkes, S. J., and Right Rev. Davis Sessums, D. D., Episcopal Bishop of Louisiana, occupied seats just below the dais. Ex-Justice N. C. Blanchard and Justice-Elect Charles A. O'Niell were also present.

Besides the foregoing, the ceremony was attended by the Judges of the Court of Appeal of New Orleans, all the District Judges of Orleans and many from the parishes, the Attorney

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\*Reprinted from Volume 133 of the Louisiana Supreme Court Annuals, by permission of the West Publishing Company.

General of the State, the City Attorney of New Orleans, and the District Attorney of the United States, the entire local judiciary and lawyers from New Orleans and elsewhere, and officials from all parts of the state.

Edward Douglass White, Chief Justice of the Supreme Court of the United States, had been invited to the ceremonies, but wrote a letter to Mr. H. Gibbes Morgan, expressing his regret at his inability to attend. This letter was read by Mr. Joseph W. Carroll during his opening address.

The invited guests of both sexes filled the auditorium and an orchestra furnished music.

The labor of preparation for the centenary and the management of the same on this day devolved on an Executive Committee appointed by the Court, Mr. Henry P. Dart, Chairman, Messrs. George Denègre, H. Gibbes Morgan, J. C. Henriques, J. J. McLaughlin, W. A. Bell, and Henry L. Favrot.

Mr. Bell served as Chairman of the Subcommittee on Programme, Mr. J. Blanc Monroe as Chairman of the Finance Committee, and Mr. W. O. Hart as Chairman of the Publicity Committee.

Besides this the Court created a committee of one hundred lawyers selected from all parts of the state to assist the Executive Committee.

Mr. John Dymond, Jr., was Chairman of the Reception Committee.

Mr. Joseph W. Carroll, President of the Louisiana Bar Association, acted as Master of Ceremonies.

The session was opened with the usual formality, and the order of the day was observed as set forth in the following program:

#### CEREMONIES.

Saturday, March First, Nineteen Thirteen, in the New Court House Building.

*En Banc*—The Supreme Court of Louisiana and the Judges of the Federal Courts.

*Invocation*—Very Rev. J. D. Foulkes, S. J.

*Minutes*—(Monday, March 1, 1813.) Paul E. Mortimer, Clerk.



*Opening Address*—Joseph W. Carroll, Master of Ceremonies.

*Address of Welcome*—Governor Luther E. Hall.

*The Centenary of the Supreme Court*—"The History," Henry Plauché Dart; "The Jurisprudence," Charles Payne Fenner; "The Bar," Thomas C. W. Ellis.

*Response by the Chief Justice*—Joseph A. Breaux.

*Benediction*—Right. Rev. Davis Sessums, D. D.

The court ordered the several addresses to be preserved as part of the minutes, and they are published herewith.

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INVOCATION.

*By the Very Rev. J. D. Foulkes, S. J.*

God of justice and equity, who didst engrave in man's conscience the natural law of right and wrong and didst promulgate its mandates and prohibitions in all positiveness by Moses on Sinai's tablets of stone, we thank Thee and we invoke Thee! For ten decades, Thou hast been present by counsel and advice among those who in this State of Louisiana were elected to render decisions upon matters of supreme importance; for 100 years Thou hast watched the earnest endeavors of judges, bent heart and soul on finally settling grave questions for or against Thy commandments: "Thou shalt not kill;" "Thou shalt not steal;" "Thou shalt not bear false witness against thy neighbor;" for a century Thou hast given strength and courage to Justices and Associate Justices for the upholding or throwing out of decisions given by lower courts. To Thee we give our thankfulest thanks. Today be Thou auspicious and bless the efforts of those appointed to portray the glories of the past, the needs of the present, and the hopes of the future! During each term of the new century dawning today upon our Supreme Court, may truth be ever the beacon light of our Justices! May their judgments be ever like unto Solomon's, wise, prudent, and just! May their sifting of evidence be as accurate as that of the prophet Daniel, discovering the wickedness of the elders and the innocence of chaste Susanna! When time dissolves into eternity, and the last assize is set up for man's eternal lot, may Thou, unerring, infallible Divinity, welcome to Thy eternal courts each and every incumbent of this high office, with that consoling sentence: "Well done, thou good and faithful servant, because thou hast been faithful over a few things, I will place thee over many!" So be it for endless æons!

## MINUTES OF MARCH 1, 1813.

*Read by Mr. Paul E. Mortimer, Clerk Supreme Court.*

The State of Louisiana :

Be it known that on this day, to wit, on Monday, the first day of March, Anno Domini One thousand eight hundred and thirteen, and in the thirty-seventh year of the Independence of the United States of America, the Supreme Court of the State of Louisiana commenced its session at the city of New Orleans.

Present, the Honorable Dominick A. Hall and the Honorable George Mathews.

Their Honors produced their respective Commissions from the Governor of the State of Louisiana, which, being read, were ordered to be recorded on the Minutes of said Court, and are in the following words, to wit :

“United States of America, State of Louisiana.

”William Charles Cole Claiborne, Governor of the  
State of Louisiana.

“In the name and by the authority of the State of Louisiana Know ye that reposing special trust and confidence in the Patriotism, Integrity and abilities of Dominick Augustin Hall, I have nominated and by and with the advice and consent of the Senate, do appoint him a Judge of the Supreme Court of the State of Louisiana, and do authorize and empower him to execute and fulfill the duties of that office according to Law; and to have and to hold the said office with all the powers, privileges and emoluments to the same of right appertaining, during good behavior.

“In Testimony whereof, I have caused these Letters to be made Patent, and the Seal of the State of Louisiana to be hereunto annexed.

“Given under my hand at the City of New Orleans, on the Twenty-second day of February, in the year of our Lord one thousand eight hundred and thirteen, and in the year of the Independence of the United States of America the Thirty-seventh.

“(Signed) WILLIAM C. C. CLAIBORNE.

“By the Governor.

“(Signed) L. B. MACARTY,

“Secretary of State.

“I do certify that the within named D. A. Hall on this twenty-fifth day of February, One thousand eight hundred and thirteen,

appeared before me and took the oath of office required by the Constitution of this State and of the United States.

“(Signed) COLSSON, Justice of Peace.

“United States of America, State of Louisiana.

“William Charles Cole Claiborne, Governor of the State of Louisiana.

“In the name and by the authority of the State of Louisiana :

“Know ye, That reposing special trust and confidence in the Patriotism, Integrity and abilities of George Mathews, I have nominated, and by and with the advice and consent of the Senate do appoint him a Judge of the Supreme Court of the State of Louisiana, and do authorize and empower him to execute and fulfill the duties of that office according to Law, and to have and to hold the said office with all the powers, privileges and emoluments to the same of right appertaining during good behavior.

“In Testimony Whereof, I have caused these Letters to be made Patent, and the Seal of the State to be hereunto annexed.

“Given under my hand at the City of New Orleans, on the twenty-third day of February, in the year of Our Lord One thousand eight hundred and thirteen, and in the year of the Independence of the United States of America the Thirty-seventh.

“(Signed) WILLIAM C. C. CLAIBORNE.

“By the Governor.

“(Signed) L. B. MACARTY,

“Secretary of State.

“I do certify that the within named George Mathews did on this twenty-fifth day of February, One thousand eight hundred and thirteen, appear before me and took the oath of office required by the Constitution of this State and of the United States.

“(Signed) COLSSON, Justice of Peace.”

Adjourned till tomorrow morning 11 o'clock.

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OPENING ADDRESS.

*By Joseph W. Carroll, Master of Ceremonies.*

Your Honors, Your Excellency, Ladies and Gentlemen:

The occasion which has brought us together this morning is not only unique in the history of the state, but is most interesting in itself.

On this day, one hundred years ago, the Supreme Court of Louisiana was organized under the first Constitution of the state, the year following its admission to the Union.

During that time this court, with its constantly varying membership, has honestly met its obligations to the people of the state and has kept the judicial ermine unsullied from taint of scandal or corruption.

The courts of the state, and pre-eminently this court, typify order as against disorder, law as against lawlessness, right as against wrong. Under our system of government, they are an integral part of the foundation of the liberties and happiness of the people. With the Executive and the Legislature, they constitute the Governmental Trinity, which overlooks and safeguards the state and its people in their various and diverse interests.

Our government is not only one of law, but of written law, and, in the distribution of powers, to the courts has been allotted the duty of construing and applying these laws to concrete cases—even that most delicate duty of annulling by their decrees the written law of the Legislature or the deliberate act of the Executive, whenever such law or such act runs counter to what the people themselves have lawfully decreed in their Constitution for the guidance and limitation of their servants. The courts may, in this sense, be said to be peculiarly the representatives of the people.

It is proper, therefore, that the state, and the court itself, should appropriately notice this occasion, marking, as it does, the completion of a full century of the orderly administration of justice.

The people of the state, both those present here and those of that larger audience of the press, may well pause a few hours from the pursuit of their ordinary occupations, and give thought to their government, to what it means to them, their families, their property, that the laws should be properly made and properly administered, and to their own responsibility for any shortcomings in either.

The layman is prone to think and say that the courts generally are too far removed from the people, and that judicial decisions do not respond readily enough to the advancing ideas of the people at large. They forget that courts are established to

administer and not to create the law. It is not for a court to be influenced by every passing sound, however loud or insistent.

Precedent must, perforce, be the foundation of every stable jurisprudence, and precedent is a thing of yesterday and not of today. It would be neither wise nor just to measure the rights of today by other than the yardstick of yesterday, without fair notice to all—a notice which should come from the lawmaking power rather than the courts.

There will be those who will speak to you of the bench, the jurisprudence, and the bar, and I shall usurp their time but little longer.

Among those who once sat upon that bench, some thirty years ago, was Edward Douglas White, now Chief Justice of the United States. He and former Justice Blanchard are the only surviving ex-justices. The court had hoped to have the former with us today, but higher duties have prevented. He has however, sent an eloquent message addressed to Mr. H. Gibbes Morgan of the Committee of the Bar, which I shall read:

“Washington, D. C.,  
“February 4, 1913.

“H. Gibbes Morgan, Esq., New Orleans, La.

“My Dear Sir: I am deeply sensible of the kindness of the Committee of ‘One Hundred Lawyers’ appointed to make appropriate arrangements for the celebration, on March the 1st next, of the ‘Centenary of the Supreme Court of the State,’ and much regret that I am constrained to say that I cannot give myself the privilege of accepting.

“At the time fixed the situation as to the work of the court here will be such as to imperatively forbid that I absent myself from Washington. Moreover, as the duty rests upon the Chief Justice of the United States to administer the oath of office to the President-elect on the morning of the 4th of **March**, it seem to me it would be very imprudent for me to absent myself from Washington at a time so near the date of the inaugural ceremony.

“I earnestly hope the commemorative ceremonies will prove worthy of the occasion, and that they may serve to refreshen the memory of every Louisianian concerning the blessings which have been bestowed upon the state by the faithful discharge by the court of the great duties which rest upon it. Indeed, I trust that

the ceremonies may not only do this, but may serve to revivify and strengthen in the hearts and minds of all the purpose to sustain and perpetuate the court, and thus guarantee individual freedom and representative government by safeguarding the life, liberty, and happiness of all.

"May I ask you to convey to the general committee my appreciation of the generous consideration which they have shown me by extending their invitation, and to accept for yourself personally my warm thanks for the all too kindly and generous words in which you have conveyed the invitation.

"Always faithfully yours,

"(Signed) E. D. WHITE.

It now gives me pleasure to introduce, for an Address of Welcome, one who really needs no introduction to this audience, his Excellency, the Governor.

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ADDRESS OF WELCOME.

*By Governor Luther E. Hall.*

Your Honors, Gentlemen of the Bar, Ladies and Gentlemen:

I esteem it a very high as well as most pleasant privilege to participate in the ceremonies attending the centennial celebration of the organization of the Supreme Court of this state.

A century is a short time in the history of a state, as history goes, but on this side of the Atlantic the swift tread of a free people has brought forth a record of great accomplishment and progress that has excited the wonder and admiration of the civilized world. The story of Louisiana—the pride of Spain, the hope of France, the glory of the American republic, and the mother of great commonwealths—will echo down the ages with ever increasing interest.

Looking back to the days of Mathews, of Martin, and of Porter, and, recalling the part this court has played, no Louisianian need be ashamed of the record. It has not lacked great minds or rugged integrity or devotion to truth and justice, nor has it failed in meeting the vicissitudes of fortune or the difficult and stormy periods of its existence. Perhaps no court has had more difficult problems to solve or more trying occasions to confront. Through its portals have come the imperishable principles of the civil law as interpreted and developed by the genius

of the French juriconsults, and its decisions have had an influence in the molding of the jurisprudence of other states accorded to but few other state judiciaries. A past so full of inspiration ought to make for higher ideals and wider standards. Retrospection is vain if it leads to no reflection and affords us no promise for the future.

Nowhere in the world has the judge been crowned as he has been in America. Here he has been intrusted with power given to no other man. It has been his province and duty to protect the independence of the three great departments of our national as well as state governments and to preserve the rights and liberties of the people. The people have bowed to his decisions and have honored him. They have forgiven some human lapses and accepted some flagrant departures from the right as honest errors. In their hearts they have transferred "the divinity that doth hedge a king" to the judge, and marched forth satisfied with the general result. No man has so enjoyed their homage. Has he, the judge, in any measure lost this confidence and respect? This is a question which, at such a time as this, should arouse serious thought.

If a change has come or is coming over the people, there must be causes, and the members of the judiciary should seek carefully to ascertain and remove the sources of irritation. Judges cannot draw around themselves their robes of dignity and look on with indifference while the people complain. The permanence of our free institutions depends upon the confidence the people have in the incorruptibility of their courts. It is to the courts that they must go for an interpretation of their organic as well as statute laws and for the vindication of their private rights. "In despotic governments," says Montesquieu, "there are no laws, the judge himself is his own rule. \* \* \* In republics the very nature of the constitution requires the judges to follow the letter of the law; otherwise, the law might be explained to the prejudice of every citizen in cases where their honor, property, or life is concerned."

When the people believe that their judges, in the determination of cases, consult the wishes of powerful political and other interests and not the law; when they believe that their laws are set aside or twisted and distorted by construction to subserve the purposes of such favored interests; and when they believe that

all men are not equal before the law as administered by the courts—then all faith in the established form of government will have been lost and new and dangerous experiments will be attempted.

There is more light than in former days. Powerful rays are illuminating the innermost recesses of places of power in every department of government. Printed messengers are carrying into every household facts as well as theories. Where there was but one pen that could correctly analyze an opinion of Marshall, there are thousands today that can correctly tell millions of readers the full scope of a decree announced by any court in the land.

“The fierce white light that beats upon a throne” is but as a candle to the searchlight that now throws its rays upon the bench. It penetrates the gown, the garment, and through the very bones of the man who expounds the law in high places. To live in this light and retain the love and respect of the people, and while speaking with authority to hold the loyal devotion of the past, a judge must have more than learning or talent or even genius itself. He must have manhood, broad humanity, sturdy honesty, and unswerving devotion to right and justice. Platitudes, pretenses of patriotism, and tricks of logic shrivel in this light like moths. These cannot stand as law in the great forum of the people any more than in the lesser but more learned tribunals of the bar.

While assembled here in good fellowship and in profound respect for our high court, now celebrating its centennial, let us wish each member of it good health and happiness, and indulge the confident hope that it will grow in the confidence and esteem of the people, that correct standards will always be maintained, that the principles of the civil law will be preserved in essential purity, and that our jurisprudence will answer at all times to the old definition in that it will be truly the science of what is just and what is unjust.

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#### THE HISTORY OF THE SUPREME COURT OF LOUISIANA.

*By Henry Plauché Dart, of the New Orleans Bar.*

In any historical survey of a court of last resort the subject divides itself naturally, as Cæsar divided all Gaul, into three parts.



The committee in charge of this ceremony has, in this spirit, separated the topic of the day into the court, its jurisprudence, and its bar, and has assigned a speaker to each division of the general subject. The first subsection has fallen to my hands, and I shall treat as rapidly and succinctly as possible the constitutional, legislative, and judicial history of the court, with passing reference to the judges of the same. Of course, the limitations of time and a due concern for the rights of those who follow would reduce the tale to a most meager limit, and therefore I have been asked to present orally the substance of the topic and to preserve the manuscript for future use.

Before entering upon the history of the Supreme Court it may be useful and interesting to tell the story of the two courts which to a certain extent held the same position in the territorial period. Indeed, from these lineal predecessors of the Supreme Court that tribunal inherited certain judicial features and methods of procedure which may be said to make an umbilical connection between the two systems.

#### I. The Governor's Court, 1803-4.

The Louisiana Territory ceded by France was taken over by the United States under the authority of the act of Congress of October 31, 1803, which, among other things, provided that all the military, civil, and judicial powers exercised by the officers of the existing government should be exercised temporarily by such person or persons and in such manner as the President of the United States should direct, for the purpose of maintaining and protecting the inhabitants of Louisiana in the full enjoyment of their liberty, property, and religion. (2 Statutes at Large, 245.)

Under this authority President Jefferson appointed James Wilkinson, General of the United States Army, and William C. C. Claiborne, then Governor of Mississippi Territory, Commissioners to receive delivery on behalf of the United States, and on December 20, 1803, these Commissioners took possession of the country covered by the cession.

In addition to the powers conferred upon the two Commissioners, the President gave Claiborne a commission "authorizing him provisionally to exercise within the ceded territory all the powers with which the Spanish Governor General and Intendant

were clothed, except that of granting lands." (Martin's History, Howe's Edition, 295.)

Claiborne was a Virginian who had been admitted to the bar in Tennessee, and at this moment was about twenty-eight years old. Referring to his appointment, Gayarre says (4 History of Louisiana, pp. 1-3) :

"The immediate effect of that cession was to vest all the powers of the defunct government (a sort of Gallic and Spanish hybrid) in Governor Claiborne, until Congress should legislate on the organization of the government of the new territory. Thus this officer, as he informed the inhabitants in a set proclamation, had suddenly become the Governor General and the Intendant of Louisiana, uniting in his person all the authority severally possessed by those two functionaries under the despotic government of Spain. Well might he be astonished at the strange position in which he was placed, for he, a republican magistrate, found himself transformed into an absolute proconsul in whom centered all the executive, judicial, and legislative authority lately exercised in their respective capacities by the superseded Spanish dignitaries.

\* \* \* \*

"Claiborne's first measure was to organize the judiciary, and he established, on the 30th of December, 1803, a Court of Pleas composed of seven justices. Their civil jurisdiction was limited to cases not exceeding in value three thousand dollars, with the right of appeal to the Governor when the amount in litigation rose above five hundred dollars. That tribunal was also vested with jurisdiction over all criminal cases in which the punishment did not exceed two hundred dollars and sixty days' imprisonment. Each of these seven justices was clothed individually with summary jurisdiction over all debts under one hundred dollars, reserving to the parties an appeal to the Court of Pleas; that is, to the seven justices sitting together in one court." (Id.)

Under this system it appears the Governor retained original jurisdiction in all civil and criminal matters, save as qualified, and also appellate civil jurisdiction over the Court of Common Pleas.

In assuming these judicial powers the Governor conceived that he was acting within the scope of his appointment. There is no reasonable ground for doubt the Spanish Governor General

and Intendant had exercised, each in his own department, the same judicial powers in civil, criminal, and admiralty matters, and it is also true that they were the sole judges in their several courts. (Martin, 212.) These officers, however, consulted with and were advised by a legal assistant, who was, roughly speaking, an attorney general to the court.

The commission from Jefferson clearly vested in Claiborne the powers that had previously been exercised by each of these officials. It cannot be controverted, however, that the greater part of the civil and criminal concerns of Spanish times had passed through other functionaries, and that in New Orleans particularly the Cabildo was the court nearest to the people. (Id. 210.) Although the Governor General sat therein or had the right so to do, the average litigant felt the influence of a number of persons thus sitting as judges and participating in final judgments. Under this method the dead weight of a one-man court had not fallen upon the litigant, as it now fell under Claiborne's system.

Contemporary history proves that no other act of the Governor caused more dissension than this creation of the Governor's Court. Unfortunately Claiborne could not use either of the primary tongues of the people; indeed, it is said that at this time he had not acquired a reading knowledge of either French or Spanish, nor does it appear that he was able to call to his aid any person having at once the languages and the professional skill. He has written of this experience that he tried to apply to each case his knowledge of law and his view of equity and justice. It is probable that the same complaint would have been made against any judge named by him, had he possessed the right to substitute a regularly organized court in his stead—a power which, under the letter of his appointment, seems not to have been granted.

Considering that in its elements the Spanish rule did vest great and unusual power in the Governor General and Intendant, the complaint against Claiborne for exercising the same powers can only be explained by the factious spirit of criticism started by the French agent, Laussat, and assiduously cultivated by deposed office holders and disgruntled land speculators. There was undoubtedly a reasonable ground of complaint on the part of the American element because they were emigrants from a country

where such power was unknown. The effect of these arguments was to create among the Creoles a feeling of fear and distrust of the American government, and all parties joined in an effort for a change. Public opinion was whipped to a white heat by mass meetings and discussions, in which every evil motive was attributed to the President, to Congress, and to the local officers. The act of 1803 was confessedly temporary, but its duration was shortened by these appeals.

On March 26, 1804 (2 Statutes at Large, 277), Congress divided the Louisiana Purchase into two territories, and gave the name of Orleans to all that section lying south of the thirty-third degree of north latitude, on the west side of the Mississippi river, and south of the Mississippi Territory on the east side. Besides providing for the appointment by the President of a Governor and a Secretary, provision was also made for the appointment by him of a Legislative Council of thirteen "of the most fit and discreet persons of the Territory," and, most important of all, for the appointment of a Superior Court.

The judicial power was vested in this Superior Court and in such inferior courts as the Legislature might from time to time establish. The Superior Court was composed of three judges, any one of whom should constitute a court, to hold office for four years. It was vested with jurisdiction in all criminal cases, and exclusive jurisdiction in all those which were capital, and original and appellate jurisdiction in all civil cases of the value of one hundred dollars. All capital cases were to be tried before "a Jury of twelve good and lawful men of the vicinage," and in all cases, criminal and civil, in said court the trial should be by jury, if either of the parties required it.

The salaries of the judges were fixed at \$2,000 per annum, payable quarterly out of the revenues of impost and tonnage accruing within the territory.

The laws in force in the territory not inconsistent with this act were continued in force until altered, modified, or repealed by the Legislature; and the act of October 31, 1803, was continued in force until October 1, 1804, on which day the act of March 26, 1804, was to take effect and to continue for one year and until the end of the next session of Congress thereafter.

By virtue of these provisions the Supreme Court, as Claiborne called it, or Governor's Court of the Territory of Orleans,

as it is known in history, maintained its existence for about one year, and until the Superior Court was organized on November 9, 1804. The records of the former court were, on March 7, 1805 (chapter XVI, p. 86, Laws of Orleans Territory, 1805), ordered to be transferred to the office of the Clerk of the Superior Court of the Territory.

As changes in our judicial system have occurred, the archives of abandoned courts have been transferred from room to room, until finally no man was left who could remember the hiding place or graveyard of the records of the early courts. During the past twelve months a search has been in progress by the Clerk of the Civil District Court, assisted by a committee of lawyers appointed by the Judges, and records innumerable have been recovered and removed to the Archive Room of this building.

Among these records, and almost the last to be found, we have gathered a nearly complete file of the Superior Court of the Territory, and a few from the Governor's Court. Out of the latter we have taken a case which seems to be a typical representative of the practice before Claiborne sitting as sole Judge. This was an original suit filed May 23, 1804, by Anselme Coudrain against Jean Bagneris, to recover from a curator or tutor the proceeds of a wasted estate. It is in the form of a bill in equity, and was evidently drawn by a careful pleader in that system. Its caption reads, "In the Court of His Excellency," and it is addressed as follows: "To His Excellency, William C. C. Claiborne, Governor of the Mississippi Territory, exercising the powers of Governor General and Intendant of the Province of Louisiana." It is No. 87 of the Superior Court of the Territory of Orleans, and was evidently removed into that court under the terms of the act just quoted.

It seems from all evidence attainable that Claiborne exercised in this court the judicial powers of his predecessors and the usual authority of an American law court, and he added thereto the equitable jurisdiction of the English chancellor. It is doubtful whether any man ever possessed in this country so much supreme power, being at once the lawmaker, the ruler, and the judge of last resort. He therefore holds a unique position in American judicial history.

Claiborne was a voluminous writer of diaries and reports, but this material is scattered and only a small portion of it has

been printed. When the opportunity serves to rewrite the story of the Governor's Court in the light to be afforded by a study of his writings and the archives of the court, a distinct addition may be made to the sum of human knowledge. Until this shall have been done the historian must suspend judgment on the contemporary charge of usurpation, ignorance, and maladministration urged against that magistrate; for he is, at least, entitled to the benefit of the presumption of law which attaches to the actions of all officers.

## II. The Superior Court of the Territory of Orleans, 1804-1813.

President Jefferson appointed Duponceau, of Pennsylvania; Kirby, of Connecticut; and Prevost, of New York—to form the Superior Court of Orleans created by the act of March 26, 1804, whose provisions have just been noticed. The first-named declined; the second died en route to New Orleans, after accepting and before the organization of the court; and the third, John Bar-tow Prevost, accepted and organized the court in New Orleans on Monday, November 5, 1804. He was the son of a British officer of the Revolution, whose widow had married Aaron Burr, Jefferson's competitor for the Presidency and Vice President during his first term. At the time of Prevost's appointment he was holding a judicial office in New York City.

The first session of the Superior Court was held at the City Hall in New Orleans, which was probably the American designation of the building now called the Cabildo, the generic name for the municipal organization under the Spanish régime.

The vacancies on the bench were not filled, and Prevost held court alone until 1806; that is, until after the act of Congress of March 2, 1805, went into operation. 2 Statutes at Large, 322. By this act a new form of government was established for the territory, to be modeled on the one then existing in the adjoining Mississippi Territory. Provision was made for the appointment by the President of the officers, who were to be as prescribed in the Ordinance of 1787 for the government of the Northwest Territory.

An elective general assembly was created, which was composed of twenty-five representatives. The people were vested with all the rights, privileges, and advantages possessed by the adjoining territory, save that the Statute of Descent and Distri-

bution and the Sixth Article of the Compact in the Northwest Ordinance should not apply. The act of March 26, 1804, was repealed in so far as it was in conflict with this act to take effect on and after November 1, 1805.

No change was made in the Superior Court system, and the vacancies on that bench were filled by the appointment of William Sprigg, of Ohio, and George Mathews, Jr., of Georgia, whose service began early in 1806. Prevost seems to have retired toward the end of that year possibly, as suggested by Claiborne on an earlier occasion, because the judge had a large family and could not support himself on the meager salary of the office. He practiced law here for many years thereafter. Joshua Lewis, of Kentucky, took Prevost's place in January, 1807. Sprigg retired in 1808, and was succeeded by John Thompson, of Orleans, in that year. He died in 1810, and François-Xavier Martin, of North Carolina, was appointed in his stead on March 10, 1810. Judge Martin was at the time of his appointment serving as judge in the adjoining Mississippi Territory.

We have no printed reports of the work of the court earlier than the fall session of 1809. Its archives had been lost—that is, no one knew what had become of them—but quite recently a number of its records were discovered under the accumulated rubbish of a century, in a corner of an attic in the old Civil Court Building at Jackson Square. These records have been removed into the new Court Building and are now being restored and arranged by the clerk of the last-named court. The student of the origins of our judicial system may doubtless find here a rich reward for his patient labor.

Upon the accession of Martin in 1810 he was troubled by "the dearth of correct information in regard to the decisions of the court before his arrival," and he set about the preparation for publication of the cases argued in his time and that immediately preceding his appointment. He added the instinct of a reporter to the experience of a practical printer. The two erudite volumes (1 and 2 Martin, Old Series) which were printed under his supervision in New Orleans in 1811 and 1813 are still resorted to as authority. Indeed, they are a mine of the old learning. The title page of both volumes carries an extract from the instructions of the Empress of Russia to the commission which she created to codify the laws of that empire:

"Courts render decisions; these should be treasured; they should be circulated, so that the judgment of today will be as that of yesterday, and so that the property and life of citizens should be as certain and fixed, even as the Constitution of the state."

Martin continued to publish the reports of the Supreme Court of Louisiana until 1830, and each title page bears some quaint citation of this kind. The committee in charge of this celebration has preserved one of these on the memorial now before you. It is an epigram from Cicero's oration in defense of Sulla: "Status enim reipublicæ maximæ judicatis rebus continetur," or, roughly paraphrased, "The welfare of the state depends greatly upon the respect for settled decisions."

An essay might be written on the relation between these maxims and aphorisms of the law, and the substance and style of the literary matter of Martin's opinions.

In the preface to the first volume Judge Martin announces convictions which we may well believe were also the opinions of his associates. They merit perpetuation here as part of the history of our judicial system.

Referring to the difficulties of their task and the small number of the judges, and the remote places in which they sat, making it often impossible for more than one judge to be present, he says:

"It has been indispensable to allow a quorum to consist of a single judge, who often finds himself compelled, alone and unaided, to determine the most intricate and important questions, both of law and fact, in cases of greater magnitude as to the object in dispute than are generally known in the state courts; while from the jurisprudence of this newly acquired territory, possessed at different periods by different nations, a number of foreign laws are to be examined and compared, and their compatibility with the general constitution and laws ascertained, an arduous task anywhere but rendered extremely so here from the scarcity of the works of foreign jurists. Add to this, that the distress naturally attending his delicate situation is not a little increased by the dreadful reflection that, if it should be his misfortune to form an incorrect conclusion, there is no earthly tribunal in which the consequences of his error may be redressed or lessened."

Feeling that the decisions might not receive elsewhere that



recognition which older courts enjoyed, he modestly confines his usefulness to his own field, and as to this with equal modesty he says:

“It is true that no judge in deciding any future question will think his conscience bound by the opinion of any one of his brethren or any number of them less than a majority, but he may derive aid or confidence from the knowledge of anterior decisions, the arguments of counsel, and the opinions of another judge in points on which he has to decide. In matters of practice he will at times conform himself to what has been already done, though had there been no determination he might have suspended his assent.”

It was fortunate for the new state that for eight years anterior to its entry into the Union men holding such sentiments had been in position to lay the foundations of its law. Two of these Judges, Mathews and Lewis, were of scholarly instincts and had been trained in the common law. On their accession to the bench they knew little French and nothing whatever of the civil law. Martin, considered from any angle, was a profound scholar. His legal mind had also been formed in the common-law field, but he had the advantage of the language of his birthplace (France), and he had, besides, studied the masters of the civil law *con amore*; indeed, it is said that his edition of Pothier on Obligations was translated from book to type at his printer's case in North Carolina. This early American imprint is, by the way, one of the rare treasures of the legal bibliophile.

The act creating the territory of Orleans did not in words impose the common law, and, on the contrary, left the Governor and Legislative Council free to prescribe in all matters not inconsistent with the enabling act. President Jefferson, however, was very anxious to bring the territory into legal harmony with the other states, and under his suggestion Governor Claiborne exerted himself to impress the common law in all its features upon the new judiciary.

The territory was divided by the Governor and Legislative Council, in April 1805, into twelve counties, namely, Orleans, German Coast, Acadia, La Fourche, Iberville, Pointe Coupée, Atacapas, Opelousas, Natchitoches, Rapides, Ouachita, and Concordia. A county court of one judge was assigned to each, and contested cases were triable by jury, and their verdict was “con-

clusive between the parties as to the facts thereby decided." The judge decided all points of law on such jury trials, and provision was made for a bill of exceptions to cover the facts on which such question of law was raised and decided. See Laws of 1805, First Session, chap. 25, pp. 144-209, approved April 10, 1805, particularly section 6 thereof.

By sections 16 and 17 of this act the right of appeal was granted to the Superior Court, on which appeal the case was to be heard on the original pleadings, but either party could produce new proofs in that court, and could also amend his pleadings "so as to bring the merits of the case completely before them," and the appellate court was authorized to "give such judgment as the nature of the case may require, and to issue execution thereon."

On the same day, April 10, 1805, an act was signed "Regulating the Practice of the Superior Court in Civil Causes." This statute and the one previously discussed are familiarly regarded as the lineal predecessors of our Code of Practice, which assimilated the elements of both statutes.

In this Superior Court act the requirement of trial by jury became optional with the parties and the right was conferred on the court to grant a new trial whenever "it shall appear that justice has not been done." The court was also granted power to make rules for regulating the practice, not inconsistent with the laws of the territory. See Laws of 1805, First Session, chap. 26, pp. 210-260.

By the Law of 1805 (Second Session, chap. 2, pp. 30-31) the permanent seat of justice of the Superior Court was fixed in the county of Orleans, but the court was required once in each year, between June 1st and November 1st, to "go circuit" through all the other counties of the territory and the judge of the county court was required to attend the Superior Court in its sessions. The judge or judges going circuit were allowed \$800 for their traveling expenses.

By the act of March 31, 1807, (chap. 1, page 2), the state was divided for the first time into appellate districts and five of these were created. The Superior Court was directed to hold sessions at certain fixed periods in Donaldsonville, Pointe Coupée, Rapides, and Opelousas for the four country districts; while St. Bernard, Plaquemine, St. Charles, and St. John were incorporated

into the New Orleans district, and its appeals made returnable at that city.

Under this legislation and its own rules, it was common practice in the Superior Court to try appeals by jury. *Bayon v. Rivet*, 2 Mart. (O. S.) 148, and *Brooks v. Weyman*, 3 Mart. (O. S.) 9. Aside from this peculiarity, the court seems to have found a way to review all the facts on appeal. The early rules have not been found, and there is little in the printed reports to explain the manner of bringing up the facts. Possibly the practice of the time is reflected in the language of the new Supreme Court of the state in one of its first decisions (*Longer v. Pugean*, 3 Mart. [O. S.] 221), to the effect that judgments would not be reversed or affirmed, but the appeal would be dismissed, unless it be shown "that the whole case is before us, or, in cases brought up on exceptions to the opinion of the judge, that the requisites of the law have been complied with."

Meanwhile the Legislature was busy with many features of law and practice, and by the time the first Constitution of the state was framed most of the familiar things in our law and practice had been created or were in process of development. A comparison of Martin's two volumes of Territorial Reports with these contemporary statutes from 1804 to 1812 will show that the court was equally impregnated with the new ideas. The most important development of the era was, of course, the Digest of the Civil Law, or first Civil Code of Louisiana, which was adopted, after much opposition, by the Legislature of the territory. Chapter 29, pages 120-128, of the Laws of 1808. This work was the frame upon which we later builded the Civil Code of 1825. The Code of 1805 confirmed the civil law as the fundamental principle of our jurisprudence, but it required much effort on the part of its partisans to maintain the supremacy. The common law was not distinctly repudiated until the constitutional convention of 1812 settled the question.

When the state convention met in 1812 to frame a constitution, the Superior Bench was composed of Mathews, Lewis, and Martin. The latter was just turned fifty; the others somewhat below that age. Notwithstanding the provision in the Schedule saving all officers until their successors were qualified, a question was raised after the adoption of the Constitution, and before the creation of a judiciary, controverting the right of these

federal appointees to continue to act as judges. Indeed, the people of the Florida parishes declared the judges to be usurpers, and threatened to prevent the session of the court in that district. The judges decided the controversy in the form of a joint letter to the senate, holding that under the Schedule they had become part of the state government, and that they had accordingly resigned their territorial commissions and were now *de facto* judges of the Superior Court of the State of Louisiana. The reasoning through which the judges reached this conclusion still commands our respect. It is at once the first and one of the best constitutional arguments in our reports. See 2 Martin (O. S.) pp. 161-170.

Under this ruling, which seems to have convinced the doubters, the court sat as the Superior Court of Louisiana from the spring of 1812 until the organization, on March 1, 1813, of the Supreme Court created by the Constitution of 1812.

The Legislature confirmed this view by appropriating \$2,500 to each of the judges for salary as state judges. See Acts of 1812, chapter 21, p. 66.

The court's opinions in its new capacity are printed in 2 Martin's (O. S.) pp. 171-356, and include several important questions, whether considered from the point of view of the nature of the case or of permanency as authority. Thus, *Desbois' Case*, 2 Mart. (O. S.) 185, held that all the inhabitants of the territory became *ipso facto* citizens of the state of Louisiana and of the United States as a result of the admission of the state into the Union, and without the formality of naturalization. Another, the *Navigation Canal Case*, thrice argued, famous in its time and still read with interest, was finally decided in this interregnum. Mathews and Martin wrote opposing opinions, each exhausting the ancient law concerning servitudes of drain, and neither convinced the other. See *Orleans Navigation Co. v. New Orleans*, 2 Mart. (O. S.) 10; *Id.* 2 Mart. (O. S.) 214; *Id.* 1 Mart. (O. S.) 269.

Still a third case was *Livingston v. Cornell*, 2 Mart. (O. S.) 281, also of first rate importance, until its conclusions were set aside by legislation. It was here ruled that it was against good morals for a lawyer to share contingently in the results of litigation.

These slight references to its jurisprudence do not by any means exhaust the interregnum cases, nor do they touch at all the hundreds of rulings in volumes 1 and 2 of Martin.

The Superior Court, as we have noted, was one of first instance in all criminal matters and in certain civil matters. It was also an appellate court in all other civil causes, and, of course, was the only appellate court in the territory. It will be readily understood that under such conditions the judges were an important element in the reorganization and rebuilding of the government.

### III. The Supreme Court of Louisiana, 1812-1846.

The Supreme Court of Louisiana was created by the first Constitution, adopted January 28, 1812, and approved by Congress April 30, 1812. While Claiborne called the court of 1803-4 by the same name, he had no authority for so doing. This designation has remained unchanged through subsequent constitutional mutation. It was here made the highest court of the state, and that still is its distinctive feature.

By article 4 of the Constitution the court was to be composed of not less than three nor more than five judges. The title justice does not appear until the Constitution of 1845. They were to be appointed by the Governor, to serve during good behavior. The salary was fixed at \$5,000. No professional qualification was required, a suggestive omission because at that period laymen occupied similar positions in other states, but the Legislature corrected this omission immediately.

The jurisdiction was exclusively appellate, based on a money value in excess of \$300. No criminal jurisdiction was conferred and none was ever exercised. The question was promptly presented and decided in *Laverty v. Duplessis*, 3 Mart. (O. S.) 42 (1813). Thirty years afterwards, in April, 1843, the Legislature (Act 93, p. 59) created a Court of Errors and Appeals in Criminal Matters, sitting in New Orleans, made up of three district judges from the county district, selected from the body of the judges. This court served from July, 1843, to February, 1846. Its decisions are reported in 12 Rob. (La.) pp. 513-619. It ceased with the adoption of the Constitution of 1845. The judges who served this court were Thomas C. Nicholls, George Rogers King, Isaac Johnson, with William D. Boyle temporarily in February, 1846. This tribunal has often been confused with the Supreme Court, but, as we have shown, it was an independent court, having no connection whatever with the former court.

The Constitution of 1812 empowered the Legislature to organize the judiciary, and no restriction was placed on it regard-

ing trial by jury or the course at common law. It was, however, prohibited from adopting any system of laws by general reference, and was also required to define the particular law to be enacted. This was the culmination of one of the great issues of the territorial times, and the phraseology was adopted to prevent any attempt to bring in the common law by reference or jurisprudence. The civil law had obtained legislative recognition in the Digest or first Civil Code of 1808, but the question was still acute when the convention disposed of it.

The Constitution further required the judges to refer in every definitive judgment to the particular law in virtue whereof such judgment was rendered, and further prescribed that they should in all cases "adduce the reasons on which the judgment is founded." Our ancestors believed they could in this way keep down the judicial imagination, mindful of the thought, which was prevalent then and which is not yet wholly eradicated, that only the Lord could point out the law on which some judgments are based. Indeed, it is said, though I hope you will not press me for the authority, that even He is occasionally constrained to pass the point on to the ruler of the Subordinate Kingdom.

Martin's scornful reference to this injunction (3 Martin, 351) bore fruit in after years. The makers of the Constitution of 1864, with canny prevision, required their judges to refer to the particular law "as often as it may be *advisable* so to do." and their contemporaries were quick to point out that the court of that period took much comfort out of that provision. In the Constitution of 1868 it was changed to "practicable," and in that sense it appears in all succeeding charters. Even in its modified form it must be a great relief to the judicial conscience.

While on this subject it ought to be added that by the act of February 17, 1821, p. 98, the Legislature required "each and every of the" judges of the Supreme Court to deliver separate and distinct opinions in each case "seriatim, commencing with the junior judge of such court." This was fulfilled by the court in a most unexpected way. Each judge wrote, "I concur in this opinion for the reasons adduced." *Breedlove v. Turner*, 9 Mart. (O. S.) 380-381. On February 27, 1822, the law was repealed. Acts 1822, p. 24.

The first Legislature of Louisiana met on July 27, 1812, but it was not until the second session, which convened on November

23, 1812, that plans were devised for a judiciary. Claiborne survived his territorial unpopularity and became the first elected Governor of the state. The delay in organizing the court was due partially to opposition to his views. Finally, on February 10, 1813, he affixed his signature to the first Judiciary Act of Louisiana. Laws of 1813, pp. 18-34.

The first section established a Supreme Court of three judges "learned in the law," any two of whom would form a quorum. Precedence ran by dates of commissions, and, these being equal, then by ages of the judges. Out of this grew the title of Presiding Judge, by which Hall, Mathews, and Martin were in due course designated. Appeals were to be heard on transcripts (in the Superior Court the original record had been brought up), and these should contain "the proceedings in the case and all other documents on file in the same," and the court was directed to "hear the appeal on the pleadings and documents so transmitted."

Sections 10, 11, and 13 authorized the court to re-examine, reverse, or affirm any final judgment, and to render such judgment as the nature of the case should require. It was provided, however, that there should be "no reversal for any error of fact, unless it be on a special verdict, or on a statement of the facts agreed upon by the parties or counsel, or fixed by the court."

There was a particular direction to reverse no judgment or decree for any defect or want of form, but to "proceed and give judgment according as the rights of the cause and matter in law shall appear to them, without regarding any imperfection or want of form in the process or course of proceeding whatsoever."

Section 17 gave supervisory power in aid of jurisdiction, and section 18 the right to make "all needful rules for regulating" the practice of the court not inconsistent with this statute or the general law.

A strict construction of this statute led the court at once to the conclusion that it could not review the facts "unless the whole case was before them" (*Brooks v. Weyman*, 3 Mart. [O. S.] 13-14), and in 1817 (Acts, pp. 24-44) the Legislature met this situation by providing that either party could require the clerk to take down the oral testimony as given by the witness, to be transmitted to the Supreme Court and to serve as a statement of facts. Acts 1817, pp. 24-44. This was speedily construed (1819) to mean that the notes of evidence constituted a state-

ment of facts, without any certificate or other formality. *Barnwall v. Harman*, 6 Mart. (O. S.) 722. This statute was incorporated into the Code of Practice of 1825 as article 601, and is the base upon which rests the right of this court to re-examine all the facts without regard to technical forms in use elsewhere, or for that matter, which might be used under our own code.

In the early days, and, indeed, within the memory of many men still practicing, all testimony was reduced to narrative form, save where particular questions and answers were required to be taken down. The old rule worked well in its time, and it is curious that, after decades of swollen transcripts, the trend of legal reform is toward our ancient practice.

By the Constitution of 1812 the state was divided into the Eastern and Western Appellate Districts. Appeals from the former were returnable at New Orleans and from the latter at Opelousas. The Legislature was empowered to change the last-named at intervals of five years. The court was required to sit in New Orleans from November to July, inclusive, and in Opelousas from August to October, inclusive. This was a day of limited transportation facilities, and the mind dwells uneasily on the spectacle of our ancestors traveling over the face of Louisiana to the seat of justice in the heats of June, July, August, and September; nor can we fail to be impressed regarding the effect of that uncomfortable season on the judicial temperament. Legend preserves many tales of the habits of the bar of this saddlebag time, and, if half that is told true, the fraternity made an Elizabethan holiday of the journey, with other consolations besides. As to the judges, the record is more silent, but the office must have had rare attractions, for, of three original appointees, one lived out a long life with unsoured disposition and died in office; while another held on until he was pried out of his seat by a new Constitution, after more than 30 years of possession.

The act of 1813 required the Supreme Court to hold its first meeting in New Orleans on the first Monday of March of that year, and on that day, the first of the month also, Dominic A. Hall and George Mathews met in the building called in old days the Government House, and used at this time by the new state officials for public purposes. They presented commissions from Governor Claiborne dated respectively February 22 and 23, 1813, and ordered the same spread upon the minutes. Several candidates for admission to the bar were examined and admitted, in-



cluding some of the best-known men of that period, and the court adjourned until the succeeding day, when more candidates were admitted.

On March 9, 1813, Pierre Derbigny presented his commission from Claiborne, which was placed on the minutes, and the court had its full complement of judges. The delay in his commission was due to opposition in the Senate, which first rejected and later confirmed the nomination.

On March 11, 1813, Prevost, ex-judge of the Superior Court, brought forward the first business. He moved for an appeal to this court from a final judgment of the Superior Court rendered in the interregnum previously discussed. The court took time to consider, and on March 15, 1813, decided that the right of appeal created by the Constitution of 1812 applied only to the judicial system created or which should be created thereunder, and that the late Superior Court was no part of that system and had no concern with it. Remembering, however, the famous *de facto* decision in which two of the present judges were concerned (3 Mart. [O. S.] 2-6), the court hastened to add that the Superior Court had retained its original authority by virtue of the Schedule of the Constitution of 1812, which was in effect a continuation of its former jurisdiction; that it was an independent creation of a different sovereign, which could not have its powers added to or circumscribed by state legislation; and that its decisions were final and irrevocable. Thus, with one bold stroke, the court drew a line between itself and the ancient régime, cleared its slate of old business, and left the judges free to make new jurisprudence.

The men who thus set in motion the career of the court which is today celebrating its one hundred birthday were all immigrants. Hall, it has been variously said, was an Englishman, or a South Carolinian. Mathews was born in Virginia, but spent his youth and young manhood in Georgia, and his father was at one time Governor of that state. Derbigny was born in France. He claimed noble extraction, and was indeed an émigré of the Revolution of 1789. All were men of reputation and capacity, and had seen service in Louisiana and Mississippi during the preceding ten years. Derbigny alone had had no previous judicial training.

Hall retired on July 3, 1813, to take office as the first federal district judge of Louisiana. It is said his principal motive for thus promptly exchanging one life position for another was the babel of foreign tongues which immediately smote his judicial

ear. He had scarcely a working knowledge of French and none of Spanish, and between the civil law and the French advocates he judged his hope of fame and his happiness of mind to lie in a court which would not be called upon incessantly to master and adjudicate these new and foreign ideas of jurisprudence. His late colleagues found it necessary some years afterwards (1821) to declare by rule they would not admit to practice any candidate who did not know the "legal language of the country." 9. Mart. (O. S.) 642.

The vacancy made by his resignation became a pawn in a new political muddle stirred up between Claiborne and his Legislature. It is said that five different names were submitted to and rejected by the Senate, and the impasse was finally avoided by a compromise whereby on January 1, 1815, Francois-Xavier Martin, Attorney General of Louisiana, assumed the judgeship whose duties he had so recently laid down, and Etienne Mazereau, the idol of the Creoles, became Attorney General in his place.

Meantime, from July, 1813, to January 1, 1815, the sessions of the court were held by Mathews and Derbigny, and in the February term of 1815 Martin began his service on the Supreme Bench, destined to continue longer than any other judge of that court down to this time. In 3 Mart. (O. S.) 329, Martin says the "din of war prevented any business being done during that term"; but at the opening of the March term he wrote a vigorous opinion holding that General Andrew Jackson's declaration of martial law was a usurpation and ineffective; that "the exercise of an authority vested by law in this court could not be suspended by any man." 3 Mart. (O. S.) 530-531. This opinion was rendered in a case in which Martin had been counsel and on the merits he recused himself. 3 Mart. (O. S.) 570.

The court as constituted by this appointment, Mathews, Derbigny, and Martin, deserves a passing personal notice.

Mathews has been described as short, rotund, placid, even-tempered, and genial, with a touch of humor or pleasantry in his intercourse with men and on the bench. His disposition crops out in his opinions, which, moreover, are fine specimens of taste and learning.

Derbigny was tall, with a slight, graceful figure, somewhat high-strung, nervous, self-centered, and ambitious. A certain idiosyncratic style marks all of his opinions, and it suffers in juxtaposition to Martin's clear, crisp English, as may be seen in his

concurring opinion in the Martial Law Case, 3 Mart. (O. S.) 530-531. It is clear to the end of his service that the author is constantly transferring French thought to English expression.

Martin was "rather below the medium height, with a large head, a Roman nose, and thick neck," stern, silent, serious, dogged, and laborious. There is never a gleam of humor or sentiment in his productions, but he often rises to the sublime. He was a noted phrase-maker—doubtless the result of his taste for the classics, already noticed. His epigrammatic sentences have a terse clear arrangement that recalls Bacon and the Bible. His views of life were as fixed as the North Star. He was devoted to labor, and he never allowed himself to be detached from an industry that amounted to genius.

For several years the court worked unbroken, engaged on some of the greatest questions that any American court up to that time had grappled with, laying foundations to which the ensuing years merely added a superstructure. In 1820 Derbigny was selected with Livingston and Moreau-Lislet to prepare the Civil Code, which is now called the Code of 1825. In the same year, on December 15, 1820, he resigned the judgeship to enter unsuccessfully a contest for the governorship. Derbigny ran as the candidate of the Creoles, while Robertson was supported by the American element. In 1828 he was more successful, but he had served as Governor only a year when, in 1829, he was thrown from his carriage, in a runaway just outside the village of Gretna, in Jefferson parish, and sustained a fracture of the skull which caused his death. To succeed him on the bench the Governor selected Alexander Porter, of Opelousas, who was appointed on January 2, 1821. This new judge was at 35 a leader in his profession, a scholar, and a publicist. He had held a strong position in the convention which framed the Constitution, and he brought to the bench a freshness and vigor, a depth of scholarship, and an industrious application that materially added to the prestige which the court enjoyed at that time among jurists and in the courts of the world. It is difficult to select from his varied store any one case to illustrate his genius, but the opinion in *Saul v. His Creditors*, 5 Mart. (N. S.) 569, 16 Am. Dec. 212, is generally recognized as a production equal to the legal classics of any age. It is true the case was argued by a galaxy of great lawyers—Grymes, Hennen, Mazereau, Rawle, Morse, Eustis, and Livermore—but the

ability, under such circumstances, to distinguish and to strike out and impress an enduring principle is no mean gift.

Porter left the bench in 1833, seduced by political aspirations, and he was serving as one of the Senators of Louisiana in the Congress of the United States when he died some years later.

With the passing of Porter the court may be said to have closed its Imperial or Augustan Age. The largest part of its great task had been completed. It remained only to keep the path straight and to profit by the experience of the past in applying the problems of the future.

Bullard, who took Porter's place, has written the contemporary view in a footnote to 6 Robinson, 413. "It was," he says, "a period remarkable in our judicial annals, in the course of which the law itself underwent great changes, by the amendments of the Civil Code and the enactment of the Code of Practice, and the final abrogation of the Spanish law, in 1828. These changes added much to the labors of the bench; and, while they ultimately simplified our jurisprudence, produced perplexing difficulties in the comparison of the old with the more recent enactments. The Code of Practice especially was a most perplexing innovation. The task imposed upon the court was performed with discrimination and ability. It was also during that period that the most important decisions were rendered on questions of the conflict of laws, and that branch of international jurisprudence was greatly illustrated by the labors of the Supreme Court of Louisiana."

To succeed Porter, the Governor on February 4, 1834, commissioned Henry A. Bullard, a native of Massachusetts. The new judge was a Harvard graduate, and at 46 had seen the world in many aspects. He had filibustered in Mexico, practiced law in Louisiana, served as a district judge in Natchitoches, sat in Congress, cultivated literature, written history; in fine, was a ripe product of the times. He served until February, 1839; resigned, and again returned to the court in 1840 remaining this time until the Constitution of 1845 legislated that bench out of office.

Mathews died in November, 1836, and with his death the court of 1812 entered upon its twilight. A series of rapid changes took place. Martin grew blind and decrepit as he aged. When he became Presiding Judge through Mathews' death in 1836, his sight was very bad, and ultimately was lost completely; but he remained on the bench, notwithstanding this serious handicap,

steadfastly holding on to a position which physically he was unfitted to fill.

He was now surrounded in quick succession by new men, who came and went without leaving much impression on their own time, and whose work of this period has been neglected or forgotten, or would be forgotten, had some of them not made later reputations which compels the historian to return to their earlier labors for comparison.

Mathews' place was filled April 1, 1837, by Henry Carleton, who is still remembered as coadjutor with Moreau-Lislet in the translation of the *Partidas*, which was accepted in 1820 by the Legislature on the recommendation of a committee appointed for the purpose of examining the translation. This committee was Derbigny, Mazereau, and Livingston, and the Legislature ordered the translation to be circulated as a substantial contribution toward an understanding of the laws of Spain.

Carleton resigned in February, 1839, and Bullard resigned at the same time, as already noted, leaving Martin alone on the bench.

At this period the court had accumulated a large docket, due principally to the litigation resulting from the current panic and financial depression. The illness of Mathews and Martin had some part in the congestion, but the methods of the court were also criticized. The judges heard arguments on three days in each week, sitting five hours per day. No check was placed on counsel, and the court took the same privilege. It was called a "talking court." There was, it is said, a continuous argument in which the judges often held the floor to the exclusion of counsel. There were times when not more than one case was heard in the entire three days. A critic of the period (*Gustavus Schmidt*, 1 *La. Law Journal*, 157) estimated that the docket then held 400 cases, and that the last one filed would probably be reached at the end of 14 years.

To meet the public reproach, two of the most active leaders of the bar were selected to fill the vacancies, and on March 4, 1839, the Governor appointed Pierre Adolph Rost and George Eustis. As their commissions bore the same date, the age rule of the Constitution was invoked to determine precedence. Thereupon, says the reporter (13 *La.* 87), "Judge Rost, being the senior, took his seat on the right and Judge Eustis on the left of the Presiding Judge."

These new judges belonged to the modern régime. Eustis was from Massachusetts, of distinguished family, well educated, and had served as attaché in one of our embassies in Europe. He enjoyed a large law practice here, and his acceptance was an undoubted financial sacrifice. Rost was of French birth, and had served with Napoleon near the close of the latter's reign. He had resided in Louisiana for many years. He was in all respects, socially and otherwise, in the Eustis category, and had, besides, cultivated the habit of an annual foreign vacation, and the families of both judges were absent in Europe at the time of their appointment. It did not take either judge long to reconsider his change in life. Contemporary gossip had it that aside from the lost professional emoluments and the freedom of life, which were sadly missed, the new judges found themselves hampered by the Presiding Judge in the effort to clear the docket. These personal peculiarities of the Presiding Judge apparently could not be overcome, and they added the last drop which overflowed the pail of regret. In May, 1839, Rost resigned, and Eustis followed in June.

The Governor found it not easy to replace these recalcitrants. Finally George Strawbridge accepted, and so did Alonzo Morphy, who were appointed in August, 1839. Strawbridge served one term in the Western District, and took the way of Rost and Eustis; but this was expected, for he declared when accepting that he intended to sit only through that term and for the purpose of assisting to clear the congested docket of his district. Morphy remained until the court of 1845 came in. By birth, training, and service Morphy was well fitted for the post. He was a South Carolinian, and had been a student in Livingston's office. He had served in the Legislature and as Attorney General. His opinions, however, are not light, or thought stirring reading, probably because the labor of expressing the views of the court was almost wholly thrown upon him. He is the author of more than three-fourths of the opinions reported during his incumbency.

Eustis was tendered the Strawbridge vacancy, but declined, and the Legislature in 1839 concluded to end the trouble by exercising the privilege granted by the Constitution to enlarge the court to five members. Bullard now accepted a reappointment, and Edward Simon and Rice Garland were added under the act just quoted. See 14 La. preface. The latter ceased to act after the September term, 1845.

The decisions of the court of 1812 appearing in the eighteen volumes, 3 to 12, Martin, Old Series, and 1 to 8 Martin, New Series, were reported by Martin himself and published at his own expense. Martin's decisions extend, however, through the entire series of fifty-one volumes of Reports, covering the period 1809-1846.

In the March term of 1830 Branch W. Miller became reporter to the court, under legislative authority, and his work appeared as the Louisiana Reports. He was succeeded in 6 Louisiana by Thomas Curry, who continued the publication under the same name until March, 1842, making nineteen volumes of that series. He wrote a valedictory which he published as a preface to his last volume (19 La.), and it may still be read with interest.

Under contract with the state, Merritt M. Robinson continued the Reports, but gave them his own name. He began his official career in 1842 by a suggestion to the court to be relieved of the expense of publishing certain of its decisions, and he clearly intimated that many of these were of no general or public interest, and most of them were, in any event, too long, for all of which he was promptly and emphatically snubbed by the court. He has embalmed the incident in a preface to 1 Robinson, and had his revenge in twelve portly volumes, covering not quite four years of the court; but it is an open question who had the best of the argument, for the point is still under discussion all over the Anglo-Saxon world, and we have not yet heard the last word.

On Wednesday, March 18, 1846, the court of 1812 met for the last time, with only Morphy and Simon present, and they adjourned to Thursday, March 19th. On that day the court, organized under the Constitution of 1845, began its sessions.

The old régime had lasted thirty-three years, but no one regretted its end. Its greatest mind was still in service, but his lamp was flickering, and he too passed away at the end of the same year.

We have noted Martin's first opinion. It is well to refer to the last one. It is brief and very much after the old Martin manner. In *Bridge v. Oakley*, 12 Rob. 638, the Presiding Judge ruled that an exception of no cause of action would not lie in an action for damages by a voter against an inspector of elections for maliciously preventing the voter from voting at an election; that the malicious deprivation of the ballot was an injury compensable at law.

## IV. 1846-1853.

For years before the close of the period just described political parties in Louisiana had been seriously divided on the question of suffrage, popular control, and rotation in office. The old system was topheavy, and many abuses were laid to its door, particularly in so far as the judiciary was concerned. Finally a convention was called to frame a new Constitution, but the factions were so evenly divided the result was a compromise which pleased few, and indeed strengthened the objectors for a new struggle which, it was recognized, would speedily ensue.

The Constitution of 1845 framed by this body provided for a Supreme Court to be composed of a Chief Justice and three Associates, to be appointed by the Governor for a term of eight years, the first judges to go out at intervals of two years, the Chief Justice last, and their successors to be appointed for the full term. The salary was \$6,000 for the Chief Justice and \$5,500 for the Associates. Being a court of four, it was provided that the judgment below should be affirmed when the court was divided in opinion.

Sessions were fixed in New Orleans from the first Monday of November to the end of June, and elsewhere as should be determined by the Legislature. Under statutory provisions, the sessions after 1846 were held in Opelousas in August, Alexandria in September, and Monroe in October, giving the judges but one month of holiday.

The appellate civil jurisdiction over \$300 in amount, and other provisions of the previous Constitution were re-enacted. Appellate jurisdiction in criminal cases and on the law only was conferred for the first time, limited to cases where the punishment of death or hard labor was inflicted; also in all cases involving the constitutionality or legality of any tax, toll, or impost, and over fines, forfeitures, and penalties imposed by municipal corporations.

This court organized on Thursday, March 19, 1846, in the room which had been occupied for some time by its predecessor. Years afterward the same room was occupied by the Third District Court for the Parish of Orleans, in which Justice Monroe held his first judgeship.

No ceremony marked the advent of the new judges, who conformed to the simple practice of the first court. Their commis-



sions were signed by Isaac Johnson, Governor, and countersigned by Charles Gayarre, Secretary of State. These were spread on the minutes, and the day's session was concluded.

These judges were George Eustis, Chief Justice; Pierre Adolphe Rost, George Rogers King, and Thomas Slidell, Associates. The Chief Justice and the Senior Associate Rost had served, as heretofore noted, for a brief period under Martin in 1839, but Eustis here attained the distinction of First Chief Justice of Louisiana.

King retired in December, 1849, or, at least, he did not serve after that date. He was succeeded by Isaac T. Preston, appointed by Governor Joseph Walker, who was seated March 4, 1850. Judge Preston perished in a steamboat fire on Lake Pontchartrain on July 5, 1852, and William Dunbar was appointed to fill the unexpired term. He sat for the first time at Alexandria in the September term of 1852. The latter is chiefly remembered as the subject of an excoriating pamphlet by Charles Gayarre in a later campaign in which they were opposing candidates for Congress, but which did not elect its author.

King had served as District Judge on the Court of Criminal Errors and Appeals, and was considered an excellent criminal lawyer. *State v. Brette*, 6 La. Ann. 661. He retired from the Supreme Court in 1849 because he felt unequal to the labor. He was fragile and ill, but he survived all of his Associates, dying only in 1871.

Preston had been an active partisan for years in Jefferson parish, and was a member of the Convention of 1845.

Eustis has heretofore received a passing notice regarding his service in 1839, but his position in our legal history justifies the insertion here of a sketch (which is also intrinsically worthy of repetition) from the pen of one who occupied the same seat only a few years later. Eustis died in 1859, and Chief Justice Merrick, addressing the bar of the court, said:

"The attainments of Judge Eustis as a jurist were what might have been expected from his fine mind, great industry, and studious habits.

"Through the many years of his professional life he was constantly adding to his great stores of learning, and sounding the fountains and sources of our law. To him the profession was not merely an art, valuable because it produced gold and silver; it was rather a field of ethical philosophy, which rewarded each

search with new discoveries, and furnished those pleasures to a cultivated mind which science daily bestows upon her votaries.

"In his intercourse with this court as an advocate his manner was peculiar. He seemed (in those important and difficult cases which were principally confided to him), to discard all declamation and elaborate deductions from particular texts, and merely suggesting the sources of the law to be examined, to give himself up to the search of the legal principle which was to control the case, as one whose main object was to aid the court in its pursuit of the truth, and who had no further interest in the result than a desire that the right conclusion should be attained."

The court held its last—a purely formal—session in New Orleans on Monday, May 2, 1853, with Rost, Slidell, and Dunlar present, and adjourned sine die.

The court of 1846 had come into office under a cry for reform in the long opinions and costly delays of the late system. In response, rules and methods were adopted by the court in which everything was subordinated to this end. One rule deserves remembrance. When rehearings were granted the case was re-submitted at once; the party against whom it was allowed was required to file within three days thereafter a printed argument on the points on which the rehearing was given, and the other party to reply thereto within the three succeeding days.

On the question of lengthy opinions the court almost sacrificed clearness to brevity, for, while many important and far-reaching opinions were rendered, the hallmark is upon all of them.

It was a court of strong, bright, active men, and the bulk of its work was enormous. It caught up with a congested docket—it would seem to have been impossible to satisfy a cry for reform more completely than in this instance—but the spirit of the young democracy was not to be appeased, and before the commission of the Chief Justice expired a new Constitution swept another bench into power.

Merrick said of this court, on the occasion above mentioned:

"On the change under the Constitution in 1846—in the formation of which he aided—Judge Eustis accepted the office of Chief Justice of this court, which he held until the Constitution of 1852 was carried into effect in 1853. The decisions of this period are contained in the first eight volumes of the Annual Reports. These volumes evince the greatest capacity for the transaction of business, and the most untiring industry on the part of the mem-

bers of that court. To judge of these labors we must compare them with the earlier years of our jurisprudence.

“At the time the Supreme Court was organized, and many years afterwards, from forty to ninety cases were all it was called upon to decide during its session in this city. At the period to which I refer, its business had increased to between four and five hundred cases. What learning was, therefore, required of a court composed of only four judges to meet the exigencies of the public business, may be imagined when it is considered the judges were without any sufficient leisure for the investigation of authorities, except those cited, and were compelled to rely in a great measure on their previous reading, or see the business of the court increase until it should overwhelm them with its hopeless accumulation. It is a sufficient praise to Judge Eustis to say that he, with the assistance of his able colleagues, was equal to the occasion.” 13 A. viii.

The reported opinions of the court of 1845-1853 were published by M. M. Robinson, reporter of the previous court. A new series was begun, called the Louisiana Annual Reports, a title which remained unchanged for fifty-two years. So far as now known, the reporter had discretion regarding the printing of the decisions. In any event, there is published in 1st Annual the first known list of unreported cases. Robinson soon gave way to W. W. King, and he, in turn, was succeeded by W. M. Randolph as reporter, before the labors of this court ceased.

Randolph was a lawyer of the younger set who had before him a long and honorable life and who reached high position at the bar. He was selected by the court for the reason that the court had been chosen, to clear up a congested situation. The preceding reporter was fifteen months in arrears on his printed work, and in June, 1853, was publishing the opinions rendered in March of the preceding year. In 1854 the new reporter delivered volume 7, covering the year 1852, and promised the Reports of 1853 within thirty days and the decisions of the first quarter of 1854 by August of that year. With this prelude the reporter opens a preface to volume 7, and adds:

“The reporter hopes that the large amount of work will be a sufficient apology for the apparent delay in publication. Few persons not familiar with the drudgery of proof-reading can form a distinct idea of its annoyances. There can be no doubt that

whatever gifts 'come by nature,' correcting proof is not one of the number."

We learn from this preface that the labor of making the syllabus fell on the reporter, and in using the early *Annals* it is well to remember this. He says:

"In all cases, whenever practicable, in making the abstracts of points decided, the language of the court has been adopted. In a very large number of cases the facts are stated to which the law has been applied, no attempt being made to generalize a principle from the decision, when the court has not announced such a generalization. This had greatly increased the labor; but it has, he trusts, secured accuracy."

#### V. 1853-1864.

The Constitution of 1852 was the product of the new democracy, and it reflected the spirit of the times.

This instrument created a Supreme Court of one Chief Justice and four Associate Justices, elected by the people at times different from other elections, for a term of ten years; the first appointees to go out at intervals of two years, and the Chief Justice going last and serving the first full term. The salary remained at \$6,000 for the Chief Justice and \$5,500 for the Associates. The state was divided into four Supreme Court Districts, with the Chief Justice elected from the state at large. This was the first time this physical division had been made; theretofore, however, there was an unwritten rule to the same effect, which had not always been observed. Vacancies were to be filled by the Executive, unless more than one year of the term remained, in which case the office was sent to an election.

The jurisdiction remained practically as in the Constitution of 1845, save that the Legislature was given the power to restrict it "in civil cases to questions of law only," a power which was never exercised.

Wherever, by reason of recusation, a majority did not concur in the opinion, the court was authorized to call in any judge of an inferior court to sit in the place of the recused justice. This was also a new provision which had not appeared in the previous constitutions.

The place and time of the sessions at New Orleans remained as before—the first Monday of November to the end of June, and elsewhere as should be directed by the Legislature.

On Monday, May 4, 1853, the Supreme Court elected by the people under the Constitution of 1852 organized in New Orleans with Thomas Slidell, Chief Justice, and Cornelius Voorhies, A. M. Buchanan, and A. N. Ogden, Associate Justices. James G. Campbell, the fifth justice, joined on the 16th of the same month.

The rule or ceremony of installation did not vary from the precedents already quoted. Their commissions were signed by P. O. Hebert, Governor.

Slidell, as we have seen, came over from the preceding court, advancing, however, to the principal seat and becoming the second Chief Justice of the state. The court was strong as a whole and compared favorably with its immediate predecessor. Its decisions are as a rule brief, and it is evident, without resorting to tradition, that lawyers and court worked earnestly and rapidly.

The courts of other years had apparently placed no time limit on arguments, and your honors and the brethren of today may feel some interest in the new rule of 1853 on that subject. It raised a chorus of dissent. The legal horizon grew black with prophecy of evil to result therefrom, and yet that rule was mere child's-play compared with the one under which we work.

"In consequence," says the court, "of the great number of cases upon the docket, the following rule is adopted, to wit: It is ordered that not more than one hour will be allowed for an opening argument, one hour to each counsel for the defense (not exceeding two), and one hour for the closing arguments, except where in special cases the court on previous application may otherwise order."

It is said that a good, uninterrupted four hours' argument will enable any Supreme Court to cut down its opinions one-half, if, indeed, it does not leave the court without the ability to say anything whatever. Your honors may not have heard this before, and the information is respectfully submitted.

The court of 1853 lived only nine years, excluding the War period, but it created a record in Louisiana for rotation in office.

Campbell resigned in June, 1854, and H. M. Spofford was elected to succeed him, taking his seat on November 6, 1854.

Slidell was assaulted by a ruffian at the polls in June, 1855, and his injuries were such that he was compelled to retire. He dragged out a life of mental disability until his death, in 1861. He was a Democrat of pronounced type, one of the wheel horses of

his party, and a leader of the movement for an elective judiciary. It seemed the irony of politics that his splendid career should have been summarily closed by an irresponsible wretch, whose right to be at that spot had perhaps been guaranteed to him through the efforts of his victim.

Slidell was succeeded by Edwin Thomas Merrick, after a fierce campaign, which it is said has never been paralleled in the history of the state until very recent times. The third Chief Justice had been a district judge in the Feliciana district, and he came to his seat with an established reputation as a jurist. He entered on his duties at Monroe on August 1, 1855.

In June, 1855, Ogden resigned, and his unexpired term was filled by the election of Lea, who sat for the first time on Monday, July 23, 1855.

Lea's term expired in April, 1857, and his place was taken by J. L. Cole on May 4, 1857.

In September, 1858, Spofford resigned, and Thomas T. Land was elected and began to serve on November 1, 1858.

Cornelius Voorhies retired in April, 1859, and was succeeded by Albert Voorhies, his son, on May 3, 1859.

In January, 1860, J. L. Cole withdrew, and Albert Duffel was elected in his place, and took the bench on March 12, 1860.

On Monday, February 24, 1862, the Supreme Court met in New Orleans, with Merrick, Buchanan, Voorhies, and Duffel present, and Land absent. Some minor business was passed on, and an order was entered reciting that at a meeting of the Judges of the Supreme Court and the district judges of Orleans parish, it had been agreed that all courts should adjourn to facilitate the mobilization of the militia, which had been ordered by the Legislature. Accordingly the court adjourned to Monday, May 5, 1862, at 11 o'clock.

On that day, all the judges being absent, the clerk adjourned the court to Tuesday, May 6, 1862, and the same conditions still existing, he on that date adjourned it sine die.

In the gathering of February 24th Buchanan was the last representative of the group which organized the court nine years before. In that short period twelve judges had seen service on the bench, but notwithstanding this constant shifting of minds, the body of its jurisprudence ranks high. We might, indeed, paraphrase here Merrick's eulogy on the preceding court, adding to it

that Spofford had all the ability of Eustis and was more than his equal in industry, and that the Chief Justice himself took pride in keeping ahead of his Associates in the volume of his product, and found time besides to write concurring and dissenting opinions, which established his reputation as an independent thinker. Indeed, these volumes and others like them make us regret that the Constitution of Louisiana now prohibits the publication of concurring and dissenting opinions; for, with this limitation on the judicial mind, there seems to have fallen on the court a habit of concurrence which has, it is thought, helped to create the impression of a one-man court, concerning which so much has been said in recent days.

Aside from the learning and industry of the judges, the court had a peculiar advantage over its predecessors in that nearly always there were at least three men sitting together who had seen long service on the district bench, and who had there attracted the deserved appreciation of the bar. The judges were not only zealous workers, but there was between them a jealousy and rivalry in work which urged each to his topmost speed. There is a curious contemporary illustration of this in a copy of *Eleventh Annual* in my possession. It contains the autograph of Justice A. M. Buchanan, and was evidently used by him while on the bench. On the flyleaf is this entry in his handwriting:

“This volume contains 409 decisions, of which pronounced by

M.	104
V.	55
B.	76
S.	104
L.	70
	<hr/>
	409

“Opelousas cases omitted in this volume altogether, although 43 cases were decided there, of which

M.	15
B.	14
L.	14
	<hr/>
	43

“Justices Voorhies and Spofford absent from Opelousas.”

Up to the closing hour in New Orleans the court seems from its minutes to have been undisturbed by the clamor and disturbance of the great war which was raging without its portals. The last reported cases, decided in February, 1862, show no sign of haste or tremor. Indeed, it was only when the city was literally in the embrace of the foeman, and the local authority was toppling to its dissolution, that the session was brought to an end.

The opinions of the court of 1852 begin at page 277 of the 8 Annual, reported by W. M. Randolph, who was succeeded in 12 An. by A. N. Ogden, who served until 1862, but the opinions of 1861-62 were compiled after the War closed, and were published by S. F. Glenn, with the assistance of the late reporter. It ought also to be added that by an act passed in 1855 the reporter was directed to report all cases save those involving mere questions of fact, or in which damages were assessed for frivolous appeal.

The city of New Orleans was taken by the Federal Army in April, 1862. Baton Rouge, the capital, fell shortly thereafter, and the seat of the state government was removed to Shreveport, and the Supreme Court was by legislative act required to hold sessions there or elsewhere during the War. Act 23 of 1863. Merrick and Land remained on duty at Shreveport, but were not joined by Buchanan, Duffel, and Voorhies. Buchanan seems to have remained in New Orleans, and to have drawn his salary from the Auditor of the Hahn Government. See Report, Journal of Convention of 1864, p. 134.

Thomas Courtland Manning was appointed by Governor Moore to fill Buchanan's place, and served until the close of the War.

Duffel died, and on February 10, 1864, the Confederate Legislature authorized the Governor to appoint a successor to serve until an election could be held in Duffel's (Second) Judicial District. P. E. Bonford was appointed under this act. See Merrick's Address on Land, 45 An. vii.

There is no printed record of any judicial work performed, but in the same address it is said the court heard and decided several important cases of public interest, besides acting in an advisory capacity to the Governor and the Legislature.

During the first four months of federal military occupation, that is, from April to August, 1862, none of the established courts had been opened in New Orleans. The army created a provost



court presided over by Major Joseph M. Bell of Butler's staff. All the criminal offenders were tried here, and the provost judge was, besides, invested with a civil jurisdiction, which extended into every justiceable controversy, including the settling of estates and the granting of divorces. See *Mechanics' Bank v. Union Bank*, 89 U. S. (22 Wall.) 297, 22 L. Ed. 871.

In the summer of 1862 General Shepley was appointed military Governor, and one of his first acts was an order issued in August, 1862, to reopen for business the Second, Fourth, and Sixth District Courts for the Parish of Orleans. He appointed judges to these courts, retaining Rufus K. Howell in the Sixth, in which he was judge at the opening of hostilities.

On October 20, 1862, President Lincoln by executive order established the Provisional Court of Louisiana, and appointed Charles A. Peabody, of New York, to be judge thereof. Peabody arrived from New York in December, 1862., bringing with him his clerk, marshal, and prosecuting attorney, all Northern men, and the court was immediately put in operation. In the executive order the President granted to the Judge of the Provisional Court all the power, jurisdiction, and authority previously vested in the district and circuit courts of the United States or in the state courts of Louisiana, and, furthermore, made its judgments final and conclusive. This extraordinary order was purely a war measure, and it was supported by the arms of the United States until the fall of 1864; that is, until the federal courts had resumed sessions, and the Republican state Constitution of 1864 had been put into operation.

The court was abolished by Congress July 28, 1866. The regularity of the Provisional Court was maintained by the Supreme Court of the United States in *The Grapeshot*, 76 U. S. (9 Wall.) 133, 19 L. Ed. 651.

In the interim the Provisional Court sustained the authority granted to it, and became in consequence a tribunal of great temporary importance. The judge seems to have exercised not only original jurisdiction, but he assumed the power of a court of review over the state courts. In the minutes of the Provisional Court, under date of January 12, 1863, the judge entered a rule of procedure to regulate transfers of cases to his court "from the late Supreme Court."

This digression would be unwarranted, save that it leads up to a matter which had long been treated as a legend, but which seems on examination to have had some foundation.

After the re-establishment of the three district courts in Orleans and similar courts in Jefferson, and other parishes within federal control, the right of appeal from their decisions to the Supreme Court of the state was claimed and recognized. This created a situation unprovided for in Shepley's original order, and to meet it the military Governor appointed a quorum of judges for the Supreme Court. In April, 1863, he named Charles A. Peabody Chief Justice, and John S. Whitaker and J. L. Cole Associates. Peabody was the judge of the Provisional Court; Whitaker was then sitting under appointment as judge of the Second District Court; and Cole had been on the Supreme Court and resigned in 1860, as we have previously noted.

That these persons ever acted together is improbable. The Minute Book of the Supreme Court shows no entry after the adjournment on May 5, 1862, until the entry covering the organization of the court of 1865. But Peabody had actually exercised in his court the appellate jurisdiction of the Supreme Court, and he took over the added honor very lightly. An extra commission or so was a little thing to this judicial autocrat in those piping days. He drew salary as Chief Justice to the extent of \$3,541.66 on his own warrant against the Auditor of the Hahn State Government, elected under military authority in February, 1864. See Report Journal of Convention 1864, under date June 25, p. 134.

The time at my command has not sufficed to trace or authenticate the records, if such exist elsewhere. In 4 American Law Register, for 1864-65, a contemporary Philadelphia publication, three essays appeared on the Provisional Judiciary of Louisiana, in which the facts are given substantially as above detailed. These essays were published in the numbers for December, 1864, p. 65; March, 1865, p. 287; and May, 1865, p. 385. The writer speaks as with full knowledge, and was evidently on the scene.

From internal evidence, together with the initial "B" signed to the article in the March number, and the place of composition, New Haven, Conn., I am satisfied the writer was Edward C. Billings, who was later the law partner in New Orleans of August De B. Hughes, clerk in 1862-63 of the Provisional Court of Louisiana. Billings came to New Orleans at or just after the federal occupa-

tion, and he practiced law here until his appointment as Judge of the District Court of the United States for this district. His actual residence, however, was in New Haven, Conn., and he died there while an incumbent of this office.

During the whole period 1862-64 the Supreme Court room was occupied by the United States military forces. If any session of the Supreme Court was held by Peabody, it was in his own room in the Custom House, but his minutes do not disclose the fact. In a slight sketch of the United States Provisional Court written by Judge Peabody and published in the *International Review* May-June, 1878, he intimates that he exercised the functions of both offices at the same time. Having the federal army at his back and there being no appeal from his decisions he must be ranked as a more powerful magistrate than the first judge of the territory whose career has been covered in the first paragraphs of this essay.

In the preface to 16 Annual, written by S. F. Glenn and published in 1865, the reporter says that the records and opinions of the court had been so scattered and misused by the military occupants of the court that it was difficult to make up a complete report of the court's work of 1861-62. The fact that Glenn, who was a contemporary, makes no mention of the Peabody court is at least slight evidence that he found no written opinions. Another circumstance throwing doubt on the question is that Act 51 of the General Assembly 1865, approved April 3, 1865, makes provision for the transfer of the records of the Provisional Court of Louisiana into the several district courts of the state. No mention is therein made of any records to be transferred to the Supreme Court; nor has there ever been any further legislation on that subject. The records were never, however, transferred, and are still in the custody of the United States Court for the Eastern District of Louisiana.

Reviewing the whole matter, the conclusion is that the three persons named were actually appointed; that the appointees do not appear to have held court together; that Peabody apparently exercised the functions of the Supreme Court at the same time he was sitting as United States Provisional Judge, and that he drew salary from the state as Chief Justice, at least, until the meeting of the Constitutional Convention in June, 1864.

## VI. 1864-1868.

It was the policy of President Lincoln in 1862-64 to organize a civil government in Louisiana, and under his suggestion an election was ordered by General N. P. Banks, to be held on February 22, 1864, to elect a Governor and other state officers, to be installed on March 4, 1864; and he also called an election to be held March 28, 1864, for delegates to a convention to revise the Constitution of 1852. Both elections were held in due course in New Orleans and other places under federal control. Michael Hahn was elected Governor and J. Madison Wells Lieutenant Governor, and they were inaugurated on March 4, 1864. At this time the larger part of the state was still in control of the Confederate forces.

The Convention met April 6, 1864. It was composed of political waifs and estrays from nineteen parishes, but, of course, some men of character and ability were found in the gathering. The debates of this convention were preserved and printed, and they constitute a political opera bouffe or side show to the awful tragedy of life in Louisiana in 1864.

After much travail a Constitution was framed which was submitted in due course to the same limited electorate on September 1, 1864, and on September 5, 1864, a general assembly was elected to complete the government. Hahn was elected Senator in 1865 after two other Senators of the same creation had been refused admission by the Senate of the United States, and upon this election Hahn resigned and Wells succeeded to the Governor's chair. Each of these men had been Democrats in the old days, but they were now classified as "loyal men," and they had been nominated as free state men, i. e., men who desired to bring Louisiana back into the Union under Republican auspices.

The Constitution of 1864 created a Supreme Court of five justices appointed by the Governor for eight years with a salary of \$7,500 to the Chief Justice, and \$7,000 to the Associates. In other respects, including jurisdiction, the rules established in the Constitution of 1852 were re-established, save that no territorial qualification was required.

The court was organized by Act No. 11, p. 18, of 1864, re-enacted in Act 82 of 1866, p. 150, by which the state was divided into four appellate districts, with one Associate Judge from each district; the Chief Justice to be appointed from the state at large.

Sessions were fixed at New Orleans, Monroe, Natchitoches, and Opelousas; the first from November to June, the others in July, August, and September, respectively.

Appeals concerning the right to office were made returnable in ten days, and in criminal cases at the next session, wherever held. It was also provided that no appeal should be dismissed for informality, without opportunity to the other party to remedy the same.

No attempt was made to name the judges until April 3, 1865, on which day Governor Wells appointed William B. Hyman, of Rapides, Chief Justice; and the Commissions of Zenon Labauve, of West Baton Rouge, Rufus K. Howell, John H. Ilsey, and Robert B. Jones, of Orleans, Associate Justices, bear the signature of Governor Hahn. The judges met on May 1, 1865. Their commissions were spread on the minute book of the court of 1853, which was thereupon closed forever.

The court thus constituted was, from a professional viewpoint, distinctly mediocre, but, considering the situation, the appointments might have been worse.

The court, as well as the government from which it sprang, was a mere puppet to register the views of the federal authorities, political and military. Neither department of that government could say it had either a soul or a will of its own, and, this being the case in the territorial region where it was created, it goes without saying that it was absolutely disregarded in the remainder of the state, where the authorities elected in 1861 and again in 1864 were recognized as the only true government of Louisiana. But the end of the old era was already in sight, and the close of the civil strife settled the new judges in state-wide authority and determined their right to a place in the history of this court.

Under the conditions surrounding their appointment, the judges had to be in sympathy with the winning side, and this particular group was "loyal" and "safe." Hyman had practiced law for years in Rapides. Labauve had accumulated some means as a sugar planter and lawyer in the old "German Coast" region. Ilsey had practiced in Jefferson and adjoining parishes. Howell had been a judge before and during the War in Orleans; and Jones was an unknown quantity. The Chief Justice was an amiable, easy-going, rather indolent man, full of whimsies and odd ideas. His life had been devoted by choice to the unpopular and under-

dog side. This was not a pose but a quality of disposition. His transition to the Republican party was to be expected, and he held to that idea until he died, years afterwards. Aside from these characteristics, no one ever questioned his integrity or his desire to be just. If he failed, the times and his associations and surroundings were more to blame than he. The last remark may also be applied to Labauve and Ilsley. As to Howell, the people generally felt otherwise, probably because he was a bitter partisan, and he seemed, when going over, to have turned his back absolutely upon his past. Jones was a nondescript, regarding whose ability as a judge there was a contemporary *jeu d'esprit* which Ficklen has preserved in his *History of Reconstruction in Louisiana*, a work of rare promise, which, unfortunately, the author did not live to complete. He says that Jones applied to a justice of the peace to qualify, i. e., to be sworn in, and the latter replied: "I will swear you in, but all hell could not qualify you." The story is probably apocryphal. I heard it first from Sam Myers, an irresponsible wag who eked out a precarious existence for years at this bar, and who will long be remembered for a witty and almost libelous poem on Steele, Attorney General of a later era, in reply to the suit by the latter for the license tax then levied on and still exacted from the profession. Jones' reported work is scant. He resigned in 1866 and shortly afterward died. In his place there came to the bench in July, 1866, one of the most unique characters of that time, James G. Taliaferro, of Catahoula, who was born in Virginia in 1798. He had first resided in Mississippi and thence moved to Catahoula, La., where for a time he did manual labor on a farm. He was elected parish judge in 1840, apparently without having been licensed as a lawyer; at least, without having practiced. Thereafter he resigned this position and followed the law for a livelihood. He was a member of the Constitutional Convention of 1852, and of the Secession Convention of 1861. He was one of the few members of that body who vigorously opposed secession, and he declined to sign the ordinance. He was a rugged, straightforward, old man who had convictions which he did not hide, and which he was not chary of expressing. His attitude at this time was in accord with his beliefs. He held the respect of his opponents in a period when the same could be said of few others in his situation. He added strength to the court of 1865, and was returned with Howell to the court of 1868. He

died while on that bench in 1876, before the triumph of the cause which during all his judicial life he ardently and insistently joined in delaying and defeating.

The labors of the court of 1865-1868 are reported in 17 to 20 *Annuals*, inclusive. The first volume is chiefly left-over cases from the former court. The reporter was S. F. Glenn, who held the position until the close of volume 18, and was succeeded in 1867 by Jacob Hawkins, who continued the Reports through this court and until 1872 in the court of 1868.

The court rules of 1853 continued to govern, including the four-hour argument.

After 1866, that is, in 18, 19, and 20 *Annuals*, the business of the court grew somewhat in importance, and many serious cases were adjudicated, but, after all is said, it remains true that this period of our judicial history presents a flat, uninteresting surface. The judges were merely filling a gap. Out of doors chaos was slowly settling into order; the air was troubled and the sea of politics boiled; great and fundamental changes were taking place, but life on this particular judicial side moved on unperturbed.

The military forces arbitrarily and without hypocrisy settled all political and all public judicial questions. The judges were allowed to piddle with humdrum litigation, but, even so, care was taken to keep step with the military band. The forcible invitation to get out was often issued to their confrères in the pseudo state and city governments, for the favor of the master was in those days as uncertain as the verdict in a Roman circus, but the patient, obedient, and careful judges of the Supreme Court of 1865 were not disturbed. They wore the livery of power three and one-half years—filling the round of duty, writing commonplace opinions, and marking time against the inevitable change which all the portents foreboded.

## VII. 1868-1877.

The Constitutional Convention of 1858 was preceded by the congressional reconstruction legislation of 1866-67, and there had been much blood shed and turmoil engendered as a result of that legislation. The members of the Convention had been elected by default—that is, the Democrats generally abstained from voting, or were unable to vote—and when the body met its ninety-eight

members were equally divided between blacks and whites, and all but two were Republicans.

The Constitution was ratified at an election guarded by federal troops, wherein Warmoth was declared Governor over Judge Taliaferro, who was of the same party faith, but had received some Democratic support. Warmoth's large majority was chiefly made up of negro votes. He had been posing as the Moses who would lead them out of the Wilderness. The United States in due course recognized the return of the state to the Union, and military rule ceased in Louisiana, save that at all times and until 1877 the army was used to maintain the Republican Party in its control of the government of the state.

The Constitution created a Supreme Court of a Chief Justice and four Justices modeled on the system established in 1864, save that the minimum jurisdiction was raised to \$500. The salary remained at the previous figures, \$7,500 and \$7,000, respectively, and the appointment was vested in the Governor. The New Orleans session was shortened to close May 31st, and sessions elsewhere were to be as before and until otherwise provided by the Legislature.

The Legislature of 1868-69 treated the judiciary features of the Constitution as self-acting, and made no provisions, save to transfer the records of the preceding courts to this new creation. Acts 1868, No. 20, p. 20.

Warmoth appointed the Justices, and the court organized on the first Monday in November, 1868, in New Orleans, at the *Cabildo*, which was used for this purpose for the first time. John T. Ludeling, of Ouachita, was Chief Justice; James G. Taliaferro, of Catahoula, W. G. Wyly, of Carroll, R. K. Howell, of Orleans, and William Wirt Howe, of New Orleans, Associates. All save Howe were antebellum residents of the state, and more or less well-known personages. Howe had been a federal soldier, reaching New Orleans at or just after the capture in 1862, and while in the army he had been assigned to various tasks which brought him into not unfavorable contact with the people.

The other judges had already shown their devotion to the new régime, but they were given no credit for honesty or good faith in their convictions, save by those who were profiting under the new conditions or had risen out of the same. The rank and file of the white race mistrusted the judges from the start, and



there was much in the subsequent course of events to strengthen this first impression.

The court of 1865-68 had been a mere political plaything. It was harmless for evil, and, on the contrary, had served a very useful purpose; but the court of 1868-77 was quite a different institution. The restoration of the state to the Union meant the administration of all its powers and revenues by the new régime. The part to be played by the highest court was under such circumstances a thing to be considered, but no one dreamed then how powerful and useful it was to become.

The story of the eight years of misrule in Louisiana from 1868 to 1876 has never been fully told. It is known in its black outlines, and even in that shape history affords few parallels for the spoliation and demoralization of that time. The Supreme Court was a part of the governmental and party system under whose auspices and by whose members this gross wrong was perpetrated, and contemporary criticism did not separate or spare any department.

The political rulers of that period were a litigious set. Indeed, the courts had never been called to decide so many controversies of a public or quasi public nature. The Supreme Court was the battlefield where offices and emoluments were lost and won, and these political quarrels were not always aired and adjudicated without leaving scars upon the judicial body. A political history of Louisiana could, indeed, be written from the Annuals of that period, though all other records were destroyed; but such history would not be impartial, did it not establish the Supreme Court as one of the chief instruments in the overwhelming and subjugation of Louisiana by the Republican party.

Occasionally the current of political misrule would be stemmed for a time, and the court had periods of like effort. Howe particularly was restive during much of his term, and it is said his resignation in 1872 marked his final rebellion against the political methods of the day.

It is historically indisputable that the eight years of the Ludeling court left a bad taste in the mouth of the white people of the state. The underlying reason was, of course, found in the fact that the great mass of the white population and the bulk of the property of the state were unrepresented in the Republican Party. The government of the time was by these unrepresented

masses considered to be venal and corrupt. It was regarded as a revolutionary creation established by the power of the national government, which was always ready to sustain it, and did, in fact, maintain it by show of force whenever the reviving Democracy seemed able to shake it off. As a corollary it was believed that a judiciary sustained under such conditions could not be better than its authors, and consequently it could not and did not command the respect and affection which has always been felt for the Supreme Court more happily constituted.

It was charged and believed that the judges were ardent partisans, active in counsel and advice, and influenced by the leaders in all cases having a political aspect. It was the general opinion that no argument would convince the court in any case where the result would be injurious to the interests of the Republican Party, or would tend to advance the prospects of their opponents. It was also believed that this intense partisan bias affected the decision of every case where counsel, parties, or witnesses happened to be of opposing political families.

A tribunal thus always under suspicion, where one particular class of litigation was concerned, was, of course, on the defensive in all matters; but there is no evidence to sustain any charge against the fair conduct of the general business of the court.

The judges were a strong, forceful body of thinkers. Indeed, their undoubted ability and capacity was the bulwark of the wicked government under which they served.

The Annuals from 1868-72 cover a great course of jurisprudence—not even at the beginning of that century were the questions at issue so intricate or the matters at stake so important. This court was engaged, as had been the case with the first court, in rebuilding a government. It was called on to interpret and to enforce legislation which was intended to reverse the ancient and create a new order of things.

A study of their decisions helps us to understand other dark eras in the history of our race. These judges were contemporaries of the men they now rode with whip and spur; they had ripened under the same influences, yet they were vindictive, unyielding partisans who abated not one jolt or tittle in favor of their ancient fellowship. So far as in them lay they established black supremacy, and drove the last nail into white authority. They wrote a jurisprudence which on racial and public questions was

specious and unsound, and it was torn to pieces by the succeeding court, and by subsequent legislation; indeed, the whole hope of life in this part of the world ran contrary to the ruling dogmas of that frightful time, supported by the ability and authority of this high tribunal.

But when we have brought this black indictment, it is our duty to say that in other aspects, on general questions of jurisprudence, this bench was the equal of any. No student of the law can deny the learning and the strength and ability of the reasoning by which many great questions were then settled—decisions which have been re-examined and maintained by all succeeding courts.

The opinions of this period are published in 20-28 *Annuals*, inclusive, with Jacob Hawkins as Reporter until 1873—a grim, stark, hard partisan of the ruling faith, who ultimately resigned to take the judgeship of the Superior District Court of Orleans. This was a legislative monstrosity created in a wild revel of power to rid the dominant faction of a Democratic judge recently elected to fill the Eighth District Court of the same parish. A New Orleans newspaper embalmed court and judge in a fierce and stinging epigram, which will be found reported in the libel suit which ensued. *Hawkins v. Publishing Co.*, 29 *La. Ann.* 134.

To succeed Hawkins as Reporter, the Supreme Court appointed Charles Gayarre, a gentleman and a scholar of the old régime, reduced in fortune and passing in retirement the evening of a long and brilliant life. It was a graceful and an unexpected act—a gleam of light in a dark period, which may excuse this digression. Mr. Gayarre remained until that bench was extinguished in the overthrow of 1877.

The court as originally constituted remained unbroken until November, 1872, when Howe resigned. The political alignments of the day, strange to tell, had brought Warmoth into touch with the Democratic Party and had divided him from the regular faction of his own party. Guided by his new Associates, Warmoth appointed John H. Kennard to succeed Howe, on December 3, 1872, and Mr. Kennard assumed his duties on the same day, and served until February, 1873, when he was unseated, as we shall now relate.

When Warmoth broke from his quondam associates they resorted to one of the familiar tricks of the time. He was impeached, and while this was pending Pinchback, the Lieutenant Gov-

ernor of Louisiana, appointed Philip Hickey Morgan successor to Howe. The State Senate did not confirm Kennard, but did confirm Morgan on January 4, 1873, and proceedings were promptly instituted before the Superior District Court to try title to the seat. The suit was brought in the name of the state, on the relation of A. P. Field, Attorney General, and was tried summarily. It was decided below in Morgan's favor, and this judgment was affirmed in the Supreme Court on January 30, 1873 (25 La. Ann. 238), and Mr. Morgan produced his commission and was seated Saturday, February 1, 1873. The sole reviewable issue—whether there was due process of law—was presented to the Supreme Court of the United States by Mr. Kennard, and he lost out there also. 92 U. S. 480, 23 L. Ed. 478. Morgan was a lawyer of standing and ability, and the bench in this respect lost nothing, but the appointment preserved the old political phalanx which had been temporarily broken by Kennard's service.

Taliaferro died in October, 1876, and John E. Leonard was appointed by Kellogg, taking his seat at the opening of the November term, 1876. As a matter of fact the eight-year term of the Justices expired by limitation in November, 1876, but the Justices continued to sit until December 23, 1876, when the court adjourned for the Christmas recess, to meet again on Tuesday, January 9, 1877.

During that recess Kellogg reappointed Ludeling Chief Justice and Leonard Associate Justice for the full term. He also appointed John E. King to succeed Wyley, and announced that the places of Morgan and Howell would be filled by "Governor" Packard.

#### VIII. 1877-1880.

The state election held on November 7, 1876, was involved in the Returning Board troubles of that winter, with the result that dual governments were inaugurated in the ensuing January. Almost the first act of Governor Nicholls was the appointment of a full bench for the Supreme Court. These persons qualified on January 8, 1877, before A. L. Tissot, District Judge of Orleans, and early in the morning of the 9th secret preparations were made by the Nicholls police and militia to capture the Supreme Court building and to seat these judges.

The Packard government had installed its own police in the building, and at 11 o'clock on Tuesday, January 9, 1877, Ludeling,

Leonard and King called upon the sheriff to open court, which he refused to do, and he was thereupon suspended, and a sheriff appointed by the court, who performed the usual ceremony. Opinions were handed down by Ludeling and Leonard, and on motion of the Packard Attorney General the court adjourned.

About noon the Nicholls police demanded the surrender of the building, and after some delay physical possession was taken, and the Nicholls Justices were brought into the court-room, where at noon the court was opened by the sheriff of Orleans parish. The commissions of the Justices were spread on the minutes. Alfred Roman was appointed clerk, several motions and orders were entered, and a distinguished lawyer of the New Orleans bar pronounced a mortuary eulogy—not on the old court, but on a recently deceased district judge—and thereupon the court adjourned out of respect to his memory.

The capture of the courtroom and the installation of these Justices was a political master stroke, and gave the Nicholls government a solidity and authority that was of immense service as matters then stood. For a time it was feared President Grant would order the dispersal of the court, but ultimately he recognized the status quo and the Nicholls Justices remained in possession of the courtroom, which was, moreover, guarded day and night by volunteer militia. After President Hayes' inauguration the support of the army was withdrawn, and the Packard government disintegrated.

The court as thus constituted was Thomas Courtland Manning, of Rapides, Chief Justice; Robert H. Marr, of Orleans, Alcibiade De Blanc, of St. Martin, William B. G. Egan, of Caddo, and William B. Spencer, of Concordia, Associates. They were without exception leaders of the Democracy, and had taken active part in all the stirring events of reconstruction.

The sixth Chief Justice had served on the bench during the War, as previously noted. Marr had been counsel in all the litigation from the Test Oath Case onward, by which much of the evil legislation of Congress against the Southern white people had been emasculated, and he was also one of the foremost inciters of the armed attack on the Kellogg government on September 14, 1874. De Blanc had been a soldier in Virginia with Nicholls, and he was, besides, the foremost citizen of his part of the state, enjoying there respect and veneration second only to that extended

to Governor Nicholls. Spencer had held similar positions in his special bailiwick. In short, the new Justices were recognized everywhere as the flower of the Forlorn Hope which had incessantly waged war upon the Republican stronghold in this state during the seamy years of 1868-1876.

There were scores of deserving lawyers who could have filled the positions with equal skill and dignity. This was particularly the case in Orleans parish, where the faith had been kept under circumstances of professional loss and judicial ostracism which few now living can appreciate. There was, however, no heart-burning or sulking among the leaders. On the contrary, they continued the good fight here and in Washington until success crowned the patriotic labor.

At its first sitting the court entered orders reassigning all cases under advisement, and also rearranged the fixed causes so that business could be resumed on the day succeeding. The installation was necessarily a dramatic spectacle—literally it was the act of an embattled people, but the Justices gave no outward manifestation that any unusual or extraordinary event was in progress. The minutes make no note of the abortive session of the evicted judges, nor is any mention made of the physical capture of the seats.

On the next morning, January 10, 1877, the routine business was taken up, and thereafter the tribunal never faltered or delayed in the ordinary conduct of affairs. When the rival government passed away forever, the incident fell unnoted upon a court secure in the confidence and respect of all the people.

Percy Roberts succeeded Gayarre as Reporter, and his labors cover the prior 1877-April, 1880, that is, 29 to 32 La. Annual, inclusive. The cases reported include many interesting commercial and general questions, and several of transcendent temporary importance.

Justice Egan died in November, 1878, and Edward Douglass White, of Orleans, now Chief Justice of the United States, was appointed on January 10, 1879, for the unexpired term. He was seated January 13, 1879, and his first reported opinion is *Charpaux & Valette v. Bellocq*, 31 La. Ann. 165-169. A commonplace issue is here dissected by a sound civilian, and the conclusions are illuminated by an argument that could only have been made by a devoted student of the principles of the civil law. The

opinion is, furthermore, a notable illustration of White's judicial methods—the concise, lucid statement, the separation of the issue, the massing of words, each chosen for its power in the onset, the march of the argument to the irresistible conclusion—all these are developed and displayed with an art and skill that delight the laboring craftsman.

Considering the circumstances preceding their appointment, it is remarkable that few cases of a political nature reached this court. It was current gossip that there was an understanding that an amnesty or truce would be observed by the new government concerning all political offenses.

In any event, there were only two cases which brought up the past. One was called a "State Trial," and was followed with general interest. This was an indictment by the state against T. C. Anderson, member of the Returning Board, which it was claimed had reversed the will of the voters in the state and presidential elections of 1876. He was charged with altering, forging, and counterfeiting the returns of the presidential election in Vernon parish, and he was convicted before the Superior Criminal Court of Orleans. The information was quashed in the Supreme Court on a technicality, and the defendant was not further prosecuted. The opinion of the court gave opportunity to express some strong views concerning the offense, and it was, indeed, a case that could easily have been determined the other way, if the new régime had been imbued with a desire for revenge. See *State v. Anderson*, 30 La. Ann. 557.

The other case was the contested election over the office of sheriff of Lafourche, and it is historically interesting, showing the political methods of that day. The court here determined in favor of the Democratic candidate. See *Webre v. Wilton*, 29 La. Ann. 610.

Two other cases should be noted: 29 La. Ann. 590, where the court decided that the decrees of courts held within the Confederate lines were valid and binding. The state of war then existing was shown by authority not to affect the ordinary course of legal proceedings with parties properly impleaded. The Jurisdiction was maintained and the judgment held to be *res adjudicata*.

In *Southern Bank v. Mayor, etc.*, 31 La. Ann. 1, the constitutionality of the consolidated bond debt of the city of New Or-

leans was attacked, and the court sustained the assault and invalidated the issue. This case was an extremely important one, and its effect was to release the municipality from a great part of its indebtedness. The decision was, however, reversed by the Supreme Court of the United States in 105 U. S. 302, 26 L. Ed. 1090.

The new government had scarcely been secured in its authority before an agitation for a new Constitution gathered head, and in July, 1879, a Constitution was adopted which shortened the terms of the Justices, and provided for a reorganization of the court in April, 1880.

The necessity for this action was not evident then, and historically is classed under that ingratitude of rulers which the old proverb impresses. The executive, legislative, and judicial departments had each borne the brunt, and through their efforts the state had been restored to its proper place among representative governments. A vote of no confidence was hardly to be expected, nor is it justified in history, even though it constantly teaches that the ways of politics are not always scrutable. The writer still recalls his own poignant suffering over the discard of these Justices, whom all the young men of that time regarded as personal friends, and to whose consideration he particularly owes the ability to take an official part in this ceremony.

The personal characteristics of the Justices of the court of 1877-1880 needs a separate essay. Indeed, a study of the work of the Chief Justice alone would yield much material to interest and entertain. The pure, chaste, and elegant English of his opinions was not infrequently sweetened by an Attic salt, though sometimes he used a coarser material. He had a dignity of person—a carriage—which seemed very natural to his intimates, but which was responsible for many stories. This habit affected his conduct in many little ways; for instance, his signature was seldom other than his surname and, one of his contemporaries speaking of this affection said, there were only a few men in the history of the race who claimed the right: "Moses, Cæsar, Napoleon—Manning."

After his retirement Judge Manning edited and published the unreported cases decided by the Supreme Court during his term as Chief Justice—a valuable addition to the reports of the state.



## IX. 1879-1898.

The Constitution of 1879 created a Supreme Court on the frame of its predecessors. The Justices were apportioned to four districts, covering the whole state. Two were allotted to the First District, comprising Orleans, and the five circumjacent river parishes. The salary was reduced to \$5,000, and the term lengthened to twelve years; the four Associates first appointed to go out at intervals of two years, their successors to be commissioned for the full term.

Minimum jurisdiction was based on a value in civil cases of \$1,000, and appeals in suits for divorce and separation from bed and board were made justiciable by express grant, and for the first time in any Constitution of the state. In other respects the powers of the court remained as before, but a new element was added by article 90 providing that it should "have control and general supervision over all inferior courts." The profession rather hastily assumed that under the writs granted in the same article the court was empowered to review any case where the issue of fact and law would be presented on the record, but the court quickly construed this grant in a way to shut off the legal avalanche that would have followed the first impression.

The Justices were appointed by Governor Wiltz, and the court organized on Monday, April 5, 1880, at New Orleans, with Edward Bermudez of Orleans, Chief Justice; Felix P. Poché, of St. James, Robert B. Todd, of Morehouse, William M. Levy, of Natchitoches, and Charles E. Fenner, of Orleans, Associates. The new corps of judges were lawyers of standing in their respective domiciles, and three of them were destined to leave a deep impression on the judicial record.

The seventh Chief Justice was a Creole, and yielded to none in pride of race and position. He was the son of Joachim Bermudez, sometime parish judge in Orleans under the Constitution of 1812, who had ruled for many years with a determination and authority that furnished one of the best arguments for the abolition of that judicial system.

The Chief Justice was in 1880 in his prime—a big, vigorous man, with a will of iron. He was a ripe scholar in the texts of the civil law, and was obsessed with a conviction that mastery of this science entitled his opinions to unqualified respect. At the bar he was apt to be censorious, particularly to the juniors who

crossed swords on his chosen field. There is no doubt that on the bench he earnestly endeavored to discover the light hidden perhaps under the bushel by counsel presenting such questions, but it was a great and costly expenditure of his strength and a severe trial to his temper, and he did not always persevere in his good intentions. He had a habit that grew on him, to state a proposition and then to sustain it with great array of authorities, usually by citation of book and folio without the title of the case. Typographical and other familiar mischances sometimes made verification of these references a grim satire, which the bar was not slow to advertise.

The senior associate, Poché, was also a Creole and a civilian, but he had more *savoir faire*, and did not ride full tilt upon the point at issue with all his armor clanking and rattling. When he disagreed with an argument he could say so with as much skill as the Chief Justice, but he did not add to it the terror of voice and gesture, nor seek to overwhelm by a rush of citation. At first the two Creoles seemed to work with one mind, but Poché gradually ceased to lean on the Chief Justice, and when some case would bring about a disagreement the jurisprudence would be enriched by the clash of two strong, tenacious disputants, each pouring out a store of knowledge in the effect to overthrow the ideas of the other.

Fenner was in all respects the antitype of these two. He was a master of precise thought, and clothed his argument in expressive language. Deeply versed in both systems, he had in this respect an advantage over Bermudez and Poché—a mental ambidexterity which often carried the point by mere weight of reasoning.

In the appointments Wiltz had given the shortest term to Fenner, four years, and he was reappointed in 1884. Levy had the six-year term, Todd eight, and Poché ten years. Levy died in the recess of 1882, and Judge Manning came back to the bench under appointment of Governor McEnery, to fill the remainder of Levy's term. He thus achieved the distinction of being thrice a member of the court under different commissions and Constitutions. He was not reappointed, however, and Lynn B. Watkins, of Red River, was named by McEnery on April 19, 1886, for the new term of twelve years, and he was reappointed in 1898.

On the expiration of Justice Todd's term, Ex-Governor Samuel D. McEnery took the place by appointment of Governor Nicholls on June 11, 1888, and in 1900 he was reappointed for twelve years.

Poche's term expired in 1890, and he was succeeded by Joseph A. Breaux, of New Iberia, who was appointed by Governor Nicholls on April 5, 1890, and reappointed in 1902.

The term of Chief Justice Bermudez expired in 1892, and he was replaced by Francis T. Nicholls, appointed by Governor Foster April 5, 1892. The eighth Chief Justice had just surrendered the Governor's chair to Foster, whose first act was this appointment. In April, 1904, Chief Justice Nicholls was reappointed, but under the rule of the Constitution of 1898, he came back as an Associate Justice, and Breaux the senior Associate Justice, advanced to the seat of Chief Justice.

In 1893 Fenner resigned, and Charles Parlange was commissioned for the remainder of that term by Governor Foster on September 1, 1893.

In 1894 Parlange accepted President Cleveland's appointment to be judge of the United States District Court for the Eastern District of Louisiana, and accordingly resigned as Justice of the Supreme Court of Louisiana.

On February 1, 1894, Henry C. Miller, of Orleans, was appointed in Parlange's place, and in 1896 he was commissioned for a full term.

In 1894, Act 69, p. 80, the Legislature repealed the itinerant system under which the court had held country sessions in mid-summer ever since 1812. By this statute the seat of justice was fixed at New Orleans, and all appeals were made returnable thereto at stated periods for each district. For some time before the passage of the act of 1894 the court was sitting in the summer and fall of each year at Monroe, Opelousas, and Shreveport.

In 1896, Act 66, p. 98, the court was authorized to hear and decide in chambers out of term time all matters addressed to its supervisory jurisdiction.

Under the rule established in these laws the court sat at New Orleans from the first Monday of November to the end of June.

This was afterwards changed to begin on the first Monday in October, by Act 149 of 1906.

By Act 92 of 1900, p. 150. the old system of particular return days was abolished, and now all appeals are returnable in not less than fifteen nor more than sixty days.

In 1897 Justice McEnery resigned to accept the office of Senator from Louisiana in the Congress of the United States, and on March 4, 1897, Governor Foster appointed Newton C. Blanchard for the remainder of McEnery's term. The latter had just finished his term as Senator, from Louisiana.

The Reporter of the decisions of the Supreme Court became a Constitutional officer in 1879 (art. 88).

During the period 1880-1897 the opinions were reported by Henry Denis, of the New Orleans bar, from 1880 to 1895, covering 32 La. Annual 521 to 46 La. Annual, inclusive. Commencing with 47 Annual (1895), Walter H. Rogers, also a New Orleans lawyer, reported the decisions until 50 Annual, inclusive (1898).

The work of the court under the Constitution of 1879 has been part of the every-day life of your Honors, and is, I am glad to say, equally familiar to many of those who are participating in this ceremony. Speaking with first knowledge, Judge Fenner said, in his eulogy on Poché June 22, 1895 (45 An.) that the work was performed "in a formative period of our jurisprudence, involving the interpretation of a new and original Constitution, bristling with novel principles, powers, and limitations, and requiring the entire readjustment of our jurisprudence on many subjects and its adaptation to changed conditions"; and he said further that the court had succeeded "in the momentous task of putting into operation the complicated machinery of the new government, so that it should run with the least possible friction or injury to essential principles or individual right and governmental power, and above all in harmony with the Constitution of the United States."

#### X. 1898-1913.

On November 12, 1898, a new constitution was adopted, and great and fundamental changes were made in the judiciary system of the state. The appellate jurisdiction of the Supreme Court was broadened, and the minimum value of \$2,000, established as a basis by the constitutional amendment which had been proposed by Act 125 of 1882, was retained. Original jurisdiction was conferred wherever necessary to enable it to determine questions of fact affecting its own jurisdiction in any case pending before it.

A new matter of great importance was the grant of original jurisdiction in all matters touching professional misconduct, with power to disbar.

The salary was left in the legislative discretion, not to be less, however, than \$5,000. The term remained twelve years, and the Governor retained the appointive power, but a new feature was introduced, providing that when the office of Chief Justice becomes vacant the Associate Justice longest in service shall by virtue of that service become Chief Justice.

The session was limited to New Orleans without any authority to the Legislature to prescribe other places.

Power was granted to the court to provide for reporting the decisions and for the publication thereof by contract to the lowest bidder. Publication of concurring and dissenting opinions was, however, prohibited. The judicial history of our race should have been a warning against legislation of this character.

A meager allowance was made for the employment of amanuenses by the Justices.

The Legislature was required to make provision for a suitable and commodious building for the court and its records—a clause which was carried into effect in a worthy and generous way by the erection of the house in which the court now sits.

At the time the Constitution of 1898 became effective the roll of the Supreme Court was as follows: Nicholls, Chief Justice; Watkins, Breaux, Miller, and Blanchard, Associates.

The schedule provided that the Supreme Court here established should be construed to be the same court as the one then existing, and that all persons in office at the adoption of the Constitution should serve until the expiration of existing terms.

In 1899 Justice Miller died, and Francis A. Monroe was appointed on March 22, 1899, and served the remainder of Miller's term, and in 1908 was elected by the people and without opposition to the term he is now filling—the first judge of the Supreme Court to be elected by the people since Duffel's election in 1860. At the time of his appointment Justice Monroe had been sitting continuously since 1876 on the district bench of Orleans parish.

In 1901 Justice Watkins died, and Olivier O. Provosty, of Pointe Coupée, was appointed his successor on March 16, 1901, and in 1910 was elected to a new term.

In 1903 Justice Blanchard resigned in order to enter the canvass for the Democratic nomination for the office of Governor of Louisiana, and Alfred D. Land was appointed to the vacancy by Governor Heard on October 17, 1903. Justice Land was a candidate for renomination, but was defeated by Luther E. Hall, now Governor of Louisiana, who resigned before his judicial term began, and after being elected Governor. Thereupon Justice Land was re-elected in 1912 without opposition.

On April 4, 1904, Justice Breaux was advanced to Chief Justice, under the rule of seniority, the term of Chief Justice Nicholls having expired. The Ninth Chief Justice will continue to hold that office until April, 1914, when his second term of twelve years will have expired.

In November, 1904, an amendment to the Constitution was adopted, making the office of Justice of the Supreme Court elective by the people.

Another amendment of the same year leaves the court discretion to regulate its session, provided it shall begin "not later than the first Monday in the month of November, and ending not sooner than June 30th." However, by Act 149 of 1906, before referred to, the Legislature itself fixed the term to begin on the first Monday of October.

In 1906 (Act 74, p. 115) the Legislature increased the salary to \$6,000.

In 1910, by constitutional amendment, it was established that any Justice may retire at the age of seventy-five, on full pay, after not less than fifteen years' continuous service.

In 1911 Justice Nicholls retired under this law, and Walter B. Sommerville, of Orleans, was elected in his place in March, 1911.

In the October term, 1910, the Supreme Court moved from the Cabildo into the new courthouse.

And now, on this 1st day of March, 1913, the court is composed of Joseph A. Breaux, Chief Justice; Francis A. Monroe, Olivier O. Provosty, Alfred D. Land, and Walter B. Sommerville.

Under the authority conferred by the Constitution, the contract for the publication of the Reports was first let to a local publisher who printed the volumes down to 108 La., inclusive. Thereafter the West Publishing Company received the contract. It had been publishing a rival edition. With volume 109 the Report appears in double-column pages.

In 1900 (Act 87, p. 135) the Legislature authorized the State Printer, with the approval of the judges of the Supreme Court, to contract with "a competent lawyer" to edit and index the decisions of the court before publication thereof. The act eliminated the office of "Reporter to the Supreme Court," and the opinions are now published with the name of the editor.

Thomas H. Thorpe succeeded Walter H. Rogers as Reporter in 1899 (51 An.), and he became the first editor under the act of 1900, and continued in office until 1907 (118 La.), when he was succeeded by Charles G. Gill, who is the present incumbent.

In June, 1900, the court by order closed the series Louisiana Annual, and directed that the name Louisiana Reports should hereafter be used, and that the volumes should be numbered in sequence from 1 Martin. Volume 52 is the last Annual, and Vol. 104 La. Reports, of 1900-1901, begins the new series. These volumes are published whenever the opinions make 900 pages of printed matter.

These annuals ought not to close without a reference to Thomas McCabe Hyman, late Clerk of the Supreme Court. He was one of the sons of the Chief Justice of 1864-68, and from early youth had been attached to the clerk's office. He was singularly gifted in the art of conducting a public office. He was the trusted friend of court and bar, and his sudden and unexpected death touched a sympathetic chord in every precinct where lawyers gather.

## XI.

I have endeavored to tell the early history of this court with as much detail as the occasion permitted. I have used some discretion with the central portion of the story, and, for reasons which are obvious, have condensed the concluding period to a meager record. I have not attempted to follow the early or later careers of the judges, except where some incident has thrust itself across my path, but I have told sufficient to indicate that this bench has been occupied by many men whom the state delighted to honor, and who have, as a body, deserved the respect of the historian. A more minute inspection might show here and there an individual blemish, but, considering that in the space of one hundred years some sixty-five judges have administered the law in this place of last resort, it is on the whole a pleasing and instructive verdict that history must record.

In the early years of our jurisprudence the judges were unhampered by constitutional and legislative restrictions, and they did not find it difficult to do exact justice by hewing a path close to conscience, common sense, and just reasoning. For many years the tendency of legislation has been to restrict the magistrates by hard and fast rules, but aside from this there has been so much written and said, so much discussed and decided, in the courts of the world that there is now little room for original thinking and not much opportunity to create new precedent.

Viewing the jurisprudence of a hundred years with these thoughts in mind, we are constrained to insist that the judges of today have nevertheless made an impression upon their time as vivid and as lasting as that made by their great predecessors.

Under the text of our Code the judge is bound to proceed and decide according to equity where there is no express law, and, to decide equitably, an appeal is made to natural law or received usages, when positive law is silent. Under the grant of power in the last Constitution this court is able to reach usurpation and injustice, whether attempted by or against the highest or the lowest denizen of the land. Its capacity for good is bounded only by the physical strength of its membership. Your right to review the facts is the most precious possession of the litigant. There has been complaint that it is not always possible to acquaint the entire bench with the facts of each case and there have been occasions when these fancied or real complaints have been made matters of public discussion. This court has power to minimize such complaints, and under Act 70 of 1884, page 93, it is believed that you can establish any rule which would tend to a better administration of justice. It is thought that a printed record would materially assist in the study of the facts, together with a requirement that counsel should, in briefs, admit or concede undisputed facts; or, better still, that they should draw a statement of facts verified by the printed record. All these things might be effected by a mere order of the court, and such order would doubtless meet universal approval.

The New Practice Act of 1912 (157, p. 225) has furnished an entering wedge which should be driven home by the appellate court.

The fundamental features of the high court of Louisiana, wherein it differs in whole or in part from all other tribunals,



are: that it sits as a court of law and equity, exercising both functions in the same case, under pleadings wherein the issue is reduced to its simplest form. That it is bound to review the facts in all civil cases within its appellate jurisdiction. That it may, under such review, remand, affirm, or reverse, or render the proper judgment which the facts and the law or the justice and the right of the case require. That it may supervise and control the course of any inferior court in any case when justice requires its intervention, and as a corollary render such judgment as the circumstances require. That, aside from this control over the issues and the litigants, it is vested with control over the officers who minister to justice at its bar.

With all this vast power the machinery of the court should move resistlessly to the end of complete justice, based upon a thorough understanding and appreciation of the facts of the case. Holding fast to the idea that the right of review upon the facts must never be yielded, it is the hope and the prayer of all who serve honestly and fearlessly before you that some method may soon be found for presenting the issue in this court in such shape that no man may ever hereafter be able to say, "We have been judged without proper knowledge of the record."

When I was selected for the task now completed I said that no one man could do the subject justice within the time allotted for its fulfillment, and that first impression I now sorrowfully confirm. The field of information is uncharted; the records are incomplete; the lives of the men who have made our jurisprudence are to a large extent unwritten; and I am conscious that my effort is at best only a mere scratching of the surface, but, after having lived with my task during every moment that I could steal from other duties, I leave it with the conviction that there lies here for some master mind a great and splendid story which, when written, will light up the history of Louisiana and confer a laurel upon the historian.

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THE JURISPRUDENCE OF THE SUPREME COURT OF LOUISIANA.

*By Charles Payne Fenner, of the New Orleans Bar,  
Professor of Civil Law, Tulane University  
Law School.*

We have assembled today, lawyers for the most part, to celebrate the centennial anniversary of the organization of the Su-

preme Court of the state, the tribunal which for a hundred years, except in the comparatively rare case in which federal questions have been presented, has been the last resort of its citizens in controversies involving their rights to life, liberty, property, and the pursuit of happiness.

It is an impressive occasion.

It would be impossible to overestimate the importance of the function in our social and governmental system which has been discharged by this court, or the debt of gratitude under which it has placed the people of the state for the manner in which in the main that function has been discharged.

It is in every way fitting, therefore, that on this, its centennial anniversary, we, its officers, should appropriately commemorate its services.

The occasion is naturally suggestive of reminiscences of the bench and bar, of the great judges who have in the past occupied the bench, and of the great lawyers who in the past have striven mightily at this bar—reminiscences which could not fail to be interesting and inspiring. But these are to be dealt with by others, abler to do so than myself.

I have been asked to say something in regard to the jurisprudence of the court.

I confess that I have been puzzled as to how to deal appropriately with the subject. We lawyers find it difficult enough, heaven knows, to deal with the jurisprudence of the court on the particular questions which are presented to us from day to day; and to be called upon to discourse on the general jurisprudence of a hundred years is indeed a trifle staggering.

In the difficulty in which I found myself after I had accepted this portentous call, it occurred to me that perhaps a few observations in relation to the extent to which, as the result of our peculiar system of law, our jurisprudence differs from that of our sister states would not be deemed wholly inappropriate to the occasion.

There is, I think, a very general impression among our common-law brethren that the nature and extent of this difference are much greater than they really are. Their attitude with regard to our courts is well illustrated by a remark attributed to one of the Justices of the Supreme Court of the United States after listening to an argument in a Louisiana case. He is said to have

remarked to Judge White: "Brother White, I think you had better take that case. I should not like to undertake it. I fear I might be homologated."

It is true, of course, that our terminology is in some respects very different from that of the common law, and that upon many important subjects our law and jurisprudence differ radically from those of the common law states. It is true, nevertheless, that our jurisprudence generally differs from that of the common-law states to nothing like the extent that is generally supposed by common-law lawyers, and to nothing like the extent that might perhaps be *a priori* expected when it is considered that we have a written code of substantive law based upon the civil as contradistinguished from the common law.

For despite this fact, it is true that in a very large proportion of the cases decided by this court the law to be applied is sought from the same sources and by the same methods as are resorted to in the common-law states of the Union.

From the point of view of theory, the jurisprudence of a state in which the whole body of the substantive law has been subjected to the process of codification might be expected to differ radically in nature and extent from that of states in which prevails the so-called unwritten law.

One of the chief purposes of codification is to make the law certain, and in proportion that this purpose is accomplished, it might naturally be supposed that the volume of litigation and of jurisprudence (using the latter term in the sense of reported judicial decisions), would be correspondingly diminished.

And so, too, whether in regard to judicial action in the domain of the unwritten law, we agree with the great apostle of codification, Jeremy Bentham, that the judges really make the law, or with his opponents that they simply declare it, it is quite obvious that the function of a court in interpreting and enforcing a written statute differs very radically from that performed by a similar tribunal in ascertaining and applying the unwritten law.

With all due appreciation of the force of the claim made by the opponents of codification that under the system of unwritten law the judges do not make but simply ascertain and apply the law, it is still true, I think, that the difference between the function discharged by the judges in the two cases is very great, and may, without much inaccuracy, be described as the difference be-

tween declaring what the law is and declaring what in their opinion the law ought to be, always, of course, in the latter case, with proper regard to established precedents and to the rule of *stare decisis*.

In the one case, the court is concerned simply with the meaning of certain written words; in the other, it is called upon, in the light of custom, reason, and precedent decisions based upon the same considerations, to announce what, in its opinion, is the rule of law which ought to be applied in the particular case presented for determination.

Theoretically, therefore, it might very naturally be supposed that the body of jurisprudence of a state in which the substantive law has been codified would differ very materially, both in volume and in kind, from that of the states in which the substantive law is in the main unwritten, in the sense that it has not been enacted in the form of a statutory command. And where, as in the case we are considering, the code of substantive law in the one state is based upon the civil law as contradistinguished from the common law prevailing in the others, we might naturally expect the difference in question to be still more radical.

According to the theory of the advocates of codification, we should expect, in the first place, that as the result of the certainty attained through codification, the volume of jurisprudence in the code state would be very much smaller.

We should expect, in the second place, to find the jurisprudence of the code state to consist in the main simply of codal interpretations, or, as one of the violent opponents of codification express it, simply "in the interpretation of words."

It might be expected, finally, that there would be in every branch of the law fundamental differences of jurisprudence reflecting the differences between the civil and common law systems.

Whatever may be true in this regard in the case of other states and countries which have enacted codes of substantive law based upon the civil-law system, I think it must be admitted that in Louisiana, particularly of recent years, these differences are much less marked than might, from the point of view of the believers in the theory of codification, be *a priori* expected.

I do not think, in the first place, that it can be justly claimed that as the result of codification, we have attained a greater cer-

tainty in the law which has relatively diminished the volume of litigation, even as regards those subjects which are specifically covered by the Code. Our experience and that of France in this respect would seem to justify the claim of the opponents of codification that the limitations of human capacity for written expression are such as to make the attainment of certainty in a written code of substantive law well-nigh impossible.

In France, for instance, I think the following statement by an eminent advocate of the theory of codification, Mr. Sheldon Amos, must be admitted to be well founded. He says:

“It is well known, for instance, that the set of French Codes, which in time became the most comprehensive and self-dependent of all, have been completely overridden by the interpretations of successive and voluminous commentators, as well as by the constantly accruing decisions of the Court of Cassation. In France, as was intimated before, in treating of another subject, there can be no reliance in any given case as to whether a judge will defer to the authority of his predecessors, or will rather recognize the current weight attached to an eminent commentator, or will extemporize an entirely novel view of the law. The greatest possible uncertainty and vacillation that have ever been charged against English law are little more than insignificant aberrations when compared with what a French advocate has to prepare himself for when called upon to advise a client.”

With us, partly, perhaps, because we have had no commentators, but principally because we have fully adopted the common rule of *stare decisis*, the uncertainties of codal interpretation have not been so marked. Speaking relatively, however, I do not think it can be justly claimed that our jurisprudence exhibits any material gain in legal certainty as the result of codification.

It is certainly not true either that our jurisprudence consists wholly, or indeed in the main, of mere codal interpretations, or “in the interpretation of words.” The most cursory examination of our reports, particularly those of comparatively recent years, will discover that in a very large proportion of the decided cases the rule of law applied has been deduced from the same sources and by exactly the same process as would be resorted to in a similar case in any common-law state, and there are lawyers in this city engaged in important branches of practice who rarely have occasion to consult the Code.

That this is due in some measure to the fact that both our judges and lawyers too frequently "sin the sin" of resorting to common-law authorities when the true rule for decision might be found in the Code I thing must be admitted. Forming as we do, in effect, an integral part of a much larger community with the other component parts of which we are united by the strongest ties of race, blood, and common interest, and in all of which the common-law system prevails, there is naturally manifested in our jurisprudence a strong and ever-present tendency to conform to common-law standards. And that this has resulted not infrequently in unjustified departures from the letter of the Code is doubtless true. It is to this tendency which Mr. James C. Carter, sometime leader of the American bar, referred, when in one of his philippics against the theory of codification, he said in reference to Louisiana:

"The defects so strikingly characteristic of French jurisprudence would have been repeated here (in Louisiana) but for the practical good sense which has been exhibited by the bench and bar of that state. Largely imbued with the principles and methods of the English common law, they have looked to that body of jurisprudence, so far as the Code permitted them, as containing the real sources of the law, and have fully adopted its maxim of *stare decisis*. Nothing is more observable than the extent to which the English and American reports and text-books are cited as authoritative in that state. It would seem that the courts, except where there is some provision of the Code directly in point, and except in those cases where the civil law, which lies at the basis of the legal system of Louisiana, notoriously differs from the common law, seek the rule in any given case, in the same quarters in which it is sought by us, and then inquire, if the occasion arises, whether there is anything in the Code inconsistent with the rule thus found."

The appeal here to common-law authorities is justified, moreover, in many cases, because upon many subjects, as the result of the extent to which the earlier common-law judges, in the formative period of English jurisprudence, adopted the principles of the civil law, there are no very material differences between the two systems.

The very liberal admixture of common-law principles and methods of decision in our jurisprudence is, I think, due, in the

main, however, to quite another cause, viz., that in a very large proportion of the cases which are presented to our courts our Code furnishes no definite rule for decision.

And this must ever be true with any code of substantive law. Civilization has certainly not yet attained a condition of stability in which it is possible, in the nature of things, that statutory rules can be enacted at any one time to cover all the varying groupings of fact which may arise in the future, and it is therefore entirely impossible to wholly supplant the unwritten law.

This was not, indeed, the theory of Bentham, the great English apostle of condification. His theory was that nothing could be law except an enactment of the Legislature; that the so-called unwritten law, or, as he called it, "judge-made law," should be wholly extirpated; that it was practicable to provide by statute for every future case; and that if a case should arise for the decision of which no statutory rule could be found, it should simply remain undecided.

In his celebrated letter to President Madison, he said:

"Yes, sir, so long as there remains even the smallest scrap of *unwritten law* unextirpated, it suffices to taint with its own corruption—its own inbred and incurable corruption—whatsoever portion of statute law has ever been, or can ever be, applied to it."

Most of his disciples, however, have abandoned this arrogant theory of their master. They admit that it is impossible to provide in a code rules for the decision of all possible future cases, and that when a case does arise which is not covered by the Code, it must nevertheless be decided, and that in such case the unwritten law must be resorted to.

This was admitted by Mr. Field, who in his Introduction to the Civil Code, proposed by him for adoption in New York, said:

"This Code is undoubtedly the most important and difficult of all; and of this it is true that it cannot provide for all possible cases which the future may disclose. It does not profess to provide for them. All that it professes is to give the general rules upon the subjects to which it relates which are now known and recognized."

And such was the theory of the codifiers of France and Louisiana.

In France, article 4 of the Code Napoleon reads :

“The judge who shall refuse to decide a case upon the ground that the law is silent, obscure, or insufficient may be prosecuted as guilty of a denial of justice.”

That under the terms of this article it is the duty of the French judges, in all cases presenting questions in regard to which the statute law is silent or insufficient, to decide the question nevertheless in accordance with equity, reason, and custom, in other words, to resort for decision to the unwritten law, is well settled. The article was inserted in view of the injustice which had resulted in France prior to the Code Napoleon from the exercise by the judges of the power to refer such cases to the legislative department of the government for solution; the solution being by way of making a law to fit the case. It was admitted that the exercise by the judges of the function thus delegated to them was in a certain sense legislative. But as between what seemed to them two evils, that of making the judge a legislator or that of making the Legislature a judge, the French codifiers, for obvious reasons, chose the former as the lesser.

And so with us it is expressly provided by article 21 of the Code :

“In all civil matters, where there is no express law, the judge is bound to proceed and decide according to equity. To decide equitably, an appeal is to be made to natural law and reason or received usages, where positive law is silent.”

It is clear that here is a recognition of the unwritten law in the broadest sense, with a designation of the sources from which it is to be derived that are identical with those to which common-law judges have resorted from the beginning. And when it is remembered that our Code was framed nearly a hundred years ago, and that there has probably never been a period in which the novelty of the conjunctures challenging judicial inquiry has been greater than during the period since that time, it ought not to be a matter of surprise that a very large proportion of our jurisprudence has consisted in the declaration and application of the unwritten law.

And when we consider further the inevitable tendency toward uniformity of custom, and therefore of law and jurisprudence, which always obtains among people united as are the peo-



ple of this state with those of her sister states, it should be still less a matter of surprise that our judges, in seeking to decide according to equity, reason, and received usages, should have resorted in the main to the majestic fabric of common-law jurisprudence rather than to the comparatively unfamiliar and inaccessible authorities of the civil law.

And so it has resulted, as might have been expected by any student of the forces which always and inexorably shape the law and jurisprudence of any free people, that despite the fact that a hundred years ago we adopted a code of substantive law based upon the civil, as contradistinguished from the common law, our jurisprudence is to a very large extent based, and confessedly based, upon the common law.

I trust that nothing that I have said will be construed as an attack upon the theory of codification, or as indicating any general dissatisfaction with the practical results of the application of that theory in Louisiana. My purpose has been simply to indicate some of the limitations of the theory as discovered in the jurisprudence of the state. I have not intended to discuss or to express any opinion upon the general expediency of the codification of private substantive law. And by private substantive law, I mean the law regulating the conduct of men in their relations with each other as individuals, as contradistinguished from the law regulating their conduct in relation to society or government, which may be termed "Public Law."

As a result of the scant study I have been able to give the subject, my impression is that the expediency of such codification depends upon the conditions existing in the state or country in which it is proposed, and that no general rule can be safely announced on the subject. For Louisiana, in view of the conditions which existed at the time she was admitted into the Union, I am quite convinced that codification was necessary. If I lived in a common-law state of this Union, I think I should be opposed to it. The question is, however, too big for any one to venture a definite judgment upon it without special study, and certainly entirely too big to be treated incidentally.

I should also be very much concerned if I thought any one was likely to construe anything I have said today as indicating a lack of appreciation of the civil law, or a preference for the common law as a system of jurisprudence. This is a question entire-

ly distinct from the question of codification. The civil or Roman law had been developed by the great Roman juriconsults into the most scientific and consistent system of unwritten law that the world has yet seen; four centuries before the *Corpus Juris Civilis* was promulgated, and the *Pandects*, or *Digest*, of Justinian, the one of the three works constituting the *Corpus Juris* that covered the field of private law, was really not a code in the modern sense of that term. It was an abridgment of the treatises of the great juriconsults of a former age of Roman jurisprudence, which during that age were authoritative in much the same sense that judicial opinions are authoritative under the common-law system. For several centuries prior to the accession of Justinian the jurisprudence of Rome had sadly degenerated. As noted by Gibbon, her great juriconsults had been supplanted "by an ignoble multitude of Syrians, Greeks, and Africans, who flocked to the imperial court to study Latin as a foreign tongue and jurisprudence as a lucrative profession." In so far as private law is concerned, the work performed under Justinian was, as above stated, the confection of an abridgment or digest of the treatises of the earlier Roman juriconsults, which when completed was declared to be authoritative law. It resembled a code in much the same sense as would an abridgment or digest of certain selected decisions of common-law courts which might be declared by statute in a common-law state to be the only decisions entitled to force and effect as authoritative law. It did not change the system of Roman jurisprudence as essentially a system of unwritten law.

The truth would seem to be, as claimed by Mr. Carter in his work, "Law, Its Origin, Growth and Function," that the earliest code of substantive law, in the modern sense of the word "code," was that adopted in Prussia in 1751.

As, of course, is well known, the *Corpus Juris Civilis* was completely submerged and lost to view during the Dark Ages. From the time when it was afterwards discovered, the *Pandects* or *Digest*, being that portion of the work which covered the field of private law, has exerted an influence upon the law and jurisprudence of all civilized countries, not excepting England, which has justified the fine phrase: "Rome rules us still, not by reason of her power, but by the power of reason."

THE LOUISIANA BAR, 1813-1913.

*By Judge T. C. W. Ellis, Senior Judge of the  
Civil District Court.*

May it please your Honors, Ladies and Gentlemen: We are here in this home of the Supreme Court of Louisiana at the invitation of its judges, in honor of the one hundredth anniversary of its organization.

The presence of the learned justices, and their invited guests, the judges of the various state courts, the Governor of the state, members of the General Assembly, and the heads of the several administrative departments, signalizes the gathering of all, who represent in behalf of the people the sovereign powers of our state.

We have, also, presiding with our Justices, the judges of the federal courts, for this judicial circuit and district, who have, for the day, laid aside their labors to join in this celebration.

Distinguished members of the reverend clergy are also with us, to lend the recognition of our holy religion, and to pronounce its prayers and benedictions.

The lawyers of our state, with the president of the Louisiana Bar Association as master of ceremonies, are here in large numbers, as also are the mayor of our city, and other representatives of its municipal government, together with very many of our fellow citizens.

And last, but best of all, have come many representatives of the splendid womanhood of our state, to add the witchery of their charming presence, in sympathetic accord with the purposes of this impressive occasion.

They are thrice welcome here, as they join us all in our salutations to this august tribunal, and in our invocation, that God may ever "bless the state of Louisiana, and this honorable court."

The first thought pressing for utterance is that of reverent gratitude to the Great Author of our being—the King of Kings, the Judge of Judges—that our lives have been prolonged to see this auspicious day, and that, through all the vicissitudes of 100 years of her checkered, and sometimes stormriven, career, He has vouchsafed to our state existence as a sovereign among the sovereigns composing the Federal Union, and to her people the blessings of enlightened government and of civil and religious liberty.

The second is one of gratification that this tribunal has given the wholesome example that respect should be cherished for the memory of those who have wrought well in their day, in the formation and preservation of this fabric of beneficent government, with just pride for achievements, that go to make up the glory of the state.

It has been said, that a people without patriotic sentiment is ripe for the despot's rod.

With glad hearts we all join in the celebration of this impressive anniversary.

Distinguished lawyers have given us, in eloquent terms, the story of this historic court, and of the jurisprudence it has been upbuilding in the last 100 years.

The request that brings me here suggested that, as an older member of the state judiciary, I should, in behalf of that department, voice its appreciation of the lawyers composing the Louisiana bar of the past century. The kind terms in which this request was communicated will be a pleasing memory with me while life shall last.

My theme, therefore, is the Louisiana Bar.

As introductory to any notice of the bar, as a body of lawyers, it will be useful to consider the qualifications necessary to entitle the individual to admission to its membership. The first requisite is that he be a citizen of the state, of sufficient residence to make him known to the community where he lives, and that he must be a person of good moral character. Beyond this, he must establish that he has spent the prescribed time in the study of the law in its various branches, as laid down by statute, or by the rules of the Supreme Court, and he must prove, by the test of an examination before a committee of lawyers selected for the purpose, and a final examination before the court which has power to grant or deny the license, that he has the mental aptitude and has acquired the legal learning necessary to equip him for his duties as a lawyer.

And, last of all, he must take a solemn oath, not only to support the Constitution and laws of the United States and of the state, but, also, that in his practice he will demean himself honestly and with fidelity to every duty and trust with which he may be charged.

All this accomplished, he becomes a member of the bar, and as such an officer of the court, with all the privileges this relation implies, but subject to disbarment for misconduct or willful breach of the duties that devolve upon him as a lawyer.

To his client, he owes, and is held, to the highest standard of fidelity. It is his duty to give to the advocacy or defense of his client's cause his best endeavors within the limitations of personal and professional propriety. He is barred from disclosing the admissions or confessions of his client, given to him under the veil of his employment, and under no circumstances can he acquire interest antagonistic to those of his client in the subject-matter wherein he is engaged.

In all his relations as a practitioner his position is one of high privilege and exalted trust.

Considering the bar as a body of lawyers thus tested and licensed, it may be the more readily understood why its influence, from the organization of our state to the present time, has been so great.

It cannot be denied that it has impressed itself on every page of the history of our state. In every lawmaking body, it has been a factor, often originating and invariably assisting in shaping the statutory declarations of what shall be the law. On every judicial bench it furnishes from its ranks an arbiter, hearing, considering, and deciding, and thus aiding in the upbuilding of the jurisprudence so necessary to the construction and successful operation of the statute law.

All this takes no notice of the fact that in his practice the lawyer has been the counselor and teacher of the people in their individual interests and concerns, as well as the adviser of all the departments of the government, state and general as well as local. It must be so from the very nature of the structure of our political system and our social fabric, as institutions regulated by law; for how can law regulate, unless its application and operation be directed by those who understand it as a science.

All is not claimed in this respect for the bar as a body of lawyers. There have been very many, from the other walks of life, who have exerted powerful influence in the conduct of our affairs as a people, but, as this political structure, the result of 100 years of progressive activity and evolution, towers in our presence today, we cannot forget that its strength and fair pro-

portions could not have been attained without the active and controlling participation of the membership of the Louisiana bar, as legislators, as administrative officers, as lawyers and judges, as well as citizens.

In illustration of what we claim for the bar, in the foundation and up-building of our state, let us particularize. The task that confronted the lawyers of this state at the opening of the century, which closes this day, was one unusual difficulty. The territory comprising the state had been the colonial possession, first of France then of Spain. Proconsular government had in turn directed the affairs of the French and Spanish subjects, who, induced by royal grants, or special privileges, or by the hope of wealth, or the love of adventure, had settled here and formed its population. By charter direction the laws and ordinances of France and the customs of Paris had been ordained and applied during the French occupation. When Spanish rule supervened, the laws of Castile prescribed regulations for matters of ordinary civil nature, and prescribed the form of practice for judicial procedure. Later on the strong hand of O'Reilly seemed to have swept all else from the system, and to have ingrafted the laws of Spain as the law of the land. Whether this was the effect of the official action of this self-willed Spanish Governor or not, such was believed to have been the result. In the matter of criminal procedure—the arrest, accusation, trial and punishment for alleged crime—there was slight protection for the accused if constituted power was intent upon conviction and punishment.

Nothing could be more different than were the regulations prescribed by kingly power, or its proconsular representatives, for the government of the people of Louisiana, as a French, or Spanish province, from the American plan, whose life and spirit were the guaranties of Magna Charta and the common law, and the democratic theory of government by the people and for the people.

After the purchase of the territory by the United States, during the administration of Mr. Jefferson, the Congress had framed for it a territorial government. The legislation thus organizing the territory of Orleans had vouchsafed to this people the guaranties of the English and American Bill of Rights, the trial by jury, the immunity from inquisitorial methods of ac-

cusation and prosecution, exemption from cruel and unusual punishments, etc.

In the domain of federal jurisdiction and control these guaranties of the Great Charter, embodied in the Constitution, had already become the heritage of the people, and the territorial federal courts were the present and effective agencies for their application and enforcement.

In aid of the plan of transforming this king-governed territory into a state of the American Union its Legislature, elected by its people, had caused to be framed the Civil Code of 1808, modeled, for the great part, on the Napoleon Code, and purporting to be a compilation of laws in force in the territory, with alterations to suit the conditions arising from the change of government, but it left in force all laws, except so far as they might conflict with its provisions. With the settlement of questions arising under this state of affairs the ultimate determination was left to the Superior Court of the territory presided over by George Mathews, of Georgia, Joshua Lewis, of Kentucky, and Francois-Xavier Martin, of North Carolina, appointed, respectively, by Presidents Jefferson and Madison, and their work is to be found in the first and second volumes of Martin's Reports.

Later on came the enabling act of Congress, authorizing the people of the territory of Orleans to frame a state Constitution, preparatory to their admission as a state. In the convention, elected by the people for this purpose, the Constitution of 1812 was framed, and, after submission, was approved by Congress, which enacted the legislation admitting the territory into the Federal Union, as the state of Louisiana.

In the framing of this Constitution the lawyers of that period exercised a controlling influence. Their task seems to have had less of difficulty than that falling to their successors in 1845, 1852, 1879, and 1898, perhaps because there was then less distrust of the agencies of the government, particularly the legislative branch, and doubtless because there were then no distracting issues of state policy, such as have grown up, necessarily, with the marvelous developments of later times.

Fresh in the minds of the framers of this, our first Constitution, were the discussions as to the outlines and checks of organic law requisite for the formation of a more perfect union, in the Convention of 1787, and in the battle royal waged at the hust-

ings, and in the several state conventions, over the issue of adoption of the federal Constitution.

The result was that the state Constitution, projected on the plan of the federal instrument, with its seven articles and schedule, was readily adopted as the framework upon which the three co-ordinate departments of the new state government were to find their rock-bed basis.

It is a tribute to the wisdom of this plan of our fathers that the state government was easily organized, its completion being signalized by the organization of the Supreme Court, one century ago today, and that it operated for 33 years, or nearly one-half as long as the combined lives of the six successive Constitutions that have since been adopted.

For 12 years, the Supreme and inferior courts of the state, and the lawyers of that period, were called to deal with issues arising from the variant systems of laws which have been referred to.

In 1825 a Revision of the Code of 1808, under legislative authority, was prepared and presented by those eminent lawyers, Moreau-Lislet, Pierre Derbigny, and Edward Livingston. It was adopted by the Legislature, and became the law.

Soon after, the General Assembly, expressing the weariness of the people from the operation of laws existing in the colonial days, which brought conflict and uncertainty, undertook to cut the Gordian knot of difficulty, resulting from prior conflicting laws, not abrogated by the Code of 1825, by the repeal of all laws in force anterior to its provisions.

Then came to Louisiana lawyers cases of rights acquired, or liability incurred, under laws existing prior to 1825, and on their hearing the Supreme Court held that it was not the legislative intent to abrogate those principles, which were founded on the Roman law and the civil law of France and Spain, under which legal rights, recognized by the jurisprudence, had been acquired.

It was the jurisprudence thus formed and announced that breathed into the provisions of our Civil Code, itself framed on the model of the Napoleon Code, the life and spirit of the civil law, and opened up, as sources for its explanation and elucidation, the jurisprudence of France and the commentaries of her jurisconsults, as well as the wealth of the Roman law and its exposition wherever it had prevailed.



It is to controversies, growing out of conflicting laws and regulations imposed upon the people and property of Louisiana when, in its chrysalis form, its territory was the pawn and sport of kings, passing from one domination to another, until it found its safe moorings, as a state of the American Union, beneath the ægis of the Constitution, that we turn, for the most splendid triumphs of the Louisiana lawyer, and to the golden age of judicial achievement. It was in controversies thus arising that the intellect and industry of the Louisiana advocate met the foeman worthy of his steel, in his opposing professional brother, and that from their forensic discussions, just as the electric spark leaps from the contact of opposing currents, the truth came, fixing the principle and its application in the judicial pronouncements that gave to the bar and to the Supreme Court of Louisiana the highest respect and position throughout the world.

There were very many questions of law arising in that period from the peculiar conditions then existing. Questions arising from land grants, questions as to batture and riparian rights growing out of title, or possession, of lands, bordering our great river, enlisted the skill and learning of our greatest lawyers, and resulted in the announcement of fixed rules, by the Supreme Court, to govern all such cases.

But it was in controversies where the laws of different countries were to be considered and applied that the genius and learning of the Louisiana bar and the wisdom of our Supreme Court signalized and recorded their greatest and most far-reaching achievements.

Cases of this nature, in variant forms, brought under consideration the operation of the *lex domicilii*, the *lex loci contractus*, the *lex rei sitæ*, the *lex fori*, and from them rules regulating what was then called the conflict of laws, but now known as the science of private international law, were simplified, and became well-recognized rules of personal privilege and property right.

Cases decided along those lines in the Supreme Court of Louisiana were cited and accepted as authoritative by the Supreme Court of the United States, and these settled rules were embodied in Mr. Justice Story's treatise on the Conflict of Laws, the pioneer work on this subject in the United States, and have held their position, as controlling precedents, in succeeding juris-

prudence, and in all of the works upon this once perplexing subject.

Martin, Porter, and Mathews, and their successors upon this bench, great as they were, would have been embarrassed by these questions, without the treasures of reason and authority and research which were brought to their assistance by the bar of that time. The lawyers of that day were as the voice of "one crying in the wilderness," preparing the way and making straight the path through which was to lead the evangel of a consistent and settled jurisprudence in its progress, as the measure of justice and right for all the people.

It is not that those lawyers, or those judges, were greater intellectually, or in their learning and acquirements, than their illustrious successors at the bar, or on the bench. It was theirs to live and serve when those great questions arose; it was their opportunity and their privilege to live and to act at that formative period of our history.

It is the record of all human annals that every crucial occasion has evolved men of endowment and courage to meet its issues and necessities, and in God's providence it fell to the lot of the first judges of this tribunal, and to the eminent lawyers who then occupied the stage of human activity here, to confront and to settle the important questions which then arose.

It was thus, when our federal system was crumbling under the disintegrating influences that had proved the inefficiency of the government, under the Articles of Confederation—when Elsworth had resigned, and John Jay, his successor, refusing to continue as Chief Justice of the Federal Supreme Court, had expressed his belief that the system was a failure, and that the "one Supreme Court" was a tribunal, without power for usefulness—that John Marshall became Chief Justice, and soon, under the operation of his masterful mind, the government of the United States began to fulfill and carry into execution the designs of its founders. It was to him that opportunity fell to provide, by liberal and beneficial construction and interpretation, for the enforcement of the delegated powers of the general government, and to make them efficient agencies for the general welfare. As has been said by another, it was his to take the Constitution, which he found "paper," and to transform it into "power." It was his to take its skeleton framework, and by his plastic hand to clothe it with flesh

and muscle, to infuse into it the rich blood of health, and to breathe into its nostrils the breath of life.

And so it was, when the admiralty jurisdiction, hedged in by the narrow restrictions that confined it to the high seas and to the ebb and flow of the ocean tides, had become inefficient, that Chief Justice Taney brushed away those restrictions, and by philosophic reasoning and luminous interpretation that carried conviction extended that jurisdiction, so necessary to the people, as well as to the government, to the great lakes and inland streams, making "navigable waters" the test, instead of the "inland flow of the tides."

And so, it was the opportunity of the great lawyers who composed the bench and bar of Louisiana to meet the conditions that arose, in the early days of our state, from conflicting laws and systems, that had controlled when she was a Spanish or French province, or a territory of the United States, and to mold and shape the legislation and jurisprudence which should, with safety to the privileges and rights of all its people, transform them, as a community, into a state of the American Union.

Royal edicts, charter grants, kingly prerogative, laws of Spain and laws of France, were all to be considered, as to their operation upon the rights and privileges of the people, and were to be reconciled, so as to bring them into harmonious relations with the liberal institutions and beneficent form of government ordained in the Constitution for the regulation of the states composing the Federal Union.

That they met these problems and solved them in the interest of the state and of all her people is the finding of impartial history, and is the proudest record of the Louisiana bench and bar.

From this day, looking back to the lawyers and judges of that pioneer period in our history, the eminence they occupy in the world's annals of judicature and politics seems crowned with the glory of a sunlight that brightens as the years pass away.

Tradition has handed down much of interest regarding these great men as individuals, but my theme does not lead me there, but rather confines me to the Louisiana bar as exemplified by its record of public service.

Soon after the admission of the state, the Louisiana lawyer came into prominence as a political factor. In the state, as throughout the Union, alignments had been formed between the

federalist, or whig idea, on the one hand, and the democratic theory, on the other. The former favored the latitudinous construction of the Constitution, in the enlargement of the powers delegated to the general government. The latter stood for the strictest interpretation, and denied all power beyond the express terms of the mandate.

The currency, the national bank, the tariff, the public domain, and many questions came on for discussion; fortunately economic issues that admitted of peaceful solution. But then came burning questions growing out of the institution of domestic slavery, intensified by the admission of Missouri and Texas as states, and later by the issues that arose from the Missouri Compromise, by the acts for the admission of Kansas and Nebraska—the one party demanding that slavery should be excluded from the territories, and the other claiming the right of slaveowner to settle in the territories, the common property of all the states, with his slave property, subject to expulsion, if the territory, when erected into a state, should declare against domestic slavery. The decision of the Supreme Court in the Dred Scott Case, deciding the Missouri Compromise repugnant to the Constitution, and that the colored man was not a citizen of the United States in the jurisdictional sense, intensified the issue, and added to the flames that burned, until extinguished by the Civil War.

Events crowded, and the dread issue of secession came on; the Civil War, the defeat of the South, the military occupation, the chaos that came during the days of alien and negro domination, the steady resistance of a people who, though conquered in war, refused to yield to the rule of an inferior race.

It is not a grateful nor pleasant task to revive those sad memories of the long-ago, and I turn from them. I only recall them to say that, throughout them all, two generations of Louisiana lawyers took active part on the one side and on the other in all the discussions, as well as in all the events, that make up that dark period in our history.

In all of these troubles the Louisiana lawyer was not a laggard. In the closing scenes, especially in all the measures of resistance to the misrule and oppression that followed the Civil War, whether at law or otherwise, almost unanimously, whether they had sided with the Confederacy, or with the Union, they were on the side of the rights of the state and the people, and

during the last 10 years of resistance, with many of them as leaders, the struggle went on, until, in April, 1877, when, under the leadership of him who was twice the deliverer of this state, him who, with maimed limbs and wasted body, was twice the Governor of the state, and long the Chief Justice of this tribunal, ended our enthrallment as a people, and came the restoration of our state to her rightful position in the sisterhood of the states of the Union.

Thus far this paper has dealt with the Louisiana lawyer in his capacity as a lawyer, and in his connection with the political activities that have agitated the state. I present him now in the literary contributions that he has made to its laws, and to its jurisprudence, and generally to the literature of the period.

Francois-Xavier Martin was among the early contributors to the literature, both legal and secular of the state. In North Carolina, where he resided prior to his appointment by President Madison as one of the judges of the Superior Court of the territory, he had been a printer, while practicing law. There he had published a revision of the laws of that state, a work on Executors, another on Sheriffs, Their Powers and Duties, and a translation of Pothier's work on Obligations, from the French into English.

It may be of interest, to note that Martin was a member of the order of Ancient Free and Accepted Masons, and that in November, 1789, at the funeral of Richard Caswell, Grand Master of that order in North Carolina, who had been a general in the War of the Revolution, a senator in Congress, and a Governor of the state, he delivered the funeral oration, on behalf of the Grand Lodge of that state. This address appears in a work published in 1867, entitled *Washington and his Masonic Compeers*. His selection for this duty shows the position that he had attained in his adopted home. It is an address suited to the occasion. In it may be detected inaccuracies of expression, showing that he had not yet mastered the English language. His quotations from Antony's oration over the dead body of Cæsar attest his familiarity with the works of the great English poet.

With the admission of the state into the Union, the Superior Court of the territory ceased to exist, and Martin became a member of the Louisiana bar, being admitted to practice soon after the organization of the Supreme Court, and practiced as a lawyer, acting as Attorney General of the new state until his appointment

to the supreme bench in 1815. He edited and published the reports of the territorial Supreme Court in two volumes, and thereafter the 18 volumes of the Supreme Court Reports. Meanwhile, he had written the history of Louisiana, which he published in 1827. This work was republished, in the early 80's by the late James A. Gresham, with a memoir of Judge Martin, by Wm. Wirt-Howe, once a justice of this court—a monograph rich in its treasures of historical research, and a most valuable contribution to the literature of the law of our state. As a historian, Judge Martin's purpose seemed to be to record events as they transpired, with little in the way of deduction or comment. Dr. Monette, in his *History of the Valley of the Mississippi*, while quoting liberally from Martin, states that there was some confusion of dates, and in this respect inaccuracies in parts of Martin's History.

In 1817, Marseilles, the place of his birth, hearing of the achievements and honors of her illustrious son, elected him a member of her Academy, and, in 1841, Harvard, the leading college of his adopted country, conferred upon him the degree of Doctor of Laws.

Though not in order of time, it may be appropriate here to state that another member of the Louisiana bar condensed the 20 volumes of reports published by Martin into 10 volumes, abridging the less important, and reproducing in full the more important opinions of the court, so that nothing was lost, adding an analytical digest of the 20 volumes of excellent arrangement and accuracy. The author was Thomas Gibbes Morgan, of Baton Rouge, La., a gentleman of rare accomplishments, and of the highest rank as a citizen and lawyer.

The first general work of this nature was a digest, in two volumes by Moreau-Lislet, of all general legislation from 1804 to 1828, to which he appended the Treaty with France, of April 30, 1803, by which Louisiana was acquired; also the Constitution of the United States, and the Enabling Act of Congress of February, 1811, under which the territory was authorized to adopt a state Constitution, preparatory to its admission as a state; the Constitution adopted on January 22, 1812; the act of Congress of April 8, 1812; and the supplementary act of April 14, 1812, by which the state was admitted into the Union—so that the heterogeneous and cosmopolitan people of the state, whether American, French, or Spanish, should have perfect knowledge of all the pertinent

facts by which Louisiana had become one of the states of the United States, the organic laws, federal and state, which were to govern, and the definite territorial limits within which these laws, and all the sovereign functions of the new state, were to operate as the successor of the proconsular governments, alternately, of France and Spain, and the territorial government by the United States, subsequent to the date of the purchase in 1803.

Thirteen years later, the revision of the statutes, from the change of government to 1841, inclusive, was made and published by the collaboration of Henry A. Bullard, a Justice of the Supreme Court, and Thomas Curry, Judge of the Ninth Judicial District, who found time, amid their judicial labors, to do this work.

Eleven years later came the revision of the statutes by those eminent lawyers Levi Pearce, William W. King, and Miles Taylor, in 1852, and in 1856 this was followed by the compilation, edited and published by U. B. Philips, of West Feliciana, a lawyer of much ability and learning.

The next revision came in 1870, of the Code of Practice, Civil Code, and Statutes, made necessary by the changes which had been superinduced by the Civil War, edited by that eminent lawyer, John Ray, and formally adopted by the General Assembly.

Although 43 years have passed, we are without subsequent authoritative digest or revision of our Codes or Statutes. Not that the lawyers of our state have been unmindful or neglectful, for we have had, since, repeated editions of Codes and Statutes, and digests by many of them; the first, by Albert Voorhies, twice District Judge, once Associate Justice of the Supreme Court, and Lieutenant Governor of the state; then, the Revised Laws of Louisiana, by Solomon Wolff, following the Revision of 1870, with amendments up to 1910, and references to all the construing jurisprudence, a work of transcendent merit, and of indispensable utility to the bench and bar, as well as to the layman. Another work, worthy of notice, is the Index to the Statutes of Louisiana, from the beginning, up to the date of its first publication, by Robert Hardin Marr, Jr. a work of the greatest utility to the profession, followed by a second edition, which brings the index up to 1912. This author has also given us a work on the Criminal Jurisprudence of Louisiana, which lightens the labor of judge and lawyer, and is received as authority everywhere—the same author, whose name, as a member of the Commission to frame a

Code of Criminal Procedure, gives earnest that the issuance of that work, now in embryo, will not be long delayed.

Another illustration of the labors of the Louisiana lawyer along these lines is found in the project for the revision of our Civil Code by those accomplished lawyers, R. E. Milling, W. O. Hart and Judge W. N. Potts, which changes the original text to conform to the jurisprudence, and to present conditions, as to many provisions of that Code.

An edition of the Code of Practice of 1828, published by M. Greiner in 1844, with luminous references to the jurisprudence and statutory amendments up to that date, was the vade mecum of all the lawyers of 50 years ago.

The edition of the same Code, annotated, published by Henry L. Garland, and the revised edition of this work by Solomon Wolff, which brings the statutory amendments and references up to 1910, are works of the highest value.

Other editions of the Civil Code, annotated by Upton and N. R. Jennings in 1838, by the late James O. Fuqua and Thomas Gibbes Morgan, in English and French, later on by Judge Eugene D. Saunders, in the 80's and more recently by E. T. Merrick, Jr., with notes of his father, the late Chief Justice Merrick, whose name the author bears—the last edition bringing the references up to 1912—all of great value, have been published, attesting the labors of Louisiana lawyers in the interest of the state and people. Another edition of the Code annotated was by the late K. A. Cross, edited by Theo. Roehl, Esq.

These digests and revisions, with annotations to date, were all based upon the original Civil Code, which was the labor of Louisiana lawyers in preparing a Code for the new American state, for the most part taken from the Napoleon Code, and bearing the same relation to it that the French jurists selected by Napoleon bore to the Napoleon Code, and that Tribonian and his colleagues bore to the Justinian Code.

The Supreme judicial interpretation of the laws gave the jurisprudence, and became part of the law. Reports, annually issuing, accumulated, and necessitated accurate digests, analytically arranged, and to this need the Louisiana lawyer gave response in the digests of the decisions of the Supreme Court: First by Deslix; then by Benjamin and Slidell; then by W. D. Hennen in



his two editions; by Charles Louque; by S. R. & C. L. Walker; by Mr. Taylor; and by the present Chief Justice, Jos. A. Breaux.

The Reports of the Decisions of the Court of Appeal by Judge Frank McGloin, and those of the reorganized court, as now existing, are worthy of notice as valuable contributions to the literature of the law of our state.

Works of the character noticed—that is, the revisions and annotations of the written law, or the proper analysis and digesting of judicial opinions—involve, necessarily, incessant labor, industry, research, and discrimination, as well as learning, and they all stand as enduring monuments to the public service rendered by the lawyers of the period under review.

In 1847 Henry M. Spofford, afterwards a Justice of the Supreme Court, in collaboration with District Judge E. R. Olcott, prepared and published *The Louisiana Magistrate*. It was intended for the use of justices of the peace, clerks of court, notaries, and sheriffs, giving their powers and duties, and whence derived, as well as models and forms for their official acts. It was a work of signal merit, so plain in its terms that the veriest Dogberry, called to the judgment seat in the important work of arrest and commitment for crime, or the trial and judgment and appeal in matters of civil interest involving less in value than \$100, could have no excuse for error in his procedure, no matter how wide of the mark the arrows of his judgment might fly. A revised edition of this work was published in 1870 by J. A. Seghers and Patrice Leonard, members of our bar.

The survivors of the bar of that day, especially those who practiced in the country parishes, will yield the palm to the accomplished and polished Spofford for this incomparable work, which the brilliancy of his subsequent career as a Justice of the Supreme Court and in the domain of politics did not obscure or cause them to forget. *The Civil Law of Spain and Mexico*, by Gustavus Schmidt, in 1850, commends itself to all civil law lawyers, who have interest in tracing, to their source, many provisions of our Code. It is a work worthy of remembrance.

The work on *Citizenship* published by another Louisiana lawyer, Alexander Porter Morse, my classmate in the Louisiana University, is one evincing learning and ability of the highest order, painstaking research, and fine discrimination. He was the

counsel of the Republic of France in the 80's, before the Franco-American Claims Commission.

We may, at least, claim a share in the distinction achieved by Judah P. Benjamin, whose high character as a lawyer was fixed here, and who went hence to his brilliant career as a United States Senator, then as cabinet officer to the Confederate President, and, after the defeat, as a British lawyer, and to his final preferment as Queen's Counselor. His work on Sales is authority everywhere.

The industry and ability of the late Kimball A. Cross, also my college mate, remain to us in his treatise on the Louisiana Law of Pleadings and of Successions.

Another contribution was a work on Taxation, a vexed and vexing question, which for 30 years past, like Banquo's ghost, has refused to down at our bidding, and even at this day returns to plague the lawyers and their hapless clients, as well as the judges. Of this work, Eugene D. Saunders, lately Dean of the Law Department of the Tulane University of Louisiana, and sometime United States District Judge, was the author.

Other works which may be named are, one by M. M. Cohen, on the Admiralty, another, by Judge J. E. Leonard, upon Federal Practice and Procedure, and an Analytical Digest of Tort Cases in Louisiana, published last year, supplementing the "analytical index of personal injury cases" issued in 1900 by H. H. White, of the Alexandria bar—all works of merit and worthy of notice.

Another instance of the labors of a Louisiana lawyer is worthy of mention before this tribunal, where he sat as an Associate Justice. I allude to the late Robert Hardin Marr. He found time, amid the cares of an active and extensive practice, to translate from the French into the English, with his own comments, notes, and references appropriate to our state, the commentaries of Marcadè.

Marr was a Tennessean, and had achieved rank and position there, in the 40's, when he was attracted by the wider field of activity in this city, and located here. By his application he acquired the perfect knowledge of the French language, translating, writing, and speaking it with accuracy. Realizing the importance of the knowledge of this language, the mother tongue of a great part of our people, he knew that in it were treasured the judicial pronouncements and the commentaries of the jurists whose

works have made France immortal. He had no need of translations, but it was his desire to contribute to his brothers of the bar who might not have equal advantages the works of those jurists, just as translations into the English of the works of Domat and Pothier from the French, and of the Justinian Code and the Institutes from the Latin, had placed those treasures of the civil law within the reach of all English-speaking students and lawyers. He had completed his work, and it was ready for publication, when the Civil War came on, and he left, obedient to the call of duty. During the occupation by the federal troops and his enforced absence, this literary treasure was lost. I have heard from his own lips the story of the laborious care spent in its preparation, and his sorrow that the profession should, by its destruction, be deprived of the benefits which it was his sole purpose to confer.

For himself, this tribune of the people, in their after days of sore affliction, frail and delicate physically, but intellectually and morally strong, this lost work was not needed to commemorate him as a lawyer, or as a man.

In this review of the Louisiana lawyer, as he is to be judged by the literary evidences of his labor, I beg to present one other—Bernard J. Sage, in his work, *The Republic of Republics*, issued from London, England, in 1865, its third edition appearing in 1878, a volume of 450 pages, with an appendix of “much apposite matter, now out of print, but instructive and valuable.” Mr. Sage was one of the counsel selected for the defense of Jefferson Davis, late President of the Confederate States, then held a political prisoner, on the charge of treason, with Charles O’Connor, of New York, as leading counsel. By understanding, Mr. Sage, went to London, and there, incognito, this argumentative review of the federal Constitution was prepared, purporting to be the “Monograph of P. C. Centz, Barrister,” a fictitious name. This method of issuance was adopted because of the fierce sectional prejudice existing at that time, and the fear that an appeal to law or to reason, from any southern or democratic source, would not be considered. In this disguise it was sent to the President of the United States, to the Press, and to many leading citizens, and passed current, at the time, as the work of an English lawyer. Its first form was that of a protest against the trial of Jefferson Davis by a military commission. Its burden was to show that an act of a citizen of any one of the United States, done in obedience

to the call of his state, which had withdrawn from the Union, whether rightfully or wrongfully, could not constitute treason against the United States government, which represented only those states remaining in the Union, and therefore that Mr. Davis could not be successfully tried for treason under the Constitution of the United States. It was read by the then President, Andrew Johnson, and pronounced by him "historically and logically correct." It is asserted and believed that this unanswerable argument of Mr. Sage appealed to the great lawyers and statesmen, then advisory to the federal government, and that, under their advice, the issue of treason, *vel non*, of Mr. Davis was allowed to drag, without determination, until the general amnesty proclamation of the President, in 1868, ended the matter.

This contention, based upon a compilation of all that had been written, or stated, in the formation of the general government, as the general agency of the sovereign states, operating its authority directly upon the people, only within the limits of its delegated powers, was not new, but it came in a form, that attracted attention from the men in power, at a crucial period, when the issue could no longer be evaded. It may have contributed to save the Constitution from further breach, and to leave untouched the principle upon which rest the sovereign rights of every state of the Union.

As long as respect for this system shall endure, the name of this Louisiana lawyer will be honored, as one of those who labored successfully in his day for the supreme benefit, not only of his own state, but of every state of the Union. He died poor, at 82 years of age, in September, 1902, and his remains rest in hallowed ground, in the Nicholls tomb at Thibodaux.

His fitting monument is this work.

It should be a text-book in every institution where constitutional law is taught.

There is nothing in it to indicate that Mr. Sage was its author, but I know from himself that this work was his own. I have, as a treasured souvenir of our friendship, a copy which he gave me in December, 1887, with my name and his inscribed by his own hand.

One other instance, where the professional labors of the Louisiana lawyer resulted in the settlement of a constitutional question of interest to the state and to the people deserves men-

tion here. It grew out of the prosecution and trial, before the United States Circuit Court, in this city, of a number of persons who had participated in the riot of April, 1873, at Colfax, in Grant parish, charged with crime committed on account of the race and color of the victims. After conviction by the jury, on certain of the counts, a motion in arrest was interposed, raising the question whether the prohibitions of the fourteenth amendment were operative directly upon the people as individuals, or only as an additional limitation to the power of the state. At the argument the Circuit Judge, the late W. B. Woods, and the Associate Justice of the Supreme Court, Mr. Justice Bradley, differed in opinion, and certified the question to the Supreme Court, which sustained the motion in arrest. I had the honor to participate in the conference at which this motion in arrest was drawn. This settlement ended prosecutions of that kind before the federal tribunals, and was a boon to the people of the Southern States, who were struggling to free their states and themselves from the rule of an inferior race.

Robert H. Marr, Sr., Judge William R. Whitaker, and E. John Ellis, for 10 years member of Congress from this state, all of whom have passed away, were the counsel who raised and argued that question.

No sketch of the work of our lawyers in the line of the literature of the law would be complete without reference to the work of Mr. Henry Denis on the Contract of Pledge, published in 1898, wherein he treats of the pledge at common and at civil law. This work is a distinct addition to the sum of legal knowledge. For years Mr. Denis was Reporter of the decisions of this court, and also Professor of Civil Law in our University.

Outside of the literature of the law, the lawyers of the period under review have made valuable contributions to the general literature.

Charles Gyarre, a lawyer and judge, Federal Senator, Assistant Attorney General, and for years Secretary of State, was the author of the History of Louisiana as a State, as a Territory, and of the Romance of that History, also of the Life of Philip Second of Spain, and other publications.

A little work, but worthy of mention for its merit, is Grandmother's Tales of the Acadians—that heroic and devoted people who, true to their religion and to the land of their origin, when

driven by merciless oppression from their homes in Acadia, now Nova Scotia, found their way to Louisiana, where floated the banner of La Belle France, with its spotless lilies, and where her rich language was spoken, cast their humble lot in that dreamland along the silvery Teche, destined to give to the state of their adoption some of its most distinguished citizens, in peace and in war, came to us almost as a lullaby of our childhood, from the pen of Judge Felix Voorhies, my classmate, and still an honored member of the bar. Alas, that it should shatter some of the idols that the genius of Longfellow, in his matchless *Evangeline*, had created. Alas, that grandmother's tradition has written down Gabriel as false and faithless. Alas, that sweet spirited *Evangeline*, broken-hearted and bereft of reason, rests, after life's fitful dream, in the cemetery of beautiful Lafayette. "Correspondence with My Son at Princeton," published in 1858, by James H. Muse, after the tragic death of his son, on the ill-fated steamer "Col. Crossman," may here be mentioned. Mr. Muse was a distinguished lawyer, and as a legislator was the author of the statute abolishing imprisonment for debt in this state.

And how upon us steals the sad dreamy poesy of the brilliant Richard Henry Wilde. Mr. Wilde had been Attorney General of Georgia, and for eight years a member of Congress from that state. He became a member of the Louisiana bar in the 40's and was professor of Constitutional Law in our University. His monograph on Dante, the Italian poet, and on Torquato Tasso, survive him. But it is his poetry that has preserved his name and memory. Colonel William H. Sparks, in his *Recollections of Fifty Years*, a work of rare merit, published in 1870, that perpetuates so much of interest regarding the lawyers and public men of the early days of our history as a state, thus quotes S. S. Prentiss, the great orator, a member of the Louisiana bar: Repeating Wilde's verse:

"My life is like the prints which feet  
Have left on Tampa's desert strand.  
Soon as the rising tide shall beat,  
All trace will vanish from the sand.  
Yet, as if grieving to efface  
All vestige of the human race,  
On that lone shore, loud moans the sea,  
But none, alas, shall mourn for me,"

Prentiss said:

“Why did not Wilde give his life to literature, instead of the musty maxims of the law? Little as he has written, it is enough to preserve his fame as a true poet. He was distinguished as a lawyer, and as a Congressman, but his name and fame will only be perpetuated by his verse, so tender, so true to the feelings of the heart. It is the heart which forms and fashions the romance of life, and without this romance, life is scarcely worth the living.”

Doubtless there are other literary works of the members of the bar that have escaped this notice.

If to this record of extrajudicial and extraofficial legal effort be added the opinions of the judges, reported from the first of Martin to the current volume, the innumerable briefs of the lawyers engaged, filed with every submitted case, and frequently perpetuated by the reporters, the vast proportions of the labors of the lawyers of this state, in the great work of forming and shaping her institutions, and policy, and jurisprudence, will appear.

It must not be supposed that all that has been said of matters where lawyers have been controlling factors in molding the jurisprudence, or in shaping the policy of the state, or wherever they have impressed their influence upon conditions affecting the people, was the result of combination, or organization, upon their part. It was all the result of unorganized, individual effort, in the practice of the profession, or in the ordinary walks of life.

It is only of recent years that bar associations have become factors for the greater benefit of the profession and of the people. The American Bar Association, and the associations in the States, strengthening and supporting its recommendations, have become potential factors for the general good. Of the former, more than 130 Louisiana lawyers are members, and many of them are also members of the State Bar Association.

First of all, its influence has brought higher standards of qualification for admission to the bar. The requirement of liberal general education, with longer terms of study and instruction in the law, is one feature. The adoption of a code of ethics, inculcating morality, gentility, fairness, and integrity in the professional life and practice of the lawyer, with the suggestion that

it be taught to the student as a distinctive branch, is another and all-important one.

Another is found in the effort to bring about uniformity in the laws of the several states of the Union in matters of commercial regulations, such as negotiable instruments, bills of lading, and many other subjects, that concern the general interests of the people. Our own statutes, of recent enactment, on the two subjects last mentioned are results brought about by the bar for the general welfare.

Success has also crowned their efforts in the recent law regulating the practice before the courts by which unnecessary and wasteful delays in bringing cases at law to their determination will be, to a great extent, avoided.

The limits of this paper will not admit of further detail. The Louisiana Bar Association is on the threshold of its activities and usefulness. Its motives are disinterested; its purposes look to the general welfare; its desire is to place the laws of the state and the administration of justice on a footing to keep pace with the requirements of this age, in all matters where this can be done consistently with the unchanging rules of justice and right.

One other observation. I would be recreant to my duty as a judge, if I should fail to declare, in this presence, the assistance that the Bar Association has always rendered to the courts. The *amicus curiæ*, as we have known him, has generally been some member of the bar, representing interests identical with those of one or the other side of the controversy on trial, but not of counsel. For this interest, which he may be employed to serve, he appears on the brief, ostensibly as *amicus curiæ*. That the assistance to the court is generally valuable there can be little doubt, but with experienced judges the appearance may bring some such measure of distrust as in the olden days attached to the Greeks when they came bearing gifts, and the effort of this "friend of the court," perhaps is received and considered as that of counsel regularly employed. Doubtless in every such case the motives of counsel have been honorable and praiseworthy but generally the appearance has been that of the interested attorney.

It is not so with the Bar Association, when called upon by the judges. In two instances of serious importance the Civil District Court has had occasion to take measures: First, in the matter of a statute requiring their action in the readjustment of certain of-



official salaries payable out of the judicial expense fund; second, as to the proceedings to be had in the adjudication and security to be given by the adjudicatee in the matter of the Fiscal Agency for the keeping of the large funds that come into the registry of the court. Those were questions of serious public importance. Doubts as to the constitutionality of the first of these led the judges to request the assistance of the Bar Association, and forthwith there came three of its members each one of whom had been its president. They gave to us, freely and without stint, the results of their painstaking research, and the force of their reasoning, in argument, and led us, as we believe, to a safe and wise determination, from which no appeal was taken.

In the second instance, the president of the association, here today, leading in these ceremonies, came at our request, and gave the result of his thorough research and examination, bringing a solution, to the satisfaction of all concerned, which will stand as a precedent in this most important duty of safeguarding the public interest, in the selection of the Fiscal Agent Bank, and the form of security to be given.

It is a pleasure, as well as a duty, to acknowledge, in this presence, these disinterested and meritorious services.

Representing the period closing this day, four generations of lawyers appear. They embrace those who participated in the organization of Louisiana as a state, and in the forensic contests that framed our early jurisprudence, and they include the rising generation of lawyers, just admitted to the bar, who gives so much promise of usefulness.

Among them appear a number who have served as Governors of our state, many who have represented the people in the two houses of the federal Congress, two, at least, who have been cabinet officers, two who were ambassadors to the Court of France, two others to the Republic of Mexico, one who was ambassador to the Russian Court, and another to the Court of Spain. Still another was the special minister and envoy of the government of the Confederate States to the European powers during the Civil War. One of them, who served for years as a state district judge, and as a member of the Constitutional Convention of 1879, was appointed judge of the federal Circuit Court, and afterwards was promoted to the Circuit Court of Appeals for this circuit, and is now the president of that tribunal, a position second only to that

of Justice of the federal Supreme Court. He is with us today, sitting as an invited guest of the Justices of this court. Another, who became a member of our bar, was for some years an Associate Justice of the Supreme Court of the United States. Still another, a native of Louisiana, once a Justice of this court, afterwards a senator in the federal Congress, later became an Associate Justice, and is now the Chief Justice of the Supreme Court of the United States.

Three of them have been presidents of the American Bar Association—the first, in his day, the acknowledged leader of the bar, a senator in the Confederate Congress, once Attorney General of the state, genial and high-spirited, whose gentle and engaging manners, aside from his transcendent abilities, bound him, as with hooks of steel, to our affections.

Another, who came with an invading army, and after the Civil War located here, soon won our admiration and esteem by his personal qualities and high accomplishments, and especially as a Justice of the Supreme Court in 1872, when he refused to take part in the conspiracy that placed our state under a usurpatory government—the fabrication of an infamous election returning board—and resigned his high office, who, like Pilate, seeing that his opposition could “prevail nothing,” “took water and washed his hands,” refusing to be a party to the subjugation and wrongs of a brave and liberty-loving people.

The third is with us—and long may he remain—the unquestioned leader of our bar, in whose matchless abilities, civic virtues, and public spirit, as a citizen, we take pride, as we hail him our colleague and friend.

Another public service rendered by the lawyers of this period is that since the foundation of the law department of our University its professors, with few exceptions of late years, were members of the bench and bar of this state.

In the Civil War almost all of our lawyers of the arms-bearing age took military service—many as private soldiers, a number who attained the rank of brigadier or major general, many more who became field officers or commanders of batteries. Many of them lost their lives; many received grievous wounds. Shining examples of the volunteer soldiery of those fateful days are before us today in the persons of three of the Justices of this court,

and two of their invited guests of the federal courts, presiding with them.

Some followed the flag of the Union, and many more, the banner of the South.

Time has sped away, and 50 years separate us from those eventful days. Through their gathering mists and shadows, the young and dashing soldier has disappeared, and with him have gone the antagonisms and bitterness of that unhappy period, as well as the issues that called him to the tented field.

Those of us who survive, as veterans of that civic strife, are no longer enemies. We are comrades and friends—citizens of one common country.

We have learned to respect each other's feelings and motives; our children have intermarried, and our interests have become identified. Without excuse, or apology, for what has been in the past, without revival or discussion of issues that have been settled, we all are content that the stars, which gleamed in the blue cross banner of the South now shine resplendent in the spangled flag of the Union, the representatives of free, peaceful, and coequal states.

That restoration has been complete was proven in the recent war with Spain, when the youth of the South rallied, en masse, to the standard of the Union, among them some who are now among the leading lawyers of this state.

Cursory and incomplete, this review of the Louisiana bar, in its relation to the jurisprudence, to the literature, to the general affairs of the state, and to the political events of the last 100 years, has ended. If time would admit of personal notice of many of its members, the recital of their high qualities as men, their abilities and accomplishments, would be full of interest.

And now we ring down the curtain upon the first century of Louisiana lawyers.

As they pass us in review, memory recalls so many noble spirits, the friends of our earlier days and manhood, the loving, the brave, the learned, the eloquent, the brilliant, the refined, the devoted, the true!

We strew sweet flowers of affection upon the bier of each one who has passed to the Eternal Beyond, and drop the sympathetic tear as we proudly and confidently give them to the judgment of history, which, with stern justice, shall pass upon the quick and

the dead. And on this day we register our faith that, in that Grand Assize, when the summing up shall give the "whole truth, and nothing but the truth," and when there shall be no error of judgment, the lawyers composing the Louisiana bar of the past 100 years will stand with those who have served well in their day and generation—among those "good and faithful servants," to whom shall be given the glad plaudit, "Well done."

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#### THE CENTENNIAL YEAR.

*By Joseph A. Breaux, Chief Justice.*

Thoughts regarding the early judicial history of the state suggest themselves on this occasion, after having heard the eloquent addresses made in the presence of this distinguished audience.

In the early part of the century just passed, Louisiana was fortunate in having able jurists on the bench and at the bar. Jurisprudence at first was in an incongruous condition even after the state had passed under the dominion of the United States. She observed a set of civil-law rules strangely compounded of the English Case Law, French Code Law, and Spanish Usages. Each citizen, doubtless, favored the system of laws of the country in which he was born and reared. This was not conducive to a satisfactory condition. The people of the state succeeded in emancipating themselves from this strange compound of laws by adopting a code system and also by adopting the best principles of the common law, that beautiful system which originated, it is said, in the forests of ancient Germany.

The Roman classic system needs no commendation to the extent that it has been adopted in this state. As to the common law, the other part of our present system, some one has said it is based on Saxon customs molded by Norman lawyers; it does not suggest a museum of remote antiquity, none the less we always seek to find a worthy past for all that is good. The two systems of law, civil and common, were blended. The results of the labors of the bench and bar of that period are still felt. Although a century has passed, during all these years these united systems of laws, civil and common, have come down to us with the impress placed upon them in the early years of the century.

Sir Henry Maine, in one of his interesting published lectures, says of our Code (and I quote him literally) that of all the republications of the Roman law it is the one that appears to him the fullest, the clearest, the most philosophical and the best adapted to the exigencies of modern society. The author also asserts in his lecture on Roman law that, as adopted in Louisiana, it has produced "sensible effects on the older American states."

The late Mr. Carter, an eminent lawyer of the New York bar, having retired from active practice, devoted the evening of life to the study of the Philosophy and Origin of Law. In a book recently published, he comments favorably regarding Louisiana and her laws.

The jurists of the early days of Louisiana well understood the effects of the laws upon society. The morality and progress that the laws foster; the great power of justice in human affairs. Referring especially to those jurists of other days, we might say of them that in their trying difficulties they have succeeded as well as those of other climes and other countries in developing a reasonably satisfactory system of laws.

A hundred years of judicial history! During that time many changes have taken place in the administration of the laws. None the less there still remains something of the remote past. The frequent saying that time does away with all things is not always true; all is not reduced to dust; must of the great and useful remains. Among these are our system of laws and the records of our jurisprudence. Those of an early date still offer inviting fields to the student of law and to the older members of the profession as well.

There is a complete list of the reports of decisions of each year from the first handed down in territorial days to date. They contain valuable records of communities, of families, of titles, and of other vast and varied interests of a state and of her people. The records of all these years are complete except two years (1853 and 1864, during which time there were no regular decisions rendered). There was a provisional court organized with undefined jurisdiction. Judge Peabody (by whose name the court is sometimes known) wrote a pamphlet about his court—a copy of which I happen to have in my possession. Among other things he says that during the Civil War, to serve a process outside of the city, it required a squadron of cavalry and a section of artillery.

The records of that court were deposited in Washington, D. C. The student of history may some day find in them something to read.

After this allusion to the judiciary—which I am purposely anxious not to make lengthy—I pass without transition (as they are a part of the courts) to the practicing attorneys. They have an advantage over the members of the bench who are only of one bench; the functions of the judges extend no further, while the practicing attorneys are members of all the courts. The good lawyer is a good citizen. I hope no one will think that I am influenced by *Vanity Fair* when I say that he is a good man. The well-informed, intelligent, and independent lawyer deserves (and nearly always everywhere receives) just an entitled recognition and consideration.

There are prominent names in other fields of endeavor in this state; none more prominent than those of her lawyers. Not wishing to mention those of a recent date, it is a pleasure to name Edward Livingston, pronounced by Jeremy Bentham and others the first legal genius of modern times, Etienne Mazureau, John R. Grymes, J. P. Benjamin. There are many others well known to tradition and to history.

We have with us on this occasion distinguished judges of the federal courts, to whom we extended a most hearty welcome. We have also extended the right hand of friendship to our Brothers of the different courts of the state present. Likewise we have had the great pleasure of welcoming Governor Hall and of listening to his interesting address.

The name of Hall is suggestive. Judge Dominick Hall of the state Supreme Court in 1813 (a short time thereafter judge of the federal court), had been arrested on order of General Jackson. Judge Martin in his history of Louisiana states that Judge Joshua Lewis of the state court left his camp with a writ of habeas corpus to compel General Jackson to release Judge Hall. Judge Martin adds: Judge Lewis was a member of the Orleans Rifles, one of the companies of General Jackson serving at Chalmette, and was at the camp of his company when he issued the order. Thereupon General Jackson ordered the arrest of Judge Lewis, but changed his mind and recalled the order of arrest and

immediately released Judge Hall. The sturdy General doubtless came to the conclusion that two judges in the right were more than a match for him.

The incident is mentioned in order to add that in those days the best of feeling must have existed between the state and the federal authorities.

The fraternal feeling began early in our history. May it continue always! Courts reasonably united, all seeking to properly administer the laws, are among the powerful agencies in the cause of "faith, of country, and of home."

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PRAYER.

*Offered by the Rt. Rev. Davis Sessums, Bishop of Louisiana.*

Let the words of my mouth, and the meditation of my heart, be always acceptable in Thy sight, O Lord, my Strength and my Redeemer.

O Lord God, the Supreme Governor of all the earth, look down, we pray Thee, upon all who bear rule among Thy people and upon those who are appointed to execute justice, and especially upon the Supreme Court of this commonwealth. Give them wisdom and grace, we beseech Thee, rightly and impartially to discharge their solemn duties, so that by their judgments and decrees law and order may be upheld, justice be administered, innocence relieved, the claims of mercy be duly regarded, righteousness be promoted, and the establishment of Thy Kingdom be advanced amongst men.

Enlighten, we pray Thee, all who frame the laws of this land, and especially of this state, and increase and strengthen amongst the people the spirit of obedience as the safeguard of liberty. To those who judge and those who obey impart, we beseech Thee, single-minded devotion to the truth; so that prosperity and moral and religious welfare may be joined together, and peace and happiness be multiplied amongst us; through Jesus Christ our Lord. Amen.

The grace of our Lord, Jesus Christ, and the love of God, and the fellowship of the Holy Ghost, be with us all evermore. Amen.

## APPENDIX.

*The Celebration of the Centenary of the Supreme Court of  
Louisiana, Saturday, the First Day of March,  
Nineteen Hundred and Thirteen,  
New Orleans.*

## THE COURT—1813.

Dominick Augustin Hall.

George Mathews.

Pierre Derbigny.

Attorney General: Francois-Xavier Martin.

## THE COURT—1913.

Chief Justice: Joseph A. Breaux.

Associate Justices: Frank A. Monroe, Olivier O. Provosty,  
Alfred D. Land, Walter B. Sommerville.

Clerk of Supreme Court of Louisiana: Paul E. Mortimer.

Attorney General: Ruffin G. Pleasant.

## CEREMONIES.

Saturday, March First, Nineteen-Thirteen in the  
New Court House Building.

## EN BANC.

The Supreme Court of Louisiana and the Judges of the  
Federal Courts.

*Invocation,*

Very Rev. J. D. Foulkes, S. J.

*Minutes,*

(Monday, March 1, 1913)

Paul E. Mortimer, Clerk.

*Opening Address.*

Joseph W. Carroll, Master of Ceremonies.

*Address of Welcome,*

Governor Luther E. Hall.

*The Centenary of the Supreme Court.*

"The History," Henry Plauché Dart.

"The Jurisprudence," Charles Payne Fenner.

"The Bar," Thomas C. W. Ellis.



*Response by the Chief Justice,*  
Joseph A. Breaux.

*Benediction,*  
Right Rev. Davis Sessums, D. D.

**THE SUPERIOR COURT OF THE TERRITORY  
OF ORLEANS**

Ephraim Kirby.....	Mar. 1804-Oct. 2,	1804
John B. Prevost.....	Mar. 1804-Nov. 14,	1808
William Sprigg.....	Jan. 17, 1806-Nov. 10,	1806
George Mathews.....	Jan. 19, 1806-Mar. 1,	1813
Joshua Lewis.....	Nov. 10, 1806-Mar. 1,	1813
John Thompson.....	Nov. 14, 1808-Mar. 21,	1810
Francois-Xavier Martin.....	Mar. 21, 1810-Mar. 1,	1813

**THE SUPREME COURT OF THE STATE  
OF LOUISIANA.**

Dominick Augustin Hall.....	Mar. 1, 1813-July 3,	1813
George Mathews.....	Mar. 1, 1813-Nov. 14,	1836
Pierre Derbigny.....	Mar. 9, 1813-Dec. 15,	1820
Francois-Xavier Martin.....	Feb. 1, 1815-Mar. 19,	1846
Alexander Porter, Jr.....	Jan. 2, 1821-Dec. 16,	1833
Henry Adams Bullard.....	Feb. 4, 1834-Feb. 1,	1839
Henry Carleton.....	April 1, 1837-Feb. 1,	1839
Pierre Adolphe Rost.....	Mar. 4, 1839-June 30,	1839
George Eustis.....	Mar. 4, 1839-May 30,	1839
George Strawbridge.....	Aug. 3, 1839-Dec. 1,	1839
Alonzo Morphy.....	Aug. 31, 1839-Mar. 19,	1846
Edward Simon.....	Jan. 1, 1840-Mar. 19,	1846
Rice Garland.....	Jan. 1, 1840-Mar. 19,	1846
Henry Adams Bullard.....	Jan. 1, 1840-Mar. 19,	1846
George Eustis, C. J.....	Mar. 19, 1846-May 4,	1853
Pierre Adolphe Rost.....	Mar. 19, 1846-May 4,	1853
George Rogers King.....	Mar. 19, 1846-Mar. 1,	1850
Thomas Slidell.....	Mar. 19, 1846-May 4,	1853
Isaac T. Preston.....	Mar. 1, 1850-July 5,	1852
William Dunbar.....	Sept. 1, 1852-May 4,	1853
Thomas Slidell, C. J.....	May 4, 1853-June 18,	1855
Cornelius Voorhies.....	May 4, 1853-April 27,	1859
Alexander M. Buchanan.....	May 4, 1853-May 6,	1862
Abner Nash Ogden.....	May 4, 1853-June 30,	1855
James G. Campbell.....	May 4, 1853-Oct. 17,	1854
Henry M. Spofford.....	Nov. 6, 1854-Nov. 1,	1858
James N. Lea.....	July 23, 1855-April 6,	1857
Edwin Thomas Merrick, C. J.....	Aug. 1, 1855-April 1,	1865
James L. Cole.....	May 4, 1857-Mar. 12,	1860
Thomas T. Land.....	Nov. 1, 1858-April 1,	1865
Albert Voorhies.....	May 3, 1859-April 1,	1865
Albert Duffel.....	Mar. 12, 1860-April 1,	1865
Peter E. Bonford.....	-----1863-----	1864
Thomas C. Manning.....	-----1864-----	1865
William B. Hyman, C. J.....	April 1, 1865-Nov. 1,	1868
Zenon Labauve.....	April 1, 1865-Nov. 1,	1868
John H. Hsley.....	April 1, 1865-Nov. 1,	1868
Rufus K. Howell.....	April 1, 1865-Jan. 9,	1877
Robert B. Jones.....	April 1, 1865-July 1,	1866
James G. Talliaferro.....	July 1, 1866-Nov. 3,	1876
John T. Ludeling, C. J.....	Nov. 1, 1868-Jan. 9,	1877
William G. Wylie.....	Nov. 1, 1868-Nov. 3,	1876
William Wirt Howe.....	Nov. 1, 1868-Dec. 3,	1872
John H. Kennard.....	Dec. 3, 1872-Feb. 1,	1873
Phillip Hickey Morgan.....	Feb. 1, 1873-Jan. 9,	1877
John Edwards Leonard.....	Nov. 3, 1876-Jan. 9,	1877
John Edward King.....	Jan. 9, 1877-Jan. 9,	1877

Thomas C. Manning, C. J.	Jan. 9, 1877-April 5, 1880
Robert Hardin Marr	Jan. 9, 1877-April 5, 1880
Alciabades De Blanc	Jan. 9, 1877-April 5, 1880
William B. Egan	Jan. 9, 1877-Nov. 30, 1878
William B. Spencer	Jan. 9, 1877-April 5, 1880
Edward Douglass White	Jan. 11, 1879-April 5, 1880
Edward Bermudez, C. J.	April 5, 1880-April 5, 1892
Felix P. Poché	April 5, 1880-April 5, 1890
Robert B. Todd	April 5, 1880-June 11, 1888
William M. Levy	April 5, 1880-Nov. 5, 1882
Charles E. Fenner	April 5, 1880-Sept. 1, 1893
Thomas C. Manning	Dec. 1, 1882-April 19, 1886
Lynn B. Watkins	April 19, 1886-Mar. 2, 1901
Samuel Douglas McEnery	June 11, 1888-Mar. 4, 1897
Joseph A. Breaux	April 5, 1890-April 4, 1904
Francis T. Nicholls, C. J.	April 5, 1892-April 4, 1904
Charles Parlange	Sept. 1, 1893-Jan. 1, 1894
Henry Carleton Miller	Feb. 1, 1894-Mar. 4, 1899
Newton Crain Blanchard	Mar. 4, 1897-Oct. 17, 1903
Francis T. Nicholls	April 4, 1904-Mar. 18, 1911
Joseph A. Breaux, C. J.	April 5, 1904-April 5, 1914

## THE ATTORNEYS GENERAL.

Francois-Xavier Martin	1812-15
Etienne Mazureau	1815-17
Louis Moreau-Lislet	1817-18
Thomas Bolling Robertson	1819-20
Etienne Mazureau	1820-23
Isaac T. Preston	1823-29
Alonzo Morphy	1829-29
George Eustis	1830-32
Etienne Mazureau	1832-40
Christian Roselius	1841-42
Isaac T. Preston	1843-45
William A. Elmore	1846-50
Isaac Johnson	1851-52
Isaac E. Morse	1853-55
E. Warren Moise	1855-59
Thomas J. Semmes	1860-62
F. S. Goode	1862-64
Andrew S. Herron	1865-65
B. S. Lynch	1865-67
Simeon Belden	1868-71
A. P. Field	1872-76
William H. Hunt	1876-76
Hiram R. Steele	1876-76
Horatio N. Ogden	1877-79
James C. Egan	1880-84
Milton J. Cunningham	1884-88
Walter Henry Rogers	1888-92
Milton J. Cunningham	1892-1900
Walter Gulon	1900-12
Ruffin G. Pleasant	1912-

## THE REPORTERS.

Francois-Xavier Martin	1809-31
Branch W. Miller	1831-34
Thomas Curry	1834-42
Merritt W. Robinson	1842-52
William W. King	1852-52
William M. Randolph	1852-57
Abner N. Ogden	1857-65
S. F. Glenn	1865-67
Jacob Hawkins	1867-73
Charles Gayarré	1873-76
Percy Roberts	1877-79
Henry Denis	1880-95
Walter H. Rogers	1895-1902
Thomas H. Thorpe	1902-07
Charles G. Gill	1907-

## THE CLERKS.

## At New Orleans.

R. F. Hamilton	March 1, 1813
Chas. Derbigny	June 7, 1814
N. N. Le Breton	November 27, 1820
A. Cuvillier	December 11, 1837
Charles Durocher	July 1, 1843
Eugene Lasere	November 26, 1845
J. Madison Wells, Jr.	April 3, 1865
John M. Howell	January 9, 1872
Alfred Roman	January 9, 1877
George W. Dupré	April 5, 1880
Joseph F. Poché	February 1, 1889
Thomas McC. Hyman	January 19, 1891
Paul E. Mortimer	June 30, 1909

## At Monroe.

Henry M. Bry	June 26, 1846
Robert Taylor	March 27, 1850
Franklin Garret	July 9, 1866
W. H. Dinkgrove	July 12, 1869
John H. Dinkgrove	July 7, 1873
Talbot Stillman	July 2, 1877
Robert J. Wilson	June 7, 1880

## At Opelousas.

Pierre Labiche	June 26, 1846
(The Court House and Records burned in 1886)	
Benamin R. Rogers	
L. S. Taylor	
B. F. Mequiley	July 2, 1888

## At Alexandria.

William Wilson	August 2, 1813
M. A. Alraill	June 26, 1846
Duncan C. Goodwin	Sept. 17, 1850

## At Shreveport.

S. M. Morrison	October 11, 1880
P. J. Trezevant	October 13, 1884
William G. Boney	October 22, 1887
William P. Ford	September 20, 1890
H. H. Hargrove	October 9, 1893

**Note:** The above lists were prepared as follows: Attorneys General and Reporters by William Kernan Dart, of the New Orleans bar; Clerks, by John A. Klotz, deputy clerk of the Supreme Court.

## THE JUSTICES OF THE SUPREME COURT.

*By William Kernan Dart, of the New Orleans Bar.*

This list of the Justices of the Supreme Court is arranged chronologically in the order of appointment. In those cases where biographical data is accessible, such information is given. The list includes the name of every justice, including the members of the Superior Court of the Territory of Orleans. The brackets after the names indicate the term of service. The compiler has gathered this work from scattered directions, and in several cases has succeeded in obtaining only fragmentary information owing to the chaotic condition of sources.

*Ephraim Kirby*, (1804-04) : Born Litchfield, Conn., February 23, 1757; died at Ft. Stoddard, Miss., October 2, 1804. Kirby served through the Revolutionary War, and was left for dead on the field at Germantown. He was graduated from Yale. Served in Connecticut Legislature, 1791-1804, and as United States Supervisor of Revenues, 1801. He published the first volume of legal reports in the United States, those of Connecticut, in 1789. He was several times a candidate for Governor of Connecticut. Upon the acquisition of Louisiana, Jefferson appointed him a judge of the Territorial Court of Orleans, and while en route to take his office he died at Ft. Stoddard, Miss.

*John B. Prévost* (March, 1804-November, 1808) : Born in 1770 in the West Indies, the son of a British officer. His mother moved to New York, and in 1782 married Aaron Burr. In 1804 Prévost was a recorder in New York City. Jefferson commissioned him a judge of the new Territorial Court. Arriving in New Orleans October 29, 1804, he opened the Superior Court with a charge to the grand jury on Monday, November 5, 1804. He tried the famous Garcia and Bollman Cases. After his retirement from the bench he practiced law for many years in New Orleans. In 1822 he was United States agent to investigate the rights of the rebels in the Spanish colonies. He died between 1830 and 1840.

*William Sprigg* (January 17, 1806-November, 1808) : Was a member of Congress from Maryland, 1801-02. In the latter year he moved to Ohio, and in 1806 to Orleans.

*George Matthews, Jr. (or Mathews)* (January 19, 1806-November 14, 1836) : Born Staunton, Va., September 21, 1774; died Bayou Sara, La., November 14, 1836. His father was the Gov-

ernor of Georgia who signed the famous Yazoo fund bill, and was a Revolutionary veteran. He (the judge) removed to Georgia in 1785, and was admitted to the bar in 1799. Appointed by Jefferson a judge of the Superior Court of Mississippi in 1805, and in the following year was transferred to Orleans. In 1813 he became presiding judge of the court, and remained such until his death. He learned the civil law after ascending the bench. He left a very large fortune at his death, and his will was successfully attacked; one of its dispositions being annulled by the Supreme Court.

*Joshua Lewis* (November 10, 1806-March 1, 1813) : Born Jessamine county, Va., June 5, 1773, died at New Orleans, 1833. Emigrated to Kentucky and was a political advisor of Henry Clay. Was one of the three commissioners whom Jefferson appointed to take charge of Louisiana. Was a member of the Kentucky Legislature. After his retirement from the Superior Court bench, he became judge of the Fourth District Court, which position he held from 1813 to his death. Defeated for Governor of Louisiana in 1816 by Jacques Villeré. Was a lieutenant at the Battle of New Orleans, although he occupied a judicial position. Left a large family.

*John Thompson* (November 14, 1808-February, 1810) : Died in New Orleans in 1810, and was succeeded by F.-X. Martin.

*François-Xavier Martin* (March 21, 1810-March 1, 1813; February 1, 1815-March 19, 1846) : Born Marseilles, France, March 17, 1764; died New Orleans, December 11, 1846. At 18 he emigrated to Martinique, and from there he went in 1786 to New Bern, N. C. Learned English by typesetting as a printer. Printed a number of books, and a daily paper in North Carolina. He was admitted to the bar in 1789. Issued a digest of North Carolina cases and laws, and translated Pothier on Obligations. Author of *History of North Carolina* (1806-07), *Martin's Louisiana Digest*, *Martin's History of Louisiana*. Was a member of the North Carolina Legislature. Appointed in 1809 a judge of the Mississippi territory, and in 1810 was transferred to Orleans. From February, 1813, to January, 1815, was Attorney General of Louisiana, and was reappointed to the bench that year. Left a large estate; his will was unsuccessfully attacked on the grounds of fraud. He was a brilliant and learned judge. His latter years on the bench were marred by total blindness, and certain disagreeable personal eccentricities.

*Dominick Augustin Hall* (March 1, 1813-July 1, 1813) : Born South Carolina, 1765; died in New Orleans, December 12, 1820. Practiced law in Charleston. U. S. District Judge, Orleans, 1803-12. Resigned to become state judge, and four months later re-appointed federal district judge. As such he fined General Andrew Jackson \$1,000 for contempt of court during the Battle of New Orleans. This fine was repaid with interest by Congress in 1844.

*Pierre Auguste Charles Bourisgay Derbigny* (March 1, 1813-December 15, 1820) : Born in Laon, Lille, Department du Nord, France, 1767; died Gretna, La., October 6, 1829. He was descended from a French noble family which was compelled to migrate in 1793. He first went to St. Domingo, and thence to Pittsburg, Pa. At the latter place he married the sister of the French Governor, and then moved in succession to Missouri, Florida, and Louisiana. In 1803 he was private secretary to Etienne Boré, mayor of New Orleans; in the same year Governor Claiborne appointed him official interpreter of languages for the territory. He delivered the first Fourth of July oration in the territory in 1804. Clerk of court of common pleas, 1804; secretary of legislative counsel, same year. Member of first Louisiana House of Representatives, 1812, but resigned to become judge. His nomination was first rejected by the Senate, but was afterwards returned and confirmed at the Senate's request. He retired from the bench to run for Governor, and was defeated by T. B. Robertson. Secretary of State of Louisiana, 1820-27. Appointed with Livingston and Moreau to revise the Civil Code in 1820. In 1828 he was elected Governor, and was killed by being thrown from his carriage against a tree the following year. He was a prime factor in obtaining the admission of Louisiana. He also ran the first ferry across the Mississippi at New Orleans.

*Alexander Porter, Jr.* (January 2, 1821-December 16, 1833) : Born Armagh county, Tyrone, Ireland, 1786; died Attakapas, La., January 13, 1844. His father, a Presbyterian clergyman, was executed in Ireland as an English spy in 1798, and the orphan thereupon came to America with his uncle in 1801. He settled at Nashville, and on the advice of Andrew Jackson moved to Louisiana. Admitted to the bar in 1807. Member of the Constitutional Convention of 1812. Elected to United States Senate, 1833, serving until 1837. Voted as a senator to censure Jackson for

removing deposits, and favored Texan Independence. Again elected United States Senator in 1843, and died in office.

*Henry Adams Bullard* (February 4, 1834-February 1, 1839; January 1, 1840-March 19, 1846): Born Groton, Mass. September 9, 1788; died New Orleans, April 17, 1851. He was graduated from Harvard in 1807. Shortly thereafter he joined General Toledo to start a revolution in Mexico, and spent the winter of 1812 as his aide at Nashville. In the spring of 1813, he went to New Mexico, and was defeated by the royal troops in a pitched battle at San Antonio. After severe hardships he reached Natchitoches, and started to practice law. In 1822 he was elected to the district bench, and to Congress in 1833, from which he retired to become Justice. Became Secretary of State of Louisiana in 1839, and the following year returned to the bench. In 1847 he became Professor of Civil Law at the University of Louisiana. Served a term in the Legislature, and a few weeks later was re-elected to Congress. After one year of Congress, he fell ill because of the hardships of the return journey, and died. He was the first president of the Louisiana Historical Association.

*Henry Carleton* (April 1, 1837-February 1, 1839): Born in Virginia about 1785; died at Philadelphia, March 28, 1863. His family name was originally Coxe. He was graduated from Yale in 1806; he moved to Mississippi, and then to New Orleans in 1814. He served at the Battle of New Orleans as a lieutenant of infantry under Jackson. With Moreau-Lislet he published a translation of the *Partidas*. He was United States district attorney in 1832, and then became Justice. He resigned from the bench because of ill health, traveled about Europe, and on his return settled in Philadelphia, where he devoted himself to biblical, metaphysical, and philosophical studies. Published *Liberty and Necessity* (1857), and an *Essay on Will* (1863). Adhered to the Union during the war.

*Pierre Adolphe Rost* (March 4, 1839-June 30, 1839; March 19, 1846-May 4, 1853): Born in Garonne, France, 1797; died at New Orleans, September 6, 1868. Took part in the defense of Paris, 1814, and then became a member of Napoleon's army. Emigrated in 1816 to America, landing at Natchez, Miss. Subsequently removed to Louisiana. State Legislature, 1822. Selected the name for Lafayette parish when it was created. Defeated for Congress. Appointed to the supreme bench in 1839, and served

a few months. Again appointed under the Constitution of 1845. During the Civil War was a Confederate Commissioner to Spain.

*George Eustis* (March 4, 1839-May 30, 1839; December 1, 1839; March 19, 1846-May 4, 1853): First Chief Justice. Born Boston, Mass., October 20, 1796; died New Orleans, December 22, 1858. Was graduated from Harvard, 1815. Served as private secretary to Governor William Eustis, who was then Minister to The Hague. Studied law there, and moved to New Orleans in 1817. Admitted to the bar in 1822. Served several terms in Legislature. Secretary of State, Commissioner of the Board of Currency. Attorney General of Louisiana, member of the Convention of 1845. Became first Chief Justice of Louisiana under the Convention of 1845. Had previously been Associate Justice, and had declined a reappointment as such in December, 1839. LL. D., Harvard.

*George Strawbridge* (August 31, 1839-December 1, 1839): A native of Maryland. After he retired from the supreme bench, he became judge of the Fourth District Court, serving 1846-53. Ran for Associate Justice in 1853, but was defeated for election.

*Alonzo Morphy* (August 31, 1839-March 19, 1846): Born Charleston, S. C.; died New Orleans, 1856. Moved to Louisiana, and studied law under Livingston. Member of Legislature, and Attorney General of the state. He was the father of Paul Morphy, chess player.

*Edward Simon* (January 1, 1840-March 19, 1846): Born May 26, 1799, Tournay. Haynaut, Belgium. Studied at University of Louvain, and studied civil law at Brussels. Emigrated to London in 1817, and from there to Baltimore, where he went into the cotton business. Moved to Louisiana, settling at St. Martinsville. After retirement from bench, became a sugar planter. Died between 1860 and 1870.

*Rice Garland* (January 1, 1840-March 19, 1846): A native of Virginia. Member of Congress, 1834-40. Died about 1861 in Texas.

*George Rogers King* (March 19, 1846-March 1, 1850): Born in St. Landry parish, La., 1807; died there March 21, 1871. Was graduated from University of Virginia. Served successively as state legislator, district attorney, district judge, and Associate Justice.

*Thomas Slidell* (March 19, 1846-May 4, 1853; May 4, 1853-July, 1855): Second Chief Justice. Born in New York. 1805, died there 1860. Educated at Yale, and in Spain. Wrote a *Year in Spain*, and author of *A Digest of Supreme Court Decisions*, with J. P. Benjamin. Was elected Chief Justice, his opponent being Christian Roselius, under the Constitution of 1852, and at the election was assaulted by a ruffian. This assault affected his brain, and caused his retirement from the bench.

*Isaac Trimble Preston* (March 1, 1850-July 5, 1852): Born Rockbridge county, Va., 1793; died on Lake Pontchartrain, La., July 5, 1852. Was graduated from Yale in 1812, and was captain of a volunteer company during the War of 1812. Studied law under William Wirt. Member of the Constitutional Convention of 1845. Was killed by a steamboat disaster while returning from a pleasure trip.

*William Dunbar* (September 1, 1852-May 4, 1853): Served in Congress from 1853 to 1855.

*Cornelius Voorhies* (May 4, 1853-April, 1859): Of Dutch descent. Born Avoyelles parish, 1803. Died, 1859. District Attorney, State Senator, District Judge, and Supreme Court Justice. His son succeeded him on the bench.

*Alexander M. Buchanan* (May 4, 1853-1862): Judge of the Fourth District Court before his ascension to the bench.

*Abner Nash Ogden* (May 4, 1853-July, 1855): Declined a seat on the federal bench at one time.

*James G. Campbell* (May 4, 1853-1855).

*Henry Martyn Spofford* (1854-November 1, 1858): Born Germanton, N. H., September 8, 1821; died Red Sulphur Springs, W. Va., August 20, 1880. Was graduated from Amherst in 1840 at the head of his class. Admitted to bar at Monroe, La., 1846, and practiced at Shreveport, La. District Judge, 1852-54. Resigned from Supreme Court in 1858. After the war was in partnership with John A. Campbell, Ex Justice of the United States Supreme Court. Elected to the United States Senate in 1877, but the Senate seated his opponent. LL. D., Amherst, 1877. Co-author of *Louisiana Magistrate*.

*James Neilson Lea* (July, 1855-1858): Born at Baton Rouge, La., November 26, 1815; died at Lexington, Va., October 29, 1884. Was graduated from Yale in 1834. Judge of Second District



Court, 1849-55. After war became Professor of Civil Law at Washington and Lee College.

*Edwin Thomas Merrick* (July, 1885-April 3, 1865): Third Chief Justice. Born in Massachusetts, 1810; died in New Orleans, 1897. Moved to Ohio, and then to Clinton, La., where he was a District Judge until elected Chief Justice. He was noted for his erudition.

*James L. Cole* (April 6, 1857-March 12, 1860; 1863-65): When the Federals attempted to reorganize the Judiciary he was appointed to his former position, but the court never as a fact organized.

*Thomas Thompson Land* (November 1, 1858-April 3, 1865): Born Rutherford county, Va., December 17, 1815; died Shreveport, La., June 27, 1893. With his parents he moved first to Alabama, and then to Mississippi. Was graduated from the University of Virginia. A member of the Mississippi Legislature in 1839. Moved to Shreveport in 1846. Judge of the District Court, 1854-58. Member of the Convention of 1879, where he was chairman of the judiciary committee. He was the father of Justice Alfred D. Land.

*Albert Voorhies* (April 1859-April 1865): Born St. Francisville, La., 1829; died New Orleans, January, 1913. Son of Judge Cornelius Voorhies. After the war he became Lieutenant Governor of Louisiana, 1865-68, and subsequently served as a District Judge in New Orleans.

*Albert Duffel* (March 12, 1860-April, 1862).

*Pierre Emile Bonford* (1863-August 17, 1864): Appointed by the Confederate State Government, and served until his death at Alexandria, La., Aug. 17, 1864.

*Thomas Courtland Manning* (1864-65; January 9, 1877-April 5, 1880; December 1, 1882-April 19, 1886): Sixth Chief Justice. Born at Edenton, N. C., 1831; died New York City, October 11, 1887. Was graduated from the University of North Carolina. Removed to Alexandria, La., 1855. Member of Secession Convention of 1861. Served in the war as a Lieutenant-Colonel and Brigadier-General of the Confederacy, retiring to succeed Bonford as Justice in 1864. He declined Democratic nominations for Governor in 1872, and for presidential elector. He was a vice-president of the Tilden nominating convention. In 1880, he was Democratic presidential elector, and in the same year was ap-

pointed United States Senator, but was not admitted. He was named Chief Justice when the Democrats regained control of the state government. In 1882 he was appointed Associate Justice. From 1886 until he died he was United States Minister to Mexico.

*Charles A. Peabody* (1863-65) : Provisional Judge of Louisiana during the war. He was commissioned Chief Justice of Louisiana by the Federal State Government, and drew a salary, but never heard a case.

*John S. Whittaker* (1863-65) : He was commissioned an Associate Justice by the Federal State Government, but never served. He was born in Massachusetts, March 8, 1817, and died about 1897. He served as Criminal District Judge of New Orleans during the latter part of the war period.

*William B. Hyman* (April 3, 1865-November 1, 1868) : Fourth Chief Justice. Born, Marion county, N. C., 1814; died in 1884. Moved to Alexandria, La., about 1840. Parish judge, Rapides, 1865--69. After his retirement from the Supreme Bench became parish judge of Jefferson, and later parish surveyor.

*Zenon Labauve* (April 3, 1865-November 1, 1868) : Born in West Baton Rouge, February 16, 1801; died in Iberville parish, 1870. State Senator, 1834-36, 1842-43. Member of Constitutional Convention of 1845. State Senator, 1851. Justice, 1865-68.

*John Henry Ilsley* (April 3, 1865-November 1, 1868) : Born June 22, 1806, London, Eng.; died Donaldsonville, La., May 9, 1880. Was graduated from Oxford University, and emigrated to America when 19. Taught school until admitted to bar. Several sons served in the Confederate Army.

*Rufus K. Howell* (April 3, 1865-January 9, 1877).

*Robert Byron Jones* (May 1, 1865-July 1, 1866). Born in Florida, in 1833. Died July 20, 1867, at New Orleans.

*James G. Taliaferro* (July 1, 1866-November 3, 1876) : Born Amherst county, Va., 1798; died Catahoula parish, 1876. Educated Transylvania University, Ky. Member of Secession Convention, 1861, but voted against secession and remained a Union man. Of Italian descent. Moved to Louisiana in 1814. Parish judge, 1840. Member of the Constitutional Conventions of 1852 and 1868.

*John T. Ludeling* (November 1, 1868-January 9, 1877) : Fifth Chief Justice. Born in Monroe, La., 1822. Died January, 1890.

*William Gillespie Wyly* (November 1, 1868-November 3, 1876) : Born Greenville, Tenn., February, 1831; died on S. S. St. Louis en route from Liverpool to New York, September 25, 1903. Was graduated from Jefferson College. In 1868 elected a District Judge, but resigned shortly thereafter to become Supreme Court Justice.

*William Wirt Howe* (November 1, 1868-December 3, 1872) : Born Canandaigua, N. Y., November 24, 1833; died at New Orleans, 1911. Was graduated from Hamilton College. Major in United States army during the war. Served one year as president of the American Bar Association. Published *Studies in Civil Law*. Judge of Criminal District Court, 1868, which he resigned to become Associate Justice. United States District Attorney, 1905-09.

*John H. Kennard* (December 3, 1872-February 1, 1873) : Died at New Orleans, May 2, 1887. Was appointed to the bench, and unseated after a brief service, being succeeded by Morgan.

*Philip Hickey Morgan* (February 1, 1873-January 9, 1877) : Born Baton Rouge, La., November 9, 1825; died about 1892. District Judge, 1855-61. United States District Attorney, 1866-73. United States Representative on International Tribunal at Egypt, 1881-85. Subsequently United States Minister to Mexico.

*John Edwards Leonard* (November 3, 1876-January 9, 1877) : Born at Chester county, Pa., September 22, 1845; died at Havana, Cuba, March 15, 1878. Was graduated from Harvard and from Heidelberg. Moved to Louisiana, where he became District Attorney, and subsequently Justice. Elected to Congress in 1876.

*John Edward King* (January 9, 1877-January 9, 1877) : Appointed by Governor Packard to succeed Judge Wyly. He served one day only; the court being turned out of office by the Democrats on that day.

*Robert Hardin Marr* (January 9, 1877-April 5, 1880) : Born Clarksville, Tenn., October 29, 1819. Presidential Elector on Bell ticket in 1860. Judge of Criminal District Court. Died in New Orleans, November 18, 1892.

*Alcibiade De Blanc* (January 9, 1877-April 5, 1880) : Member Secession Convention of 1861. Colonel of C. S. A. Died at St. Martinsville, La., November 9, 1883.

*William B. G. Egan* (January 9, 1877-November, 1878) : A native of Virginia. Died at New Orleans, November 1878.

*William B. Spencer* (January 9, 1877-April 5, 1880) : Born Catahoula parish, La., February 5, 1835; died at Cordova, Mexico, April 29, 1882. Member of Congress, May 31, 1876-January 8, 1877.

*Edward Douglass White* (January 1879-April 5, 1880) : Born Lafourche parish, La., November 3, 1845. Was graduated from Georgetown (D. C.). Served in Confederate Army. State Senator, 1874. United States Senator, 1891-94. Associate Justice United States Supreme Court, February 19, 1894-December 12, 1910. Since the latter date he has been Chief Justice of the United States.

*Edward Bermudez* (April 5, 1880-April 5, 1892) : Seventh Chief Justice. Born New Orleans, January 19, 1832; died there August 22, 1892. Member Secession Convention of 1861. Served in Confederate Army. Assistant City Attorney, 1866.

*Felix Pierre Poché* (April 5, 1880-April 5, 1890) : Born St. James parish, May, 18, 1836; died at New Orleans, June 21, 1895. Served in Confederate Army. State Senator, 1866.

*Robert Burr Todd* (April 5, 1880-June 11, 1888) : Died at Brooklyn, N. Y., February 4, 1901.

*William Mallery Levy* (April 5, 1880-November 5, 1882) : Born Isle of Wight county, Va., October 30, 1827; died Saratoga, N. Y., November 5, 1882. Served in Mexican War, and in Confederate Army. State Representative, 1859-61; Democratic Presidential Elector, 1860. Congressman, 1875-77.

*Charles Erasmus Fenner* (April 5, 1880-September 1, 1893) : Born at Jackson, Tenn., February 14, 1834; died at New Orleans, October 24, 1911. Served in Confederate Army. President of Tulane Educational Fund, and of Boston Club. Noted as orator.

*Lynn Boyd Watkins* (April 19, 1886-March 2, 1901) : Born Caldwell county, Ky., October 9, 1836; died at New Orleans, March 2, 1901. Served in Confederate Army. District Judge, 1871.

*Samuel Douglas McEnery* (June 11, 1838-March 4, 1897) : Born Monroe, La., May 28, 1837; died at New Orleans, June 28, 1910. Was graduated from the Naval Academy, and the University of Virginia. Served in Confederate Army. Lieutenant Governor of Louisiana, 1879-81; Governor, 1881-88. Defeated for Governor in 1892. Elected United States Senator in 1897, and served till he died.

*Joseph A. Breaux* (April 5, 1890-April 4, 1904; April 4, 1904-April 3, 1914): Ninth Chief Justice. Born February 18, 1838. Served in Confederate Army. Served as Associate Justice from 1890 to 1904, when he became Chief Justice. Compiler of Breaux's Digest.

*Francis Tillou Nicholls* (April 5, 1892-April 4, 1904; April 4, 1904-March 18, 1911): Born Donaldsonville, La., 1834; died there January 4, 1912. Was graduated from West Point in 1855, served one year in regular army. Lost an eye, foot, and arm in Civil War, becoming a Major General of Confederate Army. Governor of Louisiana, 1876-79, overthrowing Republican rule. Again Governor, 1888-92, overthrowing lottery. Chief Justice, 1892-1904, when he became Associate Justice. Retired on a pension in 1911, being the first judge in Louisiana to retire on a pension.

*Charles Parlange* (September 1, 1893-January 1, 1894): Born Pointe Coupee, La., 1852; died, New Orleans, February 5, 1907. Member Constitutional Convention of 1879. State Senator, United States District Attorney, Lieutenant Governor. Retired from Supreme Court to become Federal District Judge, a position he occupied until his death.

*Henry Carleton Miller* (February 1, 1894-March 4, 1899): Born Covington, La., February 1, 1828; died at New Orleans, March 4, 1899. United States District Attorney, 1856-61; C. S. A. District Attorney, 1861-65. Dean of Tulane Law School.

*Newton Crain Blanchard* (March 4, 1897-October 17, 1903): Born Rapides parish, January 29, 1849. Was graduated from Louisiana State University. Member Constitutional Convention of 1879. Congressman, 1881-93; United States Senator, 1893-97. Governor, 1904-08. Now practicing law at Shreveport.

*Frank Adair Monroe* (March 22, 1899—): Born at Annapolis, Md., August 30, 1844. Served in Confederate Army. Served a month as Judge of Third District Court in 1872, when he was dispossessed. Served in White League. Re-elected Judge, 1876. Judge Civil District Court, 1880-99. Member Constitutional Convention of 1898. Will succeed Judge Breaux as Chief Justice in April, 1914.

*Olivier O. Provosty* (March 16, 1901—): Born Pointe Coupee, La., August 2, 1852. Educated at Georgetown University. District Attorney, 1873-76. Louisiana State Senate, 1888-92.

Member of Constitutional Convention, 1898. Referee in bankruptcy, 1898-1901.

*Alfred Dillingham Land* (October 17, 1903—): Born Holmes county, Miss., January 15, 1842. Son of Justice T. T. Land. Served in Confederate Army. District Judge, 1894-1903.

*Walter Byers Sommerville* (March 18, 1911—): Born October 7, 1854, at New Orleans, La. Prior to his present elevation he was Assistant City Attorney, and Judge of the Civil District Court.

*Luther Egbert Hall* (April 5, 1912-April 5, 1912): was elected Justice, but, having been elected Governor of Louisiana, never took his seat. Judge Land was subsequently re-elected to fill this vacancy.

*Charles A. O'Niell* (April 4, 1914—): Has been elected to the vacancy created by Justice Breaux's retirement, and will take his seat on the above date.

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INVITATION

1813

1913

The Centenary  
of the  
Supreme Court of Louisiana.  
The Chief Justice  
and the Associate Justices of the  
Supreme Court of Louisiana  
invite you to participate in the celebration of the  
One Hundredth Anniversary of the Organization of  
The Supreme Court of Louisiana  
to be held in the Court Room  
Saturday morning, March the first,  
nineteen hundred and thirteen,  
at eleven o'clock,  
New Orleans, Louisiana.



## YE OLDEN TYME

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*(From Grace King's Scrap Book)*

The records on file at the Custom House pertaining to the purchase of Louisiana by this government disclose a decidedly unsatisfactory and unencouraging condition of affairs in the new territory during the period from 1803 to 1805. The situation was abnormal and feverish. Smuggling was general, "fraud was fashionable," the customs regulations were more honored in the breach than in the observance, and a feeling of discontent among the natives was everywhere prevalent. All this, however, was known to the United States government; and in order to more effectually counteract these evil tendencies President Jefferson instituted a policy of conciliation to be applied exclusively to the newly purchased territory of Louisiana and its people.

The hundreds of letters written by Albert Gallatin to Hare Browse Trist, then collector of the port of New Orleans, were unremitting in their recommendations of a line of conduct having for its purpose the propitiation and pacification of the disaffected natives. This rule extended to all persons coming into contact or having any dealings whatever with the Federal government in Louisiana. The good results of this policy were not apparent until the latter part of Mr. Jefferson's first term of office, when conditions began to be normal and the laws were being enforced—not rigidly, but with a liberality of construction that made them acceptable to the better classes, especially the business element. For the largeness of spirit with which the affairs of the national government were administered in Louisiana the letters of Mr. Gallatin are profuse in their compliments to the collector of the port, Mr. Trist, whose authority at that time extended over such a vast area of new country.

Hare Browse Trist was the son of Nicholas Trist, a lieutenant in the Royal Irish Regiment. Lieut. Trist married Elizabeth House of Philadelphia, and H. B. Trist, the first collector of the port of New Orleans after the purchase of Louisiana by the United States government, was the only son of this marriage. He was born in Philadelphia, February 22, 1775. At the time of the purchase of Louisiana Mr. Trist was United States collector of customs at Port Gibson, Miss., and when the sale of the new territory was effected he was transferred to New Orleans. He died of yellow fever within a year of the expiration of his term of office, but only after he had practi-

cally completed the great work intrusted to him of pacifying and establishing law and order in Louisiana. His direct descendants are N. B. Trist, the well-known notary in this city; N. P. Trist, and Mrs. R. C. Woods, grandchildren of H. B. Trist. H. B. Trist had two sons, the elder of whom, Nicholas, made the treaty of peace with Mexico. The Trist family, who originally came from Devonshire, England, are connected by marriage with the family of Thomas Jefferson.

An interesting feature of the letter of Mr. Gallatin given below is its reference to the "Fourche," a stream which we know today as the "Lafourche." Col. Lewis Guion, speaking of this stream yesterday, said that the Lafourche empties into the Gulf of Mexico at two different points, and it is from this fact that it derives its name, meaning two-forked. Col. Guion had always understood that in the early history of Louisiana levees were unnecessary along the banks of the bayou, and that it was navigable for many miles for the largest sailing vessels. Now, however, the mouth of the bayou has become shoal and there are periods of the year when very few, if any, boats can enter.

The letter given below was written April 9, 1804, by Treasurer Gallatin, to Mr. Trist, the collector of the port of New Orleans.

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"Hare Browse Trist:

"Dear Sir:—You will herein receive a newspaper containing an act for imposing more specific duties after the 30th day of June next. A section has been introduced in that law for the purpose of remedying any inconvenience which might arise at New Orleans in revenue cases from the want of a District Court, and of relieving merchants and others there from any delays in the remission of fines, forfeitures and penalties incurred on account of more deviations from forms. On that subject the statute speaks for itself. It is the duty of the Secretary of the Treasury, under the act, to provide for investigating or remitting the forfeitures, penalties and disabilities occurring in certain cases therein mentioned, passed 3rd March, 1797, and rendered perpetual by a subsequent law, to mitigate or remit the penalty or remove the disability, if the same shall have been incurred without willful negligence or intention of fraud. This is the power which is now transferred for a limited time to the Governor, and will undoubtedly be exercised by him in such wise and discreet manner as at the same time to reconcile, by softening the rigid provisions of our revenue laws, the inhabitants of Louisiana to their



operation and to protect the revenue against any intentional fraud. As the Governor, for the time being, exercises also the power of the intendant, the process will be very simple, and he may, after having received our statement and objections, decide at once on petitions and communicate the result to you. It is proper to add that this power to remit forfeitures, penalties, and to remove disabilities, must strictly be confined to forfeitures, penalties and disabilities; that it never extends to the allowance of drawbacks when, by any deviations from the provisions of the law, or by any omission of the party, they cannot legally be granted, nor to the remission of duties legally incurred, except in the case where foreign duties may have been incurred by reason of a register being forfeited through some want of form, and the disability thence accruing is removed by the Secretary of the Treasury, or, in this case by the Governor of Louisiana. Observe, however, that in cases where, under the registering act, a new register cannot be granted, no power exists, under the mitigation act, to restore the vessel to the privileges of a vessel of the United States. A case has been stated in which it will be particularly proper to remit the forfeitures: The importation of spirits, beer and loaf sugar in vessels of less contents than those prescribed by law; so long, at least, as it may be presumed that the importers could not have had notice of the law.

“I wish to be informed whether any vessel can, from the sea, ascend the ‘Fourche,’ or any other outlet of the Mississippi. If so, an inspector, until a surveyor shall be appointed, should be located at the said place, or such outlet. I am led to that inquiry from observing in a report of Dr. Watkins to Gov. Claiborne that a vessel with French stores of a suspicious appearance had some time ago, entered the Mississippi through that ‘Fourche.’ If it shall be necessary to have a boat there you may supply one, and I would recommend that whenever barges and boats shall be employed the person having the direction be instructed to report to you the soundings, both at low and high water, so as to collect precise information of the depth of water which vessels may, at drouth seasons, carry up those several outlets of the Mississippi. Congress having authorized the building of a lighthouse at the mouth of the Mississippi, I will write you by next mail particularly on that subject, and mention it now in order that you may, in the meantime, collect and communicate such information as relates to that object.

“ I have the honor to be, very respectfully, sir, your obedient servant.

“ALBERT GALLATIN.”

## REMEMBRANCES OF NEW ORLEANS AND THE OLD ST. LOUIS HOTEL

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*From the Scrapbook of Miss Grace King*

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The veteran Colonel Cuthbert Bullitt, who loves Louisville and New Orleans, and who lives in both cities in their best seasons, and who has written much entertaining matter of the two cities, is again in New Orleans to spend the winter, looking as hale and hearty as a man of his years could be expected to look. Colonel Bullitt hands the Picayune the following note for publication:

Once more I am in New Orleans, not on my "native heath," but in the renowned Hotel Royal, which has its history, and as there are few men living able to tell of it, I will endeavor to do so, and as briefly as I can.

Many years ago, before the late infernal war, when cotton was king, at high prices, and our golden coast along the shores of the big Mississippi was redolent with the sweet odor of sugar-making, everybody during the happy season had sugar on the brain, or cane juice in their mouths. Everybody seemed happy, with plenty of money, when the "ancient regime," the Creoles of Louisiana, reigned supreme in society, and having abundance of wealth, they determined to build a colossal hotel, that would eclipse all others in America, and at the same time remind them of the palaces and hotels of their faraway homes in "La Belle France!"

With these ideas they built the St. Louis Hotel, with its wonderful dome, on a small scale, equal to that grand one at our capital, at Washington.

Here is art in all its grandeur, done by the world's great artist, Canova, who came here for the express purpose. He has displayed his genius on its walls, with gods and goddesses standing out in the respective panels, in bold relief, and where old Neptune, with his water nymphs, have a good time generally, and of a hot day I feel like taking a hand with them.

Fifty years have passed by since this great hotel was erected. When the solons of the state were anxious to have a statehouse worthy of Louisiana, they purchased it, and now own it.

In occupying it they deprived it of some of its grandeur by flooring over the second-story for the hall of representatives.

Like all solons they sometimes make mistakes, and they concluded to abandon this noble structure and try Baton Rouge, from whence now fulminates the law, which ought to govern the State. Fortunately, they could not remove this glorious building, and representative of the old Creole population in whose midst it stands, a memorial of the best people that once held possession of all that was good.

The old St. Louis has gone, in all its glory, with its busy crowd of merchants and planters. The great auctions of land, horses, and negroes are heard no more, and in its place stands the great Hotel Royal, under the charge of Colonel Rivers, one of the best-known caterers in the country, where social luxury is served with a liberal hand, worthy of the good old days of Creoleism, accompanied by an abundance of substantial good things.

The beautiful rotunda, the repose of art, is now used as a "saller a mange," or dining-room, where several hundred persons can be seated, and at night the brilliant lights from a huge chandelier, with its hundreds of illuminating globes, make a scene worthy of the Arabian nights, where women are seen in all their splendor from the reflection from the great glasses, which adorn the walls in all directions, enabling every one to see each other without moving from their seats, and so a little of the gaudy glory of the old house is left for appreciating visitors.

CUTHBERT BULLITT.



## INTERESTING FOSSILS

*From the Scrapbook of Miss Grace King.*

Correspondence of The Times-Democrat.  
Colfax, La., Aug. 5, 1896.

The researches and accounts of the Llaro mounds have aroused some curiosity among those who take an interest in such matters. But more interesting and far richer fields invite the attention of the student of geology. I allude in particular to the stretch of blue bank on Red River lying twenty miles above here and just below Montgomery. There is a bank of a half mile in extent which is a rich find to the geologist. There is found in profusion sea shells, bones of salt water fishes, shark teeth, and other curios. I once found there a section from the jaw of a shark; the teeth more than an inch and a half in length and the edges serrated similar to some of the extinct specimens named in geology by Lyell. Several years ago the State geologist here exhumed the fossil remains of an extinct specimen of the whale. But by far the greatest find is now in the office of Dr. M. A. Dunn, of this place.

In 1895 Dr. Dunn found exposed in the sides of this blue bank the remains of an animal; the erosion and crumbling of bank had exposed it. The doctor went after suitable tools to exhume it. On his return the irrepressible fifteen-year-old boy was there and had damaged the find considerably, but enough is recovered to identify the animal as the pterodactylus, which became extinct about the end of the palaeozoic age; accurately described in Dr. Buckland's "Bridgewater Treatise." This horrible creature could fly, walk or swim. The orbital space (eight inches) indicates him to be a nocturnal animal also. The bones are of a density and hardness unknown in any of our living species. His gigantic flippers were armed with hooks, and on the end of the flipper was another hook or hand terribly armed. His jaws cut past each other like scissors, and were armed with a horrible set of teeth, those in our specimen being as large as the largest sharks. The size of the teeth and bones would conflict with some of the ideas of modern geologists. Having seen no restored specimen to accurately judge by, I could only say that

any approach to symmetry would indicate an animal of tremendous proportions, with bones like steel and armed with hooks and flippers, and could fly in the air, climb precipices, hop on the ground, and dive and plunge in the water. Such an animal would seem like some horrible apparition, enough to vanquish a regiment of soldiers. Probably further research would reveal wonderful things. Ages ago, before the upheaval, here sported on this vast sea antediluvian and prehistoric monsters. There are many such banks exposed where the surf roared and the incoming tide deposited these animals. I will incidentally mention that Dr. Dunn has a copy of Lyell's *Geology*, now a very rare book and out of print.

J. E. DUNN.



## THE LAST CAPTURED SLAVER

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*From Miss King's Scrapbook.*

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**Cleveland Leader:** The only captain of a slave vessel who suffered the death penalty in America was captured by a crew of which one of the members is now a citizen of Cleveland, the engineer of the People's Gaslight and Coke Company.

"The slave ship was the Erie, and it was the last American slaver captured," said Mr. Matthews, in talking about the historical event. "She was taken off the mouth of the Congo in the spring of 1861 by the United States sloop of war Mohican. I was captain of the foretop and of the starboard watch. The capture was accidental; the vessels dealing in slaves would slip out at intervals between the patrol beats of the men-of-war, and they knew pretty well our habits. But this time the Mohican was delayed two days in waiting for mail, and going from the island of Fernandizo we sighted a vessel making from the mouth of the Congo. We were flying a French flag. We signaled her to heave to, but this request not being regarded, a shot was fired. Then she hove to without offering resistance, and a party being sent aboard found every one dressed alike. It was thus some days before we discovered who was the captain. She was manned by fifteen men, and had on board 890 slaves and three slave agents. The agents and five Spaniards, who did not wish to claim American citizenship, were sent away in a trade boat. Eight of the slaver's crew were shipped on the Mohican, and the officers and two of the crew were brought to America. The slave ship was taken to Liberia.

"The captain of the slaver was Nathaniel Gordon, and a year after his capture he was swung on Bedlow's Island, where the statue of Liberty now stands. The first mate was sentenced to ten years' imprisonment, the second mate received a five years' sentence, and the two men were each given a year.

"The severe dealings with the officers were due to the intense feeling on the slavery question, as the war had just broken out. The second mate and the two men volunteered to enter the army and were allowed to go free. Our lieutenant, Dunnington, went into the Confederate navy, after bringing Gordon back.

“About three months before the experience with the *Erie*, a slaver escaped us by being disguised as a whaler. The simulation was very perfect, and on the decks we could see even the boiling vats. The captain showed papers which disarmed suspicion, and when the ‘whaler’ put up for the night at the mouth of the Congo our captain informed him that next morning he would come around on a visit.

“In the morning he was gone, having taken 1300 slaves aboard. We sighted a vessel in the distance, which we pursued, and found to be an English man-of-war, also trying to catch the ‘whaler’.”



## LOUISIANA LAND TITLES DERIVED FROM INDIAN TRIBES.

*By Henry P. Dart.*

Primarily all titles to land in Louisiana are derived from the Sovereign, that is, France, Spain and the United States, but the title of the Indians to the land actually occupied by them was always recognized by the French and Spanish governors and special rules were established to protect and to regulate sales of such land by the Indians.

The document printed herewith is an unusually interesting study of these rules and methods, and it also perpetuates the testimony of several surveyors and officials of that period. It is possible that the same information may be found in official publications but it is gathered here in compact shape and will undoubtedly appeal to a large circle of readers.

As will be seen from the text it is a copy of a report made in April 1815 by the Board of Commissioners appointed by the United States to ascertain and to adjust titles and claims to land in the Western District of the Territory of Orleans. Its present value is purely historical and we are glad of the opportunity to print this document, which comes from the private collection of Mrs. H. H. Cruzat.

### CLAIMS

*Reported by Commissioners.*

#### Opelousas Claims. No. 1.

Pierre Arceneaux claims one third part of the land lying between the Coulé d'Aigle and Frederick Mouton's land, being in depth 40 arpents. This land was purchased by the said Pierre from Frederick Mouton, who purchased from an Indian chief of the tribe of Attakapas. The notice of this claim is accompanied by the following documents. 1st: A certified copy of a deed of Sale by Achenoya, chief of the Attakapas tribe of Indians, vested with power by Jacob Letortue, Jr. and Baptiste (as set forth in the said deed of Sale) to Frederick Mouton, for a tract



of land in the quarter called Bayou de Blanc in the County of Opelousas, bounded on one side by other land of the purchaser, and on the other side by the Coulé d'Aigle, with the depth of 40 arpents, for the consideration of 115 dollars; sale passed 29th July, 1802 before Honoré de la Chaise, then acting as Commandant for the Post of Opelousas. 2dly: A Sale by the said Frederick Mouton to the said Pierre Arceneaux, passed the 5th October, 1804 before the said Honoré de la Chaise, then styling himself "Commandant for the United States of America" of the Post of Opelousas, for one third part of the land purchased by the said Mouton from the Indians, to be taken next to the Coulé d'Aigle. No evidence has been adduced in this claim to establish a title by occupancy, it is therefore to be inferred that the claimant relies on the validity of the Indian title and presumes the transfer passed before the Commandant to be good and sufficient. It may not be improper here to inquire whether and how far this case and others similarly circumstanced may be affected by the laws of the United States, restraining the purchasing of the lands of Indians by unauthorized individuals. By an Act of Congress passed the 30th March, 1802 "for regulating trade and intercourse with the Indian tribes and to preserve peace on the Frontiers," it is enacted, that no Grant, Lease, or other conveyance of lands, or any title, or claim thereto from any Indian, or Nation, or tribe of Indians within the boundaries of the United States, shall be of any validity, unless made by treaty or convention made pursuant to the Constitution. And it is made a misdemeanor punishable by fine and imprisonment for any person not employed under the authority of the United States to negotiate any treaty, or convention with Indians, or treat with them for the title, or purchase of any lands held by them (See the 12th Section of the above recited Act.) The provisions of the Statute above quoted, were by an Act of Congress passed the 26th March, 1804, entitled "an Act erecting Louisiana into two territories, and—" extended to the territories, to take effect from and after the first day of October, 1804. Anterior to the said first day of October, an Act passed the 31st October, 1803 entitled "An Act to enable the President of the United States to take possession of the Territories ceded by France to the United States and for the temporary Government thereof," was to remain in force. By the last mentioned Act, neither the right of the Indians to sell, nor of any individual to purchase from them has been interdicted, or restrained. No

doubts therefore can exist of the Indians within the limits of Louisiana having had the same rights to pass Sales of their Lands at any time previous to the first day of October, 1804, that they enjoyed whilst Louisiana continued to be a Colony of Spain. Such Sale however could only vest in a purchaser the kind of title which the Indians held. It therefore becomes necessary next, to examine the nature and tenure of the Indian title to Land in Louisiana. The Spanish functionaries seem to have made a distinction between Indians who had partaken of the rights of Baptism, and the ordinary tribes, or nations of Indians within the limits of Louisiana. The former were denominated "Christian Indians," a term usually if not invariably incorporated in the body of the instrument, by which their titles to lands were transferred to others. These Indians seem to have been considered capable of holding and enjoying lands in as full and ample a manner as any other subjects of the Crown of Spain. That the tenure of the title of Lands held by Indians not denominated Christians, may be more clearly comprehended and that repetition may be avoided in the progress of this report, the undersigned Commissioners think it necessary here to insert such extracts, both from the testimony adduced and written documents filed in other claims held under purchase from Indians as may appear in any degree applicable to the one under consideration, to which they may find it convenient and useful to make frequent references in their remarks on other claims similarly circumstanced. From testimony given in the claim of Thomas Nicholson (which will be reported among the claims in the County of Attakapas) by Lewis C. De Blanc, Esqre. formerly exercising the Office of Commandant Civil and Military for the District of Natchitoches and afterwards the same Office for the District of Attakapas, the following is extracted "The right of the Indians to sell their lands always was recognized and admitted by the Spanish Government." "We always consider the title from the Indians to their villages the best of titles, because the original property of the soil was in them, and when this country was conquered, the laws of the Conquerors were enforced, but the property of the Aborigines was held sacred. Hence the difference between the titles of Indians and other subjects. The other subjects who wanted land must demand and have a written title; it was not necessary for the Indians, because they already held a title to the land they claimed. Their title originated in first occupancy, cul-

tivation and settlement. The Indians never claimed other Lands than their villages, and when they did it was given them by the Government. There never was any instance of the Government of Spain taking land from the Indians, especially their villages. Even when the Indians had abandoned some old villages because their hunting was exhausted, and had established new ones by the Grant of the Spanish Government, their villages deserted were always considered as their property, subject to their disposal and the Inhabitants never suffered to settle there, but were always driven off. There was no time fixed in which a Deed must be presented for approbation. It could be presented in one year, or a hundred years, and it would always receive the Sanction of Government. The laws made it necessary when the Indians sold their lands to have the Deeds presented to the Governor for approbation. This was only a form, as the Governor in all cases approved and never refused. The villages of the Indians never consisted of less than a league and often two leagues, or more in front, and it was the custom of the Spanish Government whenever they granted land to Indians to give them a league, or more square."

In the claim of Miller and Fulton for a tract of land on Bayou Boeuf in the County of Rapides purchased from Indians, which will be reported by the Register and Receiver of this district pursuant to the provisions of an Act of Congress passed the 27th February, 1803, will be seen the testimony of Mr. Charles Laveau Trudeau many years Surveyor General of the Province of Louisiana, under the Spanish Government, from which the following is extracted. "The Deponent knows of no Ordinances or Regulations under any Governor of Louisiana, except O'Riley, by which the Indians inhabiting lands in the Province were limited in their possessions to one league square about their villages, but this regulation has not been adhered to by any of his Successors. The Deponent knows that the custom was, that when a tribe of Indians settled a village by the consent of the Government, that the chief fixed the Boundaries, and where there were one, or more neighboring villages the respective chiefs of those villages agreed upon and fixed the Boundaries between themselves, and when any tribe sold out its village the Commandant uniformly made the conveyance according to the limits pointed out by the chief. The lands claimed by the Indians around their villages, were always considered as their own, and they were always protected in

the unmolested enjoyment of it by the Government against all the World and has always passed from one generation to another, so long as it was possessed by them as their own property. The Indians always sell their land with the consent of the Government, and if, after selling their village and the lands around it, they should by the permission of the Government establish themselves elsewhere, they might again sell, having first obtained the permission of the Government and so on as often as such permission was obtained, and no instance is known where such permission has ever been refused or withheld. These sales were passed before the Commandant of the District and was always considered good and valid without any Order from the Commandant."

In the claim of Miller and Fulton for Land on Bayou Boeuf, the following is an extract from the testimony of Mr. Valentine Laypard late Commandant under the Spanish Government for the Post of Rapides.—"The Deponent has never known a smaller quantity than a league square of land to be assigned to any one Tribe of Indians let their numbers be what they might, and in one case, namely, the Apalachie Tribe (a small tribe) a much larger quantity than a league square of the first quality and situation on Red River was assigned them." (See Rapides Report No. 125)—Extract from the testimony of the same person in the claim of Miller and Fulton for Land on Red River. The Deponent sayeth "that he had been Agent of Indian affairs for many years under the Spanish Government for the Post of Rapides; spoke the Language of the Indians &ca. That in the year 1803 the Apalachie and Tensas tribes of Indians came to the Deponent as Indian Agent, to inform him of their having sold their land to Miller and Fulton and requested him to pass the Sale, that the Deponent replied to the Indians, that neither himself, nor they could dispose of or convey their Lands without the authority and approbation of the Governor of the Province." By referring to the documents filed in the claim, it will be seen that application was made to the Governor, who gave his written permission for the Chief to sell, with the consent of his Nation. See Rapides Report No. 126.

In the Claim of Patrick Morgan and Daniel Clark for a tract of Land in the Attakapas County, which will be reported among other claims of the said County, it will be seen that a Mr. Fuselier de la Clair had purchased from Rinemo, Chief of the Attakapas village called in French "Lamonier" the said Village and

land depending thereon of two leagues in front from North to South, limited on the West by the river Vermillion and on the East by the river Teche. This Sale was passed in November 1760 when Louisiana was subject to France, and being executed before Mr. Kerleric, then Governor of the Province, is evidence, that the consent of the Governor to Sales passed by Indians was at that date considered necessary to their validity. About the same time that the above Sale was passed, three or four other purchases were made from the Indians of Attakapas, by which a very large proportion of the land of that District, and nearly, or quite all of the valuable Lands on the river Teche were embraced. After Louisiana had changed Sovereigns and became a Colony of Spain, the Count de O'Riley, the first Governor of the Province under the Spanish Monarchy, passed Regulations, or Ordinances by whom no Grant for Land in Opelousas, Attakapas, or Natchitoches could exceed one League square. It would seem that in some cases these regulations were intended to have a retrospective operation, for we find that Mr. De la Clair in the year 1770 petitioned the Governor for a Grant of one league front by a league in depth, expressly admitting in his petition that the Sale from the Indians "was not sufficient to assure to him the property of the said land." On this petition the said Governor O'Riley on the 2d March, 1770 made what was denominated a Provincial concession ordering the Surveyor to make out the limits to the petitioner of a tract of land of one league front by a league in depth. In like manner have the other purchasers from Indians been reduced to one league square, the surplusage not having been considered as reverting to the Indians, but as making a part of the Royal Domain which has been granted from time to time as it may have been petitioned for by other individuals.

In the claim of Stephens Lynch (Rapides Reports No. 108) it will be seen that Lynch purchased from the Attorney in fact of the Rev. Mr. McGuire, who purchased from Indians and is to be entitled to receive nothing in payment from the purchaser, until the Sale made by the Indians to McGuire shall have been ratified by the Governor. In the same claim, a Document is filed, which appears to be a transcript of a judicial investigation and decision of the conflicting claims of the said Lynch and a man named Carrizan before Cezar Archinard, Alcalde of the District, who has decided that Lynch's title is good, provided Carrizan shall not be able to produce a prior conveyance from McGuire, or his Attorney

and provided also, that the Sale from the Indians to McGuire shall be ratified by the Government.

In the Claim of Joseph Gillard (Rapides Report No. 57) in passing the Sale from the Indians to Collin LaCour, the Commandant of Natchitoches, before whom it was executed, Louis C. DeBlanc, has inserted a condition, making it necessary that the Deed shall be presented to the Governor General of the Province for his approval and confirmations.

In the claim of John Lyon for a tract of land on the Bayou Queue de Tortue, purchased from an Indian of the Attakapas tribe named Celestine, the Commandant who wrote the Deed of Sale and before whom it was executed (Louis C. DeBlanc) has included a provision, whereby it was made necessary to present the Deed for the approbation of the Governor General of the Province. In the foregoing Document strong evidence is perceived of the general understanding, that the sanction of the Governor of the Province, whilst Louisiana continued to be a Spanish Colony, was necessary to the validity of all Sales made by Indians, other than those denominated Christians, and it necessarily results, that titles held under such Sales were inchoate until the Sanction was obtained. The Sales by the Indians transferred the kind of right which they possessed. The ratification of the sale by the Governor must be regarded as a relinquishment of the title of the Crown in favor of the purchaser. May the Indians, on account of being the Aborigines of the Country, be considered as having at all times had a right to the unappropriated, or unoccupied Lands, and can their Sales for Lands which they did not occupy, be taken as vesting in a purchaser an indefeasible title?—It will be noticed that in the extract made from the testimony of Mr. DeBlanc there is an assertion, that the titles of the Indians, especially to the lands including their villages was considered under the Spanish Government as “the best of titles” and that this title was held sacred, on account of their being the Aborigines of the Country. The same witness has also said, that even the villages abandoned by the Indians were afterwards regarded as their property and subject to their disposal. The undersigned Commissioners do not perceive the orthodoxy of these assertions. If the Indian title really possessed the dignity which Mr. DeBlanc has assigned to it, a formal extinction of that title by treaty, or purchase by the French, or Spanish Government ought to have preceded all Grants made by either of these

Governments, because there was not perhaps a spot of the Country susceptible of Settlement which the roving natives had not at some past period occupied. It will be observed that in another part of his testimony Mr. DeBlanc has insinuated that this Country was conquered from the Indians. The inquiries and researches of the undersigned however, afford them no evidence of any fact which can induce them to consider the Country as having been acquired by conquest, on the contrary, the Indians seem to have permitted European emigrants to usurp the Sovereignty of the Country without making any opposition to them, and the rights thus obtained by the Crown of France and afterwards transferred to that of Spain has acquired force and validity by prescription, has been legitimated by the tacit acquiescence of the natives in that usurpation. If it should be asked what evidence exists of the Law of prescription operating to the extinction of the Indian title to Lands in Louisiana, it might be replied that the evidence is to be found in the various acts of the Spanish Government in relation to the Indians, evincing, that the Government recognized no title in them independently of that derived from the Crown, a mere right of occupancy at the will of the Government, else why was the Sanction of the Government necessary to all Sales passed by Indians, which may be clearly established by a recurrence to written document and the Testimony of Messrs. Trudeau, De Blanc and Laypard, and why was it not necessary to have such sanction of the Sales made by other subjects of the Spanish Government. The force and effect of prescription in abolishing the Indian title to Lands in Louisiana is further established by the Indians permitting themselves to be removed from place to place by Governmental authority, by their condescending in some cases to ask permission of the Government to sell their lands, and when that permission was not solicited assenting to the insertion of a clause in the Deeds of Sale, expressly admitting that their Sales could be of no validity without the ratification of the Governor. "There was no time fixed" (says Mr. DeBlanc in another part of his testimony) "in which a Deed must be presented for approbation, it might be presented in one year, or an hundred years and would always receive the Sanction of the Government. Would it not be a very preposterous regulation under any form of Government, and very unlikely to have existence under a Monarchial one, that should require the acts of an inferior to be submitted to a su-

perior Officer for his scrutiny and approbation and at the same time deny to such superior the right of rejection? That therefore, the Governors of the Spanish Colony of Louisiana had the right, not only of rejecting Indian Sales, but of actually annihilating them it is conceived will not be denied, nor is at all probable that the Governors either, would always sanction, or have always sanctioned such Sales. Let it be remembered, that in the whole extent of the Western District there are not more than three out of the many Sales made by Indians since Louisiana became a Colony of Spain, which are known to have received the Governmental sanction. And let it be known also, that a Sale that may have been rejected by any Governor, would not have been exhibited to the Board of Commissioners as evidence of Title. Therefore, altho' the Board of Commissioners have no means of producing any proof of the rejection of any Indian Sale, it does not follow that none have been rejected. The practice by Governor O Riley of reducing the quantity of land embraced by Sales, which had been made by Indians, under the Sanction of the Government when Louisiana was a Colony of France was much more arbitrary. But if it could be established, that no Indian Sale was ever rejected by the Spanish Government, this would only prove that none had been presented but such as were admissible. Not that a case might not occur which would demand the exercise of the Governors negative. Suppose for example a Sale from the Opelousas Indians, at a time when that tribe had dwindled down to not more than twenty persons, which should embrace half the unoccupied Land in the County of Opelousas; can it be imagined that such a Sale would not have been rejected by any Governor of Louisiana? Many of the Sales from the Attakapas Indians were obtained about the time of the change of Government by which Louisiana was transferred to the United States, some of them subsequent to that change and at a time when it is known from good information, that those Indians were reduced to one single village, the inhabitants of which were short of one hundred. In some cases as will appear by the subjoined Schedule of Indian Sales, six, or eight distinct tracts of land have been sold by the same individual Indians. Is it not probable, that if Sales had been passed under circumstances such as are stated above, before the Change of Government, or prospect of such a change they would have been rejected? Although no time may have been prescribed within which the Sales of Indians were to



have been presented for ratification, the purchasers could not have been ignorant, that the regulations required that they should be presented at some time for ratification, because the condition was generally expressed on the face of the Deed, and therefore they must have known that their titles were incomplete at all times before the ratification. The undersigned Commissioners are of opinion, that there is a wide difference between the titles of such persons as have purchased lands from Indians which such Indians were actually occupying at the date of their Sales, and the titles and claims of persons who purchased from Indians not in the actual occupancy of the land at the date of their Sales. Purchasers of the first description, although the Deeds of transfer may not have been presented and of course could not have received the Governmental Sanction, may be considered as having extinguished the kind of title which the Indians enjoyed, and are therefore in the opinion of the Commissioners equitably entitled to so much at least of the land claimed as would be a full indemnity for the consideration paid for it. Purchasers of the second description would not, in the opinion of the Board, be entitled to any remuneration, because it is conceived, the Indians in such cases were selling a thing to which they had no kind of title. The investigation of claims for lands purchased from Indians seem to have brought into view four distinct classes—first, claims for lands purchased from Indians denominated Christians, whose Sales are generally for small tracts, of such extent as an Indian and his family might be supposed capable of cultivating, passed before the proper Spanish Officer and duly filed of Record, these Sales are believed to have been valid, by the usages of the Spanish Government without ratification being necessary. Secondly, claims for lands purchased from some tribe, or chief of some tribe of Indians, the Sales of which may have been ratified by the Governor of the Province. These are also considered as valid. The Indian sale transferring their right. The ratification by the Governor being regarded as a relinquishment in favor of the purchaser of the right of the Crown. Thirdly, claims for lands purchased from Indians of the description last mentioned, who from the evidence adduced before the Board shall appear to have been in the actual occupancy of the land at the date of the Sale, but whose deeds of Sale may not have been presented for the ratification of the Governor. In this case the Indians are considered as having transferred only the right of oc-

cupancy which they held at the will of the Government, the title is incomplete, but the purchaser supposed to have an equitable claim for the confirmation of his title to so much of the land claimed as would be a full indemnity for the consideration he may have paid. Fourth and lastly, claims for lands sold by Indians of the last description, who did not occupy them at the date of their Sales and whose Sales have not been ratified by any Governor of Louisiana. Such Sales are considered as vesting no title in the purchasers (unless accompanied by some equitable circumstance in their favor) and in the Opinion of the Board of Commissioners ought not to be confirmed. Of this last class is the claim at present under consideration, unattended by any circumstances known to the Board of Commissioners, which might entitle it to a confirmation.

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Land Office at Opelousas.

State of Louisiana, 27 January, 1826.

I do hereby certify the foregoing to be a true and correct copy of the original filed and of Record in my Office, reported by the Board of Commissioners appointed for the purpose of ascertaining and adjusting titles and claims to lands in the Western District of the Territory of Orleans, now State of Louisiana, in their report of claims for the County of Opelousas on the 6th of April, 1815 to the Honorable Albert Galatin, Secretary of the Treasury of the United States. And I do hereby further certify that the same has been acted upon and approved by Act of Congress passed the 29th day of April in the year 1816.

Given under my hand and private seal, at my Office aforesaid, the day & year aforesaid.

(L. S.)

(sig.)

VALENTINE KING.

Register.



# THE LOUISIANA HISTORICAL QUARTERLY

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of the Hon. George Mathews.*

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*Cabildo Archives—French Period,  
No. IX.*

*Records of the Superior Council of  
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## TABLE OF CONTENTS

VOLUME 4, No. 2

APRIL, 1921

Mazureau's Oration on Mathews.....	149
George Mathews—President of the Supreme Court of Louisiana..	154
Discourse on the Life and Character of the Hon. George Mathews..	189
Fire Protection in New Orleans in Unzaga's Time.....	201
The Oath of Allegiance to Spain.....	205
Cabildo Archives—French Period—IX.....	216
Records of the Superior Council of Louisiana.....	218





# THE LOUISIANA HISTORICAL QUARTERLY

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## MAZUREAU'S ORATION ON MATHEWS.

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*By Henry Plauché Dart.*

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We print in this issue a translation of Etienne Mazureau's "Panegyric of George Mathews," delivered in French in New Orleans in January 1837, shortly after the death of Judge Mathews. This curious and interesting contribution to the literature of that day was never translated into English. Mrs. H. H. Cruzat's present translation is spirited and very true to the original. The only existing French copy that has fallen under the writer's observation is that contained in 1st White's New Recopilacion, 678, printed in 1839; and White's book is almost as inaccessible as the address which it perpetuates. At the period of this address (1837) Louisiana had settled most of the great legal problems that arose out of the difference between her ancient legal system and that of the other states of the Union, and Etienne Mazureau had taken considerable part in this settlement. A native of France, he came to Louisiana in 1801, young in years but ripe in political experience because he had suffered for his opinions before Napoleon became emperor, and in his own words, in the address which we are now publishing he "fled from the despotism of the greatest Captain of modern times." His picture in the Supreme Court portrait gallery in the New Court House at New Orleans gives us an idea of Mr. Mazureau which is sustained by the legends of that period. It shows a certain charm and grace of manner that does not, however, conceal the strength of character and fiery zeal which filled his soul.

Very early in his career Governor Claiborne offered him a place on the Superior Court of the Territory of Orleans, which he declined and later he succeeded Martin as Attorney General in 1813, immediately after Louisiana was admitted to the Union. His career thereafter was strictly contemporary with the development of civil life in Louisiana after the cession. To the modern Louisiana lawyer the principal value of the "panegyric" is the intimate knowledge which it gives us of contemporary sentiment and of the passions provoked by the changes made in our legal system through the Digest of the Civil Law of 1808 and the Civil Code of 1825. Our Court reports and general history makes little or no mention of the controversy here presented, and we are sure it will have to the majority of students an element of novelty and interest. As we gather from the panegyric it was contended in 1808 that public policy required that the French and Spanish laws in force at the time of the cession of 1803 should be translated by legislative authority to serve as a sort of common law for Louisiana, to be developed in due course by the legislature and the courts after the method in which the common law of England and the United States was created and developed. Mr. Mazureau says this was the opinion of Judge Mathews, and he evidently held the same view himself. There is support for it in the statute under which the legislature authorized the compilation of the civil laws in force in Louisiana in 1808, and it is also true that the courts thereafter held that the work was not a code but a digest of such laws. It was under this construction that the Supreme Court permitted reference, and, indeed, insisted upon a reference to the Spanish and French laws prior to 1808 to interpret the Digest and even to supply omissions therein.

So far, then, it would appear that we have from Mazureau's pen a contemporary view of the intentions of some of the Louisiana lawyers and judges in regard to the Spanish and French system, and one would be inclined to say that this contention was sustained by the very form in which the Digest was cast. But the theory did not work out in practice as perfectly as it appeared when considered theoretically, and the Civil Code of 1825 was unquestionably designed to have an end of these foreign laws; to substitute, in short, a code as a beginning of a new system. It would appear also that this was the parting of the ways between the old school and the new, and Mr. Mazureau's panegyric is a

very interesting reminiscence of the contest over the attempt at code making which ended adversely to his views in 1825, and it is worthy of perpetuation from that point of view.

Our comment does not exhaust all the points presented by this document, but before turning to others we should notice the construction of the oration, which is a fine example of a type that has somewhat lost its vogue among us. Here Mathews is the text which the speaker departs from and returns to with skill and art, distributing on the way a fund of local knowledge and a store of information, and a variety of opinion on many subjects, only distantly related to the text, and yet always presented in a way to keep in hand the thread of the discourse, however attenuated. The method shows, we may add, the characteristics of that period of public speaking, when it was not uncommon, so we are told, for the orator to hold his audience for hours under a thrall. In the quiet of an evening off the reading of this particular oration may now let us into the secret of the orator's art and skill, which apparently has passed away from the present generation.

The "panegyric" is further valuable for its local color and intimate details concerning the people, the courts, and the events of the first quarter century of life in Louisiana, and cannot fail on this side to be useful to the historical student.

The eulogy of Mazureau and the "discourse" by Mr. Watts printed herewith has preserved for us the history of a very great judge who filled a large part in the legal life of Louisiana, and this introduction needs only a few additional words to complete the story as told in the two orations. Judge Mathews was a Georgian, appointed by President Jefferson as one of the three judges of the Superior Court of the Territory of Orleans, and he began his judicial career on that bench in New Orleans in May 1806. His colleague was John B. Prevost of New York, who had been sole judge up to that period and who retired in the succeeding year, 1807. William Sprigg was appointed contemporaneously with Mathews and retired in 1808. Under these conditions Mathews became, in 1807, the President or Presiding Judge of the Superior Court, and when that court was abolished upon the formation of the Constitution of 1812 and the admission of Louisiana into the Union, Judge Mathews was ap-

pointed by Governor Claiborne to the Supreme Court of Louisiana, a bench of three judges, namely Dominick A. Hall, Presiding Judge, George Mathews and Pierre Derbigny, associate judges. Judge Hall retired after a short service, and in 1813 Mathews became the President of the Supreme Court or Presiding Judge, as it is variously called, for they did not use the title of Chief Justice until 1845. Martin became a member of the court in 1815 and only became presiding judge on the death of Judge Mathews in 1836, and notwithstanding he is often referred to as the Chief Justice of Louisiana he never did, in fact, have that title, which was established after Judge Martin had retired from the bench on the adoption of the Constitution of 1845. The long service of Judge Mathews, more than thirty years, necessarily made him contemporaneously an outstanding figure in our history because those courts (the Superior Court of the territory and the Supreme Court of Louisiana) played a very essential part in establishing our law upon the basis of the Civil rather than the common law. Mazureau tells in his address the story of two great efforts made in the Superior Court of the Territory of Orleans, first before Prevost sitting alone, and afterwards when Mathews came on the bench, to settle the controversy in favor of the Common Law, on the theory that Louisiana's legal system necessarily followed the legal system of the United States as recognized in the Ordinance of 1787 covering the Northwest Territory which formed a part of the law governing Louisiana under the Congressional legislation.

Judge Mathews' picture in the Supreme Court gallery bears out Mr. Mazureau's eloquent description of his character, "a rotund figure of even temper and placid and genial characteristics." His fame in these later years of our legal life is somewhat obscured by that of his great colleague, Judge Martin, but no one who understands the operation of judicial machinery can doubt that Martin's fame would not be what it is had he not had alongside of him on the bench this well balanced American lawyer, deeply versed in the traditions of the common law but also a great admirer of the civil law, which system he studied at its sources, and to which he always turned for light and guidance.

The reputation of Mazureau during his lifetime as an able and fearless lawyer and as a sound thinker was perpetuated by his contemporaries and by his immediate successors. When the

writer began to read law some fifty years ago the name of Mazureau was of equal dignity with the other giants of that earlier period, and the law offices were full of stories of his cases and methods. In short, he was then and he is now one of the historical characters of Louisiana. This "panegyric" which we here translate and reproduce made a great contemporary impression. I cannot remember ever seeing a copy of it in my younger days but it was often referred to and always with respect and admiration, and it is really a good idea to revive before the people of this generation the memory of these two men, this great lawyer and equally great judge of the early part of the last century.

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See for a more extended account of the Superior Court and the Earlier History of the Supreme Court, the Centenary proceedings in 1913. 4 La. Historical Quarterly pp. 16-37 (Jany., 1921).



GEORGE MATHEWS—PRESIDENT OF THE SUPREME  
COURT OF LOUISIANA.

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*Panegyric Delivered January, 1837, by Etienne Mazureau, Attor-  
ney General, and Dean of the Bar, by Virtue of a  
Resolution Adopted at New Orleans by  
His Fellow Members Assembled  
Nov. 16, 1836. (\*)*

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*Gentlemen and esteemed fellow members:*

Among our European ancestors, not so long ago, at the death of a prince or of the great, whom their birth-right placed at the head of nations, an antique custom demanded that, even though history, faithful to its mission, carved for them pages hardly fit to recommend them to the respect of future generations, they be eulogized by great orators in highly eloquent panegyrics, as demi-gods whose short course on earth had been marked only by heroic deeds and benefits worthy of the admiration and gratitude of men. There, the simple magistrate appointed to the administration of justice, whatsoever right he might have acquired

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\*EDITORIAL NOTE: Translated by Mrs. H. H. Cruzat from the French original as published in 1 Whites' "New Recopilacion" pp. 673-701, Philadelphia, 1839, under the title, "Panegyrique de L'Honorable George Mathews, President de la Cour Suprême de L'Etat de la Louisiane, Prononcé le—Janvier 1837, par Etienne Mazureau, Avocat Général et Doyen du Barreau, En Vertu d'une Resolution adoptée à la Nouvelle-Orleans par ses confrères assemblés le 16 Novembre, 1836." There is nothing to indicate where the address was delivered. The proceedings of the Bar Meeting published in 10th Louisiana Reports, p. iv., show that, in addition to the formal Resolution of sympathy a special request was made that Mr. Mazureau and Judge Charles Watts, of the First Judicial District Court of New Orleans, prepare and deliver at their convenience public orations upon the distinguished decedent. Judge Watts' "discourse" is printed following the minutes of the Bar Meeting, 10th Louisiana Reports, pp. iii. xv., but Mr. Mazureau's is not included therein, though it is certain the two addresses were delivered contemporaneously. It is likely that its length precluded its publication in the official report. Mr. White, in a brief note or preface to the reproduction of the French original in the "New Recopilacion", gives no information on the point, but in the Introduction to the main work, Volume 1, p. XIV., he states that he obtained the manuscript from Mazureau himself. We have, therefore, two views of Judge Mathews presented by these two distinguished members of the bar, and we are inclined to think that they may be classified as representing two distinct views of the man, one Judge Watts', from the English speaking bar (or American lawyers as they were then called), and the other from the Creole or French speaking bar. In the interest of historical truth we think both addresses should now be presented together, and we follow the translation of Mr. Mazureau's by Judge Watts' "discourse."

The foot notes to each oration are those that appear in the original, and where we have made any additions they are placed in brackets. See also Mr. Darts' article in this issue of the Quarterly on Mazureau's Oration on Mathews.

to the esteem and love of his contemporaries, whatsoever fine and sublime examples he may have left to be followed for the happiness of society, could only go down to the tomb ignored and unnoticed, except by those who inhabited the circumscribed place where he had exercised his illustrious functions. Custom forbade that fame should elsewhere publish his virtues or his services, or that he be the subject of a funeral oration destined to perpetuate his memory. Considered as the creature or instrument of the prince, of a Lord High Judge, he had no striking personal merit, to these were attributed the love and respect that he had known how to inspire for justice and for the laws, as well as the union and concord which his wisdom had caused to reign in his country. These masters of the people were the heirs of his glory. They received as a legitimate tribute the praises and homages due solely to his virtues and to his exemplary conduct.

Amongst us, Gentlemen, it is fortunately not thus. Amongst us the virtues and vices, the good and bad actions of individuals, whoever they be, are entirely personal; the merit or the blame belongs to them exclusively. The highest in the exercise of power is not and cannot be, before the whole of society, else but a creature of the law, a proxy accountable for all his acts to the people, his sovereign sole source of all authority and of all legitimate power. We honor him when he is worthy of praise and he is consigned to oblivion when he has not justified the confidence vested in him; and the merits, the services and the virtues of no other functionary could make him live in our memory, nor serve as a passport towards posterity.

Therefore, Gentlemen and fellow members, without hyperbole, we may say that the assembly which you, in this moment constitute, is truly edifying, if we compare it to those pompous ceremonies to those brilliant obligatory concourses of superb courtiers, where, using the expression of a celebrated writer, "An orator whom no one believed, speaking of virtues in which he did not more believe, endeavored for a moment to be impassioned for that which was sometimes contemptible to the public and to himself, harmoniously heaping up mercenary lies, praising the dead at length in order to be himself lauded or recompensed by the living."

Assembled in this hall by your will alone, you have but one desire, to render a just homage to truth, to acquit, as much as

it is in us to do so, a sacred debt, in honoring the memory of a good citizen who served his country with zeal, whom you have all known, whom you have all been in position to appreciate, who, whilst exercising in your midst the thorny duties, the delicate functions of the magistracy during a third of a century, fecund in events the influence of which left a strong imprint on men, on their morals and their fortunes, must necessarily have displeased more than one litigant, hurt the self love and frustrated the expectations of many amongst us, and who, notwithstanding, has carried to the tomb our esteem and the well deserved regrets of all honest folks and of all good citizens. There is here wanting, gentlemen, for the fulfilment of your views, but an eloquent tongue to record with accuracy the distinguished qualities and the rare merit of their virtuous magistrate, as well as the important services he rendered to the State.

On hearing these last words, deign not to accuse me of the puerile intention of hiding, under the veil of feigned modesty, confidence which, if younger, I might have had in my own strength. Having reached the age of sixty, and after having devoted almost two thirds of my existence to the defense of litigious rights, rarely susceptible of inspiring fine oratory, and often capable of chilling the most poetic imagination, I could not truly be weak enough to believe myself endowed with the talent or the eloquence required to acquit myself honorably in the panegyric of an illustrious man.

I felt it, Gentlemen and fellow members, when (probably to show me deference as your dean) you appointed me to be one of the interpreters of your sentiments towards the excellent Judge whose loss we deplore; and you may recall that it was only after much hesitancy that I decided to accept this honorable task, which my weakness dreaded, but which I would eagerly have sought, had it been less imposing or more analogous to the talents which nature may have bestowed on me, or to those which I have had occasion to cultivate in the exercise of our profession.

I still feel at this moment, Gentlemen, and however disposed you may be to treat me with indulgence, I shall not dissimulate that the uneasiness of my self love is far from being dispelled. But, having witnessed during thirty years the distinction with which honorable George Mathews fulfilled the duties of his place,



as well as the numerous vicissitudes which civil legislation underwent in that long period; an attentive and often alarmed observer of the dangers which love of innovation continually strewed on his way and on that of his worthy colleagues; imbued, as I am, with the knowledge of the important services which Louisiana owes to his rare impartiality and his excellent judgment, to his persevering zeal for justice; if I have been bound not to dream of delivering one of those brilliant discourses that charm by the grace of style and the richness of elocution, one of those panegyrics in conformity to the laws of style, in which the enthusiastic and fecund imagination of the orator exercises and nobly displays its treasures, in the interest of his own glory as much as in the interest and glory of his hero; I would be wanting in sincerity if I did not acknowledge that, a plain narrator, I hope to interest you by recalling some of the claims this justly regretted magistrate established, by his conduct and his doctrines, to the respect and gratitude of every good citizen of Louisiana. Moreover, gentlemen, may the considerations following from the facts which I shall endeavor to group, and a few truths that some of you will hear for the first time, have the twofold result of stimulating fine souls who are inclined to follow the footsteps of this illustrious public functionary, and to incite some functionaries of the state, who, I fear, are indifferent to what does not carry with it a tangible reward, to strive to avoid censure from their contemporaries, or the brand of reprobatory silence by posterity. Such is my sole wish at this moment, and if it be not sterile, I shall believe that I have not failed in the task which it has pleased you to assign to me.

The Hon. George Mathews owed his birth to honest and respectable parents, residents of Virginia that has become so justly celebrated for the brilliant constellation of great men she gave the republic. His mother, a few months gone with child, at the time of the memorable expedition which terminated the battle at the mouth of the great "Kanawah", brought him into the world on the 30th of September 1774, in Augusta County, whilst his father, in this expedition, was exposing his life for the defense of his country, and was attracting notice by his unusual courage, admirable presence of mind and surprising correctness of foresight, which in a short time caused his companions in arms to attribute to him the most prominent part and in some

sort, the whole glory of that splendid day, famous day, which showed what the heroic valor of civilized man, fighting to protect a cherished family and to save a field cultivated by his hands, can do against savage hordes who only know how to destroy, and who have no other enjoyment than carnage. From the moment of his birth to the age of ten years, his mother whom they loved to distinguish among her virtuous companions for superiority of mind and excellent judgment, and for the most amiable qualities of heart, took full charge of his education. Continuously in the services of his country, his father who seldom had the happiness of pressing him to his bosom, trusted and fully relied on that beloved wife, convinced that she could not fail to inculcate lessons that would one day make their cherished son a useful man to his country. And, to what better hands could a father intrust the task of awakening in the heart of the young child of his chaste love, principles of honor and virtue? Do not women, to the highest degree, possess the art of inspiring to early childhood a taste for the greatest and noblest things?

Deprived, by death, of the lessons and examples of his excellent father at the early age of ten or eleven years, was not the immortal Washington raised by the woman who had carried him in her chaste womb. Was he not indebted to the tender care and constant sollicitude of that model of mothers for the fine sentiments and austere patriotic virtues which distinguished him in every circumstance of his noble life, and imprinted on him that indelible stamp of true greatness which caused him to be proclaimed: "The first in war, the first in peace and the first in the hearts of his fellow citizens."

How many men have appeared with eminence on the vast scene of the world who probably would have lived and died ignored had they not had as a Mentor of their youth that sex worthy of all our respect as well as of our best affections, uniting as it does exquisite sensibility of heart to the irresistible charms of beauty, vivacity of mind and a profound sentiment of proprieties; and that the Eternal created after our own only because in His infinite wisdom He reserved His most interesting work to crown and embellish the whole of nature!

In 1785 Mr. George Mathews' father, left Virginia with his whole family, to take up his residence in Georgia, in the county which was then called Wilkes, and which has since become

Oglethorpe. The son, at that time was only eleven years old. The place where he resided until 1792, offered, as the other frontier countries, scanty resources for the instruction of youth. His parents however sent him to the schools opened there, and there, under their eyes, he continued the respectable studies, in which his mother had prepared him and which she never ceased to watch over.

On his return to Virginia, in 1794, he entered the academy known as Liberty Hall, in the city of Lexington, in Rock-Bridge county, where, in the course of the following year, he terminated his classical studies under the best professors of the time, and in 1796, he rejoined his family in Georgia. The welcome extended to him by his excellent parents when they again saw him, was such as a loving and respectful son, who had fulfilled all their expectations might desire. Sensible and obliging, his only joy and his only happiness were to deserve by his good conduct and delicacy of behavior, the love of which they gave continual proofs, and their will was a law with which he promptly complied.

In early years he had had a decided inclination to the study of medical sciences. The exquisite goodness of his heart persuaded him that in this fine profession he would, more than others, be able to be useful to humanity; but his respectable father with the extreme sagacity and solid judgment, which he evinced in all circumstances, persuaded him that he was mistaken on his real vocation, insisted on his turning his views towards the Bar and make up his mind to give himself up to the study of law.

Barring this remarkable incident, though simple in itself, the United States would probably have numbered George Mathews' son among the celebrated physicians for that worthy citizen, that estimable magistrate, amidst his numerous labors never ceased showing a special taste for the art of curing, and a real aptitude to exercise it with success. But if in pursuance of his own inclination he had become a Doctor of medicine, Louisiana would not have had the honor to number him amongst her best judges. It was then in conforming with his father's wishes that in 1796 he began under John Mathews, his elder brother, the study of law, and two years later he went to Augusta, where, under the direction of George Walker, one of the most eminent lawyers of

Georgia, he continued his legal studies. Such was the ardor he brought to them and the facility with which his rare intelligence overcame all difficulties that in 1799 he was admitted to the Bar, and in a short time, was esteemed for his skill as well as for the gentleness of his manners and the purity of his principles. It was there that in 1805, exclusively applied to the cares of his profession, he was distinguished by the illustrious Thomas Jefferson, who, without his expecting it, appointed him Judge of the Superior Court of the Territory of Mississippi. Such a tribute offered by such a man to the virtues and knowledge of a young civilian, is, without contradiction, the highest praise that may be bestowed on him.

It was a fine time, Gentlemen, when the functions of magistracy were thus offered to merit! There were then many more to fill than indefatigable solicitors to provide. If knowledge had not made all the progress of which our brilliant epoch glorifies itself, one learned, one studied long in order to be proficient; after having learned one was but more modest; they avoided cutting questions short, and posing as learned, they distrusted themselves and dreaded responsibility. On the other side they were less opulent, and the son did not blush in exercising the useful trade of his estimable father. Gold and power did not dispense of all merit, did not inflame ambitions; but were we less happy, less estimable, less free, less republican?

At this same period and since the end of 1804, the territory of Orleans was organized. Its charter was that of 1787, made for the territory situated northwest of the Ohio. By virtue of this ordinance which put an end to the dictatorship of an American governor provisionally invested with the powers of a captain general of a Spanish colony, and who had bravely put himself up as a legislator. (1) A tribunal decorated with the title of Superior Court was established at New Orleans. A single judge, instead of three of which it was composed, rendered justice. That judge was the Hon. John B. Prevost, a magistrate as commendable for his knowledge as seducing by the beauty

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(1) William C. C. Claiborne, sent here with his immense powers, did not limit himself to administering according to law, of which, by reason of his powers, he knew little or nothing at all. He made, under the title of ordinances, laws by which he created first a Court of Common Pleas, then the Bank of Louisiana. Never would a captain general have thus dared exercise the sovereign power. We do not arraign this honest man. He went too far, but what navigator who, cast upon the ocean without compass, without charts, without instruments, could conduct his ship to port without accident?

of his person and his gentle and polite manners, who, until 1806, to the satisfaction of the Bar and of the whole of society, fulfilled the numerous and difficult functions of civil and criminal judge of last resort. This man justly respected as long as he inhabited this country, died a few years after whilst fulfilling a diplomatic mission in South America, amongst a nation who called themselves christians because they had been baptized, and republican because they had sundered the ties which previously bound it to antique Spain; but who was as incapable of understanding and practicing the divine precepts of charity taught by the Gospel as it is still at this day incapable of governing itself by the principles of a wise liberty. Ah! If from the sublime regions where the Eternal has His throne, John B. Prevost, (that estimable magistrate to whom Louisiana on more than one score owes gratitude) may hear my weak words, he will do me the justice to think, that if it depended solely on me to avenge the outrage to his corpse by the fanatics among whom he breathed his last breath, their odious names would go down to posterity branded and execrated! The barbarians! To refuse sepulture to a man, to a Christian, to the representative of a friendly nation, because he did not adore the Eternal in the same manner as they!

Honorable George Mathews exercised the functions of judge of the Territory of Mississippi until the year of 1806. It would be difficult to deny the claims he acquired to public esteem and confidence, when one recalls that he left this place only to occupy another, by virtue of a new commission of the same President Jefferson, at the side of John B. Prevost, who remained President, and of William Sprigg, who has just been appointed.

He arrived among us on May, 1806, and on the 19th of this month, after having been sworn in, took possession of the place before a large audience whose faces expressed the confidence which his open and frank countenance inspired.

Shall I say that however satisfied the people might have been with the wisdom of the magistrate who had presided over our Superior Court, they appeared still more confident over the future. This feeling was dissimulated by none, though it was generally acknowledged that John B. Prevost's conduct had proven the axiom: "Sole judge, Iniquitous judge," taken from the nations otherwise governed to be untruthful in such a country as ours, ruled by written laws, endowed with that fine insti-

tution, the jury, and placed under the safeguard of publicity. I cannot but mention though the deportment and outward appearance of the judges who, until then, had occupied the bench, was always respectable; the citizens thought that the appearance of Honorable George Mathews gave a more imposing aspect to the Court. Now, this opinion became, in some sort, another security for public order, as well as a new source of confidence and security for litigants, and man in all countries is such that what at first sight pleases the eyes generally produces a favorable impression on his mind; and that he naturally associates ideas of probity and delicacy with all that breathes cleanliness, decency and dignity. Observation teaches us that the public man who is careless of his carriage and external appearance, by this alone, often compromises the respect with which it is advantageous that he be encompassed. It is even evident that a great reputation for talents, wisdom and integrity is not sufficient to counterbalance this fault or to allow it to be forgiven. In all places, it is the lesser number who abstain from judging the tree otherwise than by its fruits; the masses always less wise, or less enlightened everywhere stop at the bark.

Almost as soon as he arrived amongst us, Honorable George Mathews, as penetrated as any with the holiness of his duties, discovered all the difficulty of the task before him. That he had made his classical studies, that consequently the language of Justinian was not new to him, that he had studied law, and that the science of justice and injustice found in him a tried adept, he felt that French, which all Louisianians spoke, that Spanish, in which all the civil laws of the country were written, demanded new studies of him.

Such was his prompt determination on the subject, and, above all, such was his admirable aptitude at learning, that, in a short time, his ear became familiar with French and Spanish to the point of excusing the lawyers, who were not proficient in his own language, from trying to plead in it before him: "Speak French, read your authors in Spanish," he would say, "I will understand you." You feel, Gentlemen, how encouraging were these words, how agreeably they resounded in the hearts to which they were addressed! You may also conceive what flattering expectations the Louisianians drew from such a proof of

devotedness to their interests, by a judge whom they knew to be a stranger to their manners and customs and to their laws, and perhaps amidst the perplexities under which they naturally labored after two rapid changes of domination, operated without their consent, they looked upon as an instrument by which they would be reduced to insignificance in their natal land, discovered and established by their ancestors.

Not solely to the study of languages did he consecrate his nights; that of our laws was the special object of his constant attention. His progress in them was equally remarkable, and all the prejudice he may have brought here against the Roman law and the Spanish codes rapidly made way to just admiration. "The more I read the Roman laws, the more I am convinced that the name of written reason, given them by the learned and the wise, is the best definition that they could give of them." Such was his way of expressing himself; and such words from a man endowed with so sane a judgment assuredly had much weight. These words he never contradicted to his death, if any one sincerely deplored our constant inclination for innovations, it was certainly the Hon. George Mathews.

And how could he have thought or acted otherwise? Civil laws, (and under this name I do not want to include the arbitrary laws which can have but a relative merit, and which may vary according to the form of government, the organization of the tribunals, and the manners and customs of nations), the civil laws which regulate contracts, agreements and obligations, are naught but the rules of common sense adopted by that perfected reason which we call justice. If the proof were demanded, I would say, "Read and meditate on the Treatise of Obligations by Pothier." This excellent treatise, in which are classed, in perfect order, the principles of Roman law on these immense matters, is, at the same time, the best code of practical morals that a man may study. Therefore, as a learned English civilian has nobly proclaimed, its rules are followed as law at Westminster as well as at New Orleans. Moreover, let us state, Gentlemen, that this immortal work, of which the first translation into English was made by one of the most learned magistrates of our country, is an authority among almost all of the truly enlightened nations of the world, who in appropriating it have

rendered a just homage to the merit of the author as well as to the wisdom of the Roman laws. (2)

To say that Hon. George Mathews was always particularly distinguished for the solidity of his judgments might be expressing it with too much partiality towards him and not enough justice to his colleagues. But as he loved to grant to fine qualities the eulogy they deserved, those have never failed to give in his favor the most honorable testimony; how often have we not heard them declare that none were more highly gifted with sagacity? How often have they not said that in their deliberations he always astonished them by the extreme facility with which he appreciated the true merits of a controversy and disentangled the important point to examine amidst all incidental questions with which the error or genius of sophistry had succeeded in covering it? And what more satisfactory proof could be required to show the penetration of his mind, the excellence of his judgment, the solidity of his principles and his invariable love for justice, than his written verdicts? Have we not always noticed in them more desire to speak as a judge than ostentatiously, to decide a question rather than to exhibit the talents necessary for its development, disdaining all ambitious display of knowledge as well as all vain subtleties, in which wit sometimes shines at the expense of sane reason; attaching more importance to the substance than to the form; his decisions, without ever offending the textual arrangements of the law, always bore the seal of equity. Let us not hesitate, Gentlemen, to bear this testimony. It was really through his zeal for all that is just and equitable that he was distinguished on the judge's bench from the first day he occupied it until the memorable epoch, when recognizing that our republican education had sufficiently progressed, the arbiters of our political destinies decided to liberate us from territorial tutelage and literally fulfill the conditions of the treaty of cession in admitting us into the Union, with the proviso of abandonment of all our rights to our vacant lands! By this same persevering zeal he gained our esteem and our confidence from the time of the organization of our Supreme Court until the moment when death snatched him from us and plunged his family into desolation and mourning.

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(2) The Honorable Francois Xavier Martin. (He translated Pothier on Obligations from the book to the printer's case; set it up himself at Newbern, North Carolina, where the book was published in 1802.)



Nature which had made George Mathews a thoroughly just man, had moreover endowed him with great wit, with unusual gaiety of character, and with a deep fund of sensibility. Among his intimates, without seeming to be aware of it, he lent a certain charm to the most unimportant conversations by a fund of original sallies and new thoughts, smart replies and witty jests which stimulated without offending. On the bench, though, he was generally serious enough, by a single witticism or a jesting remark, he was often known to shed on the driest and most aridly fatiguing pleadings, a sort of vivaciousness, playfulness and grace, which far from causing any prejudice to the debates or to the development of the question, in a way, threw new light on them and made them easier by relaxation of the mind. If, by specializing, I did not fear to stir up painful memories, I would confine myself to saying that, in criminal cases, an affecting situation cleverly brought in by an eloquent defender never failed to move him profoundly: I shall say that on such occasions I have seen his eyes fill with tears whilst certain orators possessing the art of exciting the tenderest emotions of the heart endeavored to inspire noble and tender sympathies in favor of fathers of families so unfortunate as to be accused of capital crimes. But I shall say that I saw him sob, even suffocate,, whilst pronouncing the terrible sentence of the law on the guilty culprits! Oh! He, though a judge, had not forgotten that he was a man, and, with assurance, it may be stated that "nothing affecting humanity was strange to him!" And let it not be surmised that his strong sensibility interfered with the firmness of his soul. No doubt, there are here more persons than one having like myself observed to what degree he allied one to the other, and conciliated certain deferences, certain decorum, with the dignity of his place and the profound consciousness of his duties.

At a memorable epoch when, in the midst of peace, we saw the Constitution of the United States, our charter, our laws and individual liberty audaciously violated by a military chief, a soldier of the revolution; this chief, whose renown was formerly and is at this day variously considered, had to appear before our superior court by virtue of a writ of "habeas corpus" issued against him to compel him to render an account of his motives in arresting citizens protected by our laws, and in detaining them against

their will. He appeared before it in his brilliant uniform, wearing his redoubtable sword, and followed by a cortege of aides-de-camp and of other officers, armed as himself and whose martial bearing perhaps left no doubt of their noble devotion to the laws of their country, but particularly to their illustrious general.

Honorable George Mathews was on the bench. This strange spectacle in the temple of justice was a surprise to him as well as to all true friends of our institutions; but he was certainly not in the least shaken by it. In response to the writ of the court, a discourse as pompous as jesuitistical was delivered, in which the titles of "general and commander-in-chief of the military division" were frequently repeated with complacency and emphasis and pronounced in a solemn tone. This discourse ended by an insolent acknowledgment that the arrests and imprisonments had been made on the sole orders of the general, who accepted the responsibility of all the consequences of their detention. He was heard with that calm and impassibility which characterize real judges, but as soon as the last word had been uttered, as the audience expected, the court declared that the defense was not sufficient to satisfy the law which could not recognize the rights of a general to arrest citizens.. This was not the result expected by the author of a discourse so carefully prepared and delivered with so much self confidence and arrogance. And in fact, could it be supposed that in a small city, erstwhile under the sceptre of an arbitrary king, situated at a distance of five hundred leagues from the seat of the general government, without immediate means of protection, there could be found a tribunal faithful enough to its duties, friendly enough to liberty and sufficiently energetic to oppose a general, vested with full military power, when he went beyond the laws. An increase of audacity became necessary and renewed efforts indispensable to crown the work of oppression. It was at once felt, for military instinct never errs when it contends against civil order! And suddenly the dome of the temple of justice resounded with an insulting diatribe, not directly aimed at the judges but at the lawyer who had dared to solicit the protective writ. Invectives, boasts, calumnies, threats were by turn resorted to, and, in order to insure the triumph of the sword over the toga, they loudly declared, with looks flashing with anger,

that the lawyer of the prisoners and whosoever dared to uphold them, "without regard for position or rank in the country," would be treated as accomplices of the traitors whom public safety had made it necessary to deprive of liberty. Oh! you, fellow members who hear me, and who perhaps believe you have conceived a correct idea of the sensations of the spectators of the scene I have just described, reflect that it was the first time that, in a country governed by the Constitution of the United States, so scandalous an outrage to the majesty of the laws was witnessed. Since then, unfortunately, we have been made familiar with as flagrant violations of our franchises and of our social pact; violations which the people have seemed to applaud, as if to acknowledge that it felt too weak to preserve untainted and to transmit to posterity the noble heritage received from the immortal founders of American independence!

This afflicting truth makes me fear that, had I the masculine and vigorous indignation of Demosthenes, I would succeed in exciting your indignation to the same pitch as that of the good citizens who were present at this odious scene, and, as it is to be hoped, that every sincere friend of liberty would be at the simple recital of these usurpations of power, of those insolent acts of TYRANNY. As to myself, who, since five years, have fled from the despotism of the greatest captain of modern times, I feared, I trembled at the idea that liberty, my idol, was in my adopted country a word as devoid of sense as in three fourths of old Europe submissive to men of divine right.

It was Edward Livingstone whom the general attacked with so much rashness in the palace of justice; and there that illustrious lawyer displayed in all its vigor as in all its wealth his brilliant oratorical talent. The accuser, satisfied with the blows he had dealt, proudly raised his superb head, when Edward Livingstone, whom he believed overthrown, and whom the Court was preparing to cover with the protection of the laws,—rose in his turn, with that amiable simplicity of manner so pleasing to all, and after having modestly thanked the judges for the share they seemed to take in the occurrence, improvised one of those discourses worthy of a Roman consul confounding Catiline, striking, stirring up, electrifying, subjugating, transporting, confounding, scarcely leaving one the faculty of perceiving that it is but a man who speaks and not a God who thunders.

Who was then great? It was surely not the "general commanding the military division;" not the fine staff officers of his retinue. The reign of justice began anew. Men returned to their places and the terror by means of which they had sought to make themselves greater and redoubtable vanished. Breathing more freely, good citizens had the patriotic satisfaction of seeing them solely in the dimensions which nature and our laws had given them. You understand, I suppose, Gentlemen, that they very seriously thought of a prompt retreat, without even casting a backward glance, when, suddenly, in a firm voice, the Court declared that before retiring the writ must be enforced by producing the persons arrested. The difficulty was great, but not invincible. They extricated themselves from this false step by affirming and causing it to be affirmed that the prisoners had been embarked for the North, and that the boats which were to carry them were already out of the river and beyond our limits.

God knows how true these affirmations were, but the victims of despotism were not released. This great and noble end was not reached, but the accusations, the threats which had provoked Edward Livingstone's fine and thundering improvisation were effectual, and, from this moment, military arrests ceased, the law resumed its sway, and the work on the old fortifications which were being restored at great expense to resist an army of traitors and bandits, who were said to be on their way to invade our Territory, to lay hold of the rich metals of our banks, and to make our city the capital of a new empire, was soon abandoned, for, to the astonishment of the good patriots who are always ready to applaud strokes of politics when the apprentice despots make them in the name of "Public Safety," the prodigious army which had frightened more than one brave man (our governor first of all) never appeared anywhere. (3)

If, as it cannot be denied, the orator of whom I have just spoken covered himself with real glory on this occasion, Hon. Geo. Mathews was admired and justly esteemed for his impassibility, his firmness and his fidelity to the constitution and to our laws. May God will that we should always have such defenders of our rights and such judges. With them, the institutions

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(3) (The incident here described occurred in December, 1806, during the uproar created in New Orleans by General James Wilkinson, concerning Aaron Burr's Expedition. It is he who is here denounced. The governor is W. C. C. Claiborne. 4 Gayarre 170.)

made to protect individual liberty count for something in times of crisis, without them, they are but simple theories which audacious ambition may, with impunity, trample under foot.

Until now, Gentlemen, certain as I am of having brought to your notice, of having recalled to memory, naught that is not strictly true, I cannot think that any may deny that, in the person of George Mathews, we truly had an excellent judge. But if there was anything to desire before irrevocably expressing this opinion, I would say: read the many verdicts he rendered, impress yourselves deeply with the difficulties, which, in every country, accompany the sublime task of the upright man intrusted with rendering the oracles of justice, and with good faith, without prejudice of nationality or coteries, consider how great and multiplicate were those incessantly before our tribunals, by reason of the men they had to judge as well as the laws to be applied.

You are aware, Gentlemen, that a certain reason, a sane judgment, and a great fund of probity are not sufficient to fulfill efficiently the duties of judge. To these indispensable gifts one must unite the most perfect knowledge, not only of men and the laws in general, but of those under his jurisdiction and of the laws which he is under duty to interpret and to apply.

But, how must this so necessary knowledge be acquired? Man! who is he who will flatter himself with the belief that he knows them well, notwithstanding what the Roman orator may have said to the contrary; it would be very difficult to comprise what they are in a definition which would fit the whole species and each individual.

From the ordinary and peaceful man who follows the precepts of virtue and honor he has received from his honest parents, without trying to analyse them, to the turbulent man to whom all social and religious restraint is unbearable. From the enlightened citizen whom study and meditation have penetrated, persuaded that wisdom, probity, honor, neighborly love and patriotic love are not vain terms agreed upon, who, as an honest and good citizen, constantly recommends them as being alone able to lead men and societies to happiness; to the enemy of social order and of the human race who affects the belief and endeavors to persuade that there is neither moral good nor evil on earth. From the contemptuous sycophant who does not blush to pose as the admirer and singer of the most scandalous

excesses and vices of the rich or powerful man at whose expense he subsists, to the ambitious demagogue who aims at leveling everything in order to have no one above him in fortune or merit and to make himself the idol of the masses whom his disorganizing theories have seduced and led astray. From the simple man who abandons himself to the chimerical and ruinous hope of metamorphosing and quadrupling the dollar, fruit of his honest labor and of his wise economies, by the sole effect of an outbidding at a public sale, pompously announced by the cunning speculator who with the aid of a clever engineer, transforms on paper, uncultivated fields, impenetrable woods, deep morasses, trembling prairies into smiling villages, into manufacturing towns, into majestic cities which hundreds of thousands of men, from God knows what part of the earth, will hasten to vivify by their presence, to enrich by their industry. Of this, everywhere—here as elsewhere, there are numberless varieties.

If, one casts a glance on the innumerable works of man, when they examine the admirable diversity of the products of his industry, the marvels of the arts he has invented, the progress he has made and does not cease making in the sciences, even if he is considered only as the creator and unique possessor of writing:

“that ingenious art.

To paint words and to speak to the eyes;”

one can but be impressed by his immense superiority over all the organized beings of creation. If on seeing a man traverse the bottomless seas on the fragile vessels his hands have built, conquering worlds which his active genius has divined, that his intrepid courage has discovered, where there were formerly naught but deserts and vast solitudes; founding, as by enchantment, colonies, states and empires, populous, rich and powerful; if on seeing him calculate the march of the celestial bodies, measure the skies, “snatching from it its thunderbolts,” producing the terrible crash and the terrible effects of its thunder, and, by means of a little water which a little fire converts into vapor, cross distances with the rapidity of the eagle, on cars on which are piled the heaviest loads, and thus make distance disappear so as to seem to have usurped the entirely divine prerogative of finding himself in several places at the same time; if in con-

templating so many prodigies one is justly proud of belonging to the species and tempted to believe himself the King of the earth.

On the other side, when one considers the folly, the extravagance, the vices, the injustice, the selfishness, the inhumanity, the cruelty of the acts of individuals and even of societies; when one thinks of the disorders, of the evils, of the calamities engendered by pride; the baseness, the credulity, the hypocrisy, the cupidity, corruption, venality of many; the depravity, the arrogance, the ambition, the ardent thirst for power, the intrigues or bad faith, the duplicity of others; truly, the high, the sublime idea so pleasurably formed of the superiority of the species is strangely weakened, and it is not without reason that the sage passes from admiration to disgust and to misanthropy.

Everywhere, and perhaps more specially in the countries that have attained high civilization and great prosperity, men are seen who ardently strive for a twofold aim, which by more or less tortuous roads they are eager to reach. This aim, what is it? Power and riches. To get there they push each other, they press against and jostle each other, they bruise each other whilst proclaiming very loudly the words of patriotism, disinterestedness, virtue, probity, and whilst declaiming against the disorders of the times, the rapacity of those in positions, the apathy of the people and all sorts of corruption emanating, in their opinion, from the possession of treasures and the exercise of authority.

Amongst us, gentlemen and fellow members, who were the men whom the Hon. George Mathews had to judge. On his arrival, Louisiana had a white population almost homogeneous. The agents of Charles III and of Charles IV, had since many years conducted themselves wisely enough to allow them to forget or to forgive the acts of useless cruelty by which O'Reilly, of execrable memory, to signalize the power of his master on the banks of the Mississippi, had immolated noble and generous colonists to punish them, alas, for their very natural attachment, to France their mother, who, however, had abandoned them. The Spaniards, in a way had intermingled with the creoles; they had adopted their customs and manners. The Creoles, with the language of their fathers, had preserved their sparkling wit and gaiety, their changeable but confiding and tender character, pliable and communicative, their kindness and

their virtues of hospitality. In 1805 they still constituted but one same family, in which the stranger always met with such a cordial welcome that he could hardly be persuaded that his good fortune had not cast him amongst good and tender brothers who were happy to see him again after a long absence.

But soon this Louisiana, so cruelly abused by men who owe most of their reputation for valor to the patriotism of her children; this Louisiana, so prompt to forget injury in order to recall only the services rendered, this Louisiana, who more than once had revenged outrages by noble benefactions, every year, every month, every day, saw her population increased by men of all nationalities, of all creeds, of all professions, coming from all the civilized regions of the earth; some of them abandoning the hearth of their fathers to flee from persecution by their political enemies; others proscribed, exiled by revolutions; some to give themselves up to an art which received but little encouragement in their country; others to share with the old inhabitants the chances of fortune which were offered by a rich and still virgin soil, and a commerce which could but extend under the freest government of the world; all of them speaking different languages, differing in education, manners, prejudices and principles, having no common ties and whom the pursuit of individual interests must long keep asunder. These were the men whom George Mathews had to judge; do you think it was possible for him to know them well?

And the laws instituted to diminish all excesses, to repress all disorders, to protect all rights, and to render justice to all, what were they? And what are they now amongst us? It would be difficult to affirm that they are all that enlightened reason might desire them to be; not that we have ceased since thirty-two years to compile each year a new volume of them, but, from ever amending in order to perfect; of modifying to render more just; of innovating to satisfy new needs; of abrogating to simplify, we have succeeded in rendering more obscure that which was clear, insufficient that which was complete, embarrassing that which was easy, unintelligible that which every one understood, and of impoverishing us to the point of making it necessary to borrow from others what they formerly borrowed from us.

As early as 1805 the Spanish and Roman laws, written, it is true, in languages unfamiliar to several public functionaries,



as well as to the greater part of the old and new inhabitants, gave umbrage to persons whose reason, being obscured by national prejudices, repulsed the idea however simple that laws, collected and put together since numerous centuries, might in the nineteenth century be suitable to the administration of civil justice amidst a free people.

Consequently several attempts were made to do away with these laws and to substitute in their stead a customary law, Anglo-Saxon-Norman, known under the name of Common Law. No doubt a very respectable law, but under the control of which justice is so fettered in its course that poor plaintiffs are obliged to have recourse to other tribunals than those of law, that is to Courts of Equity, which without its being suspected and perhaps without wishing to acknowledge it, do nothing else but follow and apply the eternal rules of natural justice which they take from Roman Law. The first attempt was made when Hon. J. B. Prevost occupied alone the bench of our Superior Court. Edward Livingstone, James Brown, Louis Moreau-Lislet, Pierre Derbigny and a fifth member of the Bar, (whom I must abstain from naming)\* united to oppose it.

The phalanx of their antagonists, Scotch, English, Irish, and others presented itself as relying on the organic law of the Court which carried with it the jurisdiction of common law. It was on this unique foundation that they erected the formidable work from the height of which the artillery of their eloquence was to crush the antique edifice of civil law in this country. The attack was brisk, they made the most heroic efforts to insure victory! But Livingstone spoke, at his voice the menacing and thundering work of the new Titans crumbled to its base, and the oracle which then emanated from the mouth of Hon. John B. Prevost swept away the light rubbish and dispersed it.

Dizzy and stupefied by so speedy a defeat, these haughty assailants, who with regret saw an inexhaustible mine of rich prosecutions lost to them, could not comprehend how the work their genius had reared with as much labor as art could be so swiftly and so completely demolished. Let us not be astonished; they had not understood, (as much by fault of nature as from their imperfect studies), that the sacramental terms of the

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\* (Meaning himself, Etienne Mazureau.)

law on which they based their attack, might signify that the Superior Court would not exercise jurisdiction over the Courts of Equity, but would in no wise introduce their common law of England into the territory of Orleans. Judge, Gentlemen, of their exceeding blindness; the same law on which they founded their right also organized the legislative power, and contained the precise provision "that all the laws in force in the country would continue to be there observed until modified, changed or abrogated by the Legislature."

The second attempt was made after John B. Prevost had tendered his resignation, after Judge Sprigg had left us and when the Hon. George Mathews occupied the bench alone by virtue of the law then in force. It would probably not have been repeated had the decision rendered at the first attempt been transcribed in the minutes of the Court. This surprising omission was, I imagine, the sole cause of the renewed courage displayed in this second attack by the enemies of our law, the result of which was the same as previously, that is, as void of glory and not more profitable to its valiant authors.

Without doubt, you comprehend, Gentlemen, the imminent peril not only to the civil laws of the country but also to the fortunes of the ancient inhabitants, at one epoch as well as the other.

What would have become of those fortunes if they had succeeded in bringing on the revolution threatened by these two impious attempts? What Louisianian would have dared to act without having at his side a civilian versed in foreign laws, hastily reared on the ruins of those of his country? Who would have known how to trade validly with his neighbor, how, without anxiety, to dispose of or accept by donation, or by will? Who would have known the extent of power he possessed over his wife, his children, his slaves? What woman could have had an idea of her rights, or of the nature and extent of her duties as a wife and as a mother?

Let us admit that the situation of this recent and fine part of the Union would have been deplorable if Hon. John B. Prevost first, and after him, Hon. George Mathews had been shortsighted or had held views as subversive to all justice as the audacious aggressors, who, relying more on their strength than on

the justice of their cause, had the temerity to lay their sacrilegious hands on what, at that time, was considered as the holy ark.

Let us acknowledge that the decisions of these two conscientious judges in such critical circumstances were truly the salvation of the people of Louisiana, so hospitable, so full of confidence, so eminently friendly to order, so deeply imbued with respect for their neighbors' rights.

In 1808 the Legislature, with a view of satisfying apparently reasonable exigencies, decreed the compilation of a digest of the civil laws of the country in French and in English. This important work was done. But possibly when it appeared there were many reasons to regret that they had not done as the English in the Isle of Trinity, which when it passed under the Britanic trident was in the same conditions as Louisiana when the starry banner was hoisted on its soil. There, by an order of the government, the Spanish laws were collected and translated into English. Here, there was nothing to prevent their translation into the two languages we spoke.

This course which would not have been very expensive, according to Hon. George Mathews, would have proved advantageous by placing us in such a position as not to think of a reform until assured by study, meditation and experience of the necessity of this work in order to conciliate all interests and all needs, and to effect as far as possible, and without resorting to violent means, a desirable fusion of the new-comers and of the old residents. This wise magistrate thought that if this resolution had been adopted we all might have reason for congratulation.

And let not injustice be done him by believing that he thus expressed himself through condescension, or by unenlightened admiration for Roman or Spanish law, if what I have already said of that legislation and of his study of it were not sufficient to justify his thought, nothing would be easier than to succeed therein, and persons prone to doubt would probably be very much surprised when told that several of the great principles consecrated by our constitutions, had likewise been consecrated by Roman and Spanish law a few hundred years before the immortal Columbus discovered our hemisphere. Open the Roman code of Alfonso the Wise, you will find, in energetic terms, that rule, sovereign protector of acquired rights and of human frailty

“that no law may have retroactive effects.” It will be seen that many centuries before they thought in England, by the “writ of habeas corpus” to shield individual liberty, the Romans, in a Praetorial Edict, taken from the Justinian Digest, had their writ of “de homine libero exhibendo.” What more was necessary to recommend those laws to the respect and admiration of a man so essentially just, so profoundly sensible as Hon. George Mathews.

This excellent citizen, this impartial magistrate, also thought that several provisions of the ancient Castillian laws, particularly those relating to donations and wills, were much more in conformity with the spirit and the aim of our republican institutions than certain laws and customs, the offspring of feodality, which, from England where a powerful oligarchy maintains them, have come to be established on American soil, with the puritanism erstwhile inimical to all liberty of conscience. This opinion may perhaps appear strange but its correctness may easily be demonstrated. That in a wholly aristocratic monarchy or republic legislation should continually strive to confer on parents who have amassed riches a right to favor such or such a child among their children, to the prejudice of the others, in order to place the preferred one in a position to maintain what they call the lustre of their name, or the splendor of their house, is a simple consequence of the nature of the government which continually aims at concentrating all that carries with it consideration or influence, power or strength, in those who surround the depositaries of supreme authority or who share in it.

But, assuredly, nothing is more contrary to the spirit and aim of our political institutions based on the dogma of the sovereignty of the people; nothing is to be more dreaded in a republic like ours where it is to be desired that all citizens, as far as possible, may have the means to live honestly and independently of each other.

Therefore the order of successions and the rules for their division, as they were established by the general laws of Spain, were in conformity with the spirit and favorable to the purpose of a popular government. Therefore, in restricting to one-fifth of his estate, the portion of which a father might freely dispose by donation or will, these laws inevitably resulted in a continual

division and sub-division of large fortunes and also in making a more equal distribution of property between citizens.

It is not possibly true that the unlimited right of making a will is incompatible with the great principles of our republican institutions. At most it suits the selfish and impudent citizen who desires liberty only for himself, who is provoked at the idea that laws are made not so much to favor his unjust predilection than to provide for the welfare of posterity.

Let the laws grant this monstrous right, and, sooner than you expect, the greater part of those fortunes piled up by pride, will go to their grave, in the person of heirs as rapacious and unproductive and insatiable for distinction and power. Let the laws grant this anti-liberal right and you will run the risk of having at the head of your country in a short while a dangerous aristocracy, the most arrogant and the most unbearable of all, the aristocracy of riches. With it, and crawling at its feet you will find an ever increasing number of men exposed to all the temptations suggested by indigence, of necessitous proletariats always willing to sell themselves to the highest bidder.

What will then become of the fundamental dogma: the sovereignty of the people? Woe to the free states whose imprudent legislation tends to concentrate fortunes instead of dividing them. Power often passed to the side that holds the treasures.

The unlimited faculty of disposing by will is also very prejudicial to the prosperity of agricultural countries. Really it is only when the land is partitioned off amongst a great many active and laborious proprietors that it yields to its full power.

If republican Rome had had the laws of Alfonso the Wise, would she ever have heard of agrarian laws? Would her Senate have so often sent the citizens to outside wars if this terrible expedient had not been necessary to preserve the social body from the bloody commotions so frequently threatened by provocations caused by the division of lands.

The right of property cannot include that of disposing of one's fortune without restriction. Established and protected by law, the wisdom of nations demands that, in its exercise, it be confined within the limits which general interest commands. The father who claims free exercise of this right to its full extent, without doubt, forgets two sacred duties imposed on him, one by nature and the other by society: the first to cherish all his chil-

dren equally, the second to allow no act to his to tend to make any of them a burden on fellow-citizens.

And allow me to repeat after Hon. George Mathews: It is not in a country, nor in a century, in which, thanks to what we call progress, illicit unions no longer seem to be under reprobation, that the unlimited right to will at pleasure may be authorized by law, unless we are disposed with anti-social indifference to see the children born of legitimate marriages despoiled to enrich the others, and family fortunes pass from white heirs to those who may find their ancestors between cape Verd and the cape of Good Hope, and the Tartufes, apostles of negro-philism, by this powerful means; level the free and the freed classes, and then seal with the blood of both, confounded in an immense hecatomb, the infernal act of abolition, for which they are working in the name of Heaven and which is perhaps dictated by the hypocritical philanthropy of the foreigner as jealous as he is anxious of our prosperity.

On the other part, does not the father who regrets that here he has not full liberty in disposing of his fortune by will deceive himself in the thought that this would be a guarantee of the affection and respect of his children? Does it mean that a young Englishman distinguishes himself more than a young Castilian in filial piety. Let us pity the father who could believe that he could obtain love and obedience from his son only by the fear he could inspire of disinheriting him. It cannot be true that the eloquent voice of nature no longer vibrates in the hearts of those who owe us their life, who have always been the object of our most tender sollicitude: it is not possible that a paltry pecuniary interest has more influence over them. Ah! for our own honor, let us silence reasoning, no doubt, led astray by the prejudices of another age with the sole aim of gain, in these important and delicate matters, let us not falsely cry out that the law on the banks of the Mississippi be the same as that on the banks of the Thames, that filial piety may not reside in our homes unless held by interest: one might believe that paternal tenderness never existed there.

Besides, Spanish law, in fixing the disposable share, in several cases allowed a father to disinherit his son. For instance if the son dared to strike his father, to speak offensive words to him, to accuse him of crime, to deprive him of liberty, to defame his character;—in each of these cases and in several

others, the father had the incontestable right of punishing him by disinheriting him.

You may then see, Gentlemen, that the Legislature had wisely conciliated the obligations of the father to his children with the duties of the children to their father. It had done more. It had instituted paternal power, a kind of supreme magistrature, which was the surest safeguard of family virtue.

This power was quite extensive, it is true, but the father could not abuse it. A son could be emancipated and pass from too heavy a yoke to the protective authority of a wiser and more humane tutor. I feel, perhaps too late, that I have extended this digression beyond the limit, and the only excuse to find is the inconsiderate reproach made by certain jurisconsults of too much attachment to the ancient laws of the country.

Allow me, however, to make some comparisons between them and our new laws, which do not seem to be in favor of the latter.

Under the sway of the Spanish laws as under the rule of our Codes, an appeal was granted from the inferior to the superior judge. The appeal was suspensive when it was made within a given delay. It was only devolutive when it was made after that delay. Suspensive it left matters in statu quo until judgment by the supreme tribunal. Devolutive it did not arrest execution of the judgment. This execution took place, but with obligation for the triumphant plaintiff to furnish a reliable bond to re-establish things in the same condition if on appeal the judgment was reversed.

Thus, when the property of a defendant unjustly condemned in the first instance had been seized and sold in execution of the judgment from which only a devolutive appeal had been made, if in last resort, the plaintiff won his case he was again put in possession of the property and placed in the same situation as previously.

Nowadays, Gentlemen, as you know, it is no longer so. The new law demands that even when an appeal is made in the given time for the suspension of judgment in the first instance and that the party appealing furnishes bond to proceed and to pay the amount of the condemnation and the costs if the judgment be confirmed by the superior tribunal. If he does not furnish the bond, or if he allows the given time to elapse his

adversary may have his property seized and sold and exact payment and freely dispose of all that he has thereby received. Nothing could possibly restrain this adversary or prevent his acting with such dangerous promptitude. He will probably hasten to take advantage of this circumstance so favorable to his interests, if he is not of good faith, or if he has not absolute confidence in the merits of his case; and why so? Because the new law does not say as the ancient one: "You may have the judgment you obtained executed since your antagonist has not satisfied my exactions in order to render his appeal suspensive, but you yourself will previously furnish good and sufficient security that you will reinstate him in peaceful possession of the property which you wish to have seized and sold and re-establish him in the same conditions as before your suit, if the supreme tribunal reverses the judgment of the inferior court." Thus, under our present legislation it is in vain that a defendant, who has been able to take only a devolutive appeal, obtains, in the end, a striking justice against the unjust man who prosecuted him, in vain is the wrong done him by the ignorance and incapacity of the judge of the first instance repaired by the wisdom of the judge of the last resort. If, after having felt the consequences of the unjust but legal expropriation which followed the erroneous judgment the plaintiff has squandered the proceeds or absconded and left no property, the property of the unfortunate defendant condemned by an ignorant and imbecile judge is utterly lost to him. Despoiled, reduced to penury, he and his children have no resource but tears and no consolation but the sterile sentence of the Court of Appeals.

Does not this desolating contrast impress you? Which of the two laws is the good one? Certainly the most insouciant partiality will not dare to say that it is the new one! However, it is the work of what we call our wisdom; it is the product of a century resplendant in prodigies, whilst the Spanish law equally protecting the rights of an appellant and those of the defendants was the work of a single man called king or tyrant, the product of a century of barbarity.

Let us not imagine that this iniquitous new law cannot bear its bitter fruits. It has already done so, and honest fathers of families have been completely ruined. How greatly Hon. George Mathews deplored the cruel necessity in which this disastrous



law has placed our supreme court, that of sanctioning so flagrant a spoliation. Ah! we may fear that it will often claim new victims. We cannot too speedily tear it out of our Codes.

• Would to God it were, Gentlemen, that this incomprehensible thirst for innovations, which has not yet ceased to torment us; that the dangerous mania of substituting the trials of our short-sighted views to the lessons of long experience had been disastrous to just rights only in the cases I have alluded to! But this is not the place nor the occasion to extend at length on this inexhaustible subject.

Besides, I believe that I have sufficiently justified the opinion emitted by Hon. George Mathews, that if instead of busying ourselves so much in making codes we had translated and studied the laws we did not understand from not knowing how to read them, we would have had occasion for congratulation instead. Let us not dissimulate it, we must have master minds, jurists of vast erudition and of rare sagacity, highly enlightened, foreseeing and very wise legislators to make better digests than that of Justinian and better laws than those of Alfonso the Wise.

Why have we not had the prudence and the circumspection of the legislators of the other states of the Union? They are not given to meddling with the system of their civil laws; therefore their jurisprudence is ever illuminated by the experience of centuries as a luminary.

Our Code of 1808, whose co-existence with the ancient laws that were not incompatible was wisely maintained, remained in vigor during almost eighteen years. If, as it must be acknowledged, imperfections were noticeable in it, jurisprudence aided by the enlightenment found in the Roman and Spanish laws had ended by embodying itself into a corps of legal doctrines which, if not perfect, (what work of the human mind can be so), was at least sufficiently complete, sufficiently comprehensible to all slightly studious minds, to satisfy in great part the exigencies of reason and justice.

If, at the outset, our judges felt their way, (which was inevitable) one may truly say that in 1825 their tread was firmer and that a multiplicity of rules of daily application, totally omitted from our digest, or set there in too vague or too abstract a manner, had acquired a desirable clearness and stability, and had become familiar to the least instructed practitioners.

But, as if it were in the destiny of our country that we should move from trial to trial, risking to plunge into confusion and of upsetting everything, clamors arose against this same digest, against its insufficiency, and above all, against the necessity under which we still labored of going to sources from which were taken the principles which rule our civil tribunals. They wanted a code comprehensible to all; as if the science of laws, as well as any other science, was not always and everywhere the exclusive portion of studious persons who make it their sole occupation. They wanted a code covering everything, foreseeing everything, providing for everything, as if such a code could ever emanate from man! A new code was made. Less incomplete and in this respect less imperfect than the first. However, it was so far from fulfilling the exigencies of justice that our tribunals were continually obliged to dig into the old compilations of Castilian and Latin laws to find rules that might be applied to cases to which the general rules in that voluminous collection could with difficulty be applied.

At last, in 1828, notwithstanding the experience of three more years of groping, notwithstanding the omissions intentionally made in the last Code through the wisdom of its compilers, who refused to include in it what belonged to a commercial code, a spirit of discontent was again manifested, hostilities were renewed against the ancient laws of the country, and French, Roman and Spanish laws were all abolished.

Gentlemen, what was the result of this decisive measure? Was it not, first of all, depriving us of the help of the enlightenment of all previous centuries, but moreover, depriving us of laws which were in constant demand. We had our own commercial laws, we now have none. We had a perfectly co-ordinated system of legal procedure in executory and hypothecary matters, in that respect we have but a few rough draught titles in our practice code. We may say the same of all that refers to the various meetings of creditors, to compositions, to voluntary and compulsory cessions. Thus when a question of commercial law presents itself our tribunals are obliged to have recourse to the rules and principles adopted and consecrated out of this country by foreign legislators or judges, and in all executory or security matters, in the voluntary or compulsory cessions of property, or the compositions or delays, they are compelled to supply what

is lacking in legislative provisions, and instead of confining themselves to their prerogatives as judges, interpreters of the law, in a way, they have to establish themselves as legislators and enact new rules which they are obliged to follow; and this, in direct opposition to the wise principles which constitute the fundamental base of our social organization, in violation of our constitutions which forbid confiding our legislative and judiciary power to the same persons.

Such, Gentlemen, were the disastrous effects of the act of 1828 which struck at our new codes with the purpose of amending or ameliorating them. Such was the result of the famous Section 25 of this act, which, when he knew of it, Hon. George Mathews called: "The great sweeping clause" (*le gran coup de balai*). If it is progress to impoverish one's self; if it is progress to roughly extinguish the lights which aid us to walk without stumbling through the obscure labyrinth to which lead the opposite pretensions of pleaders who are led astray or who are of bad faith; it was certainly a very remarkable one they made us make in 1828! But let us not be vain enough to believe that it was the only one of its kind in history.

In the middle of the seventh century, a certain king, by name Chindasvendo, had a code made by some scientists of his country. He adopted it and decorated it with the title of "Fuero Juzgo"; this code contained six hundred passably obscure articles or provisions, which they persuaded him covered all that should be provided by the legislation of an already ancient nation given to commerce, agriculture and war. In consequence he ordered that this masterpiece of wisdom be the sole guide followed by his loyal subjects in all the Spanish provinces under his paternal domination, and, in order to assure it more fully with one stroke of the pen he abrogated the whole Roman law. As another Omar, this Visigoth thus acquired the signal honor of having destroyed, not by fire, but by a single act of his royal will, of having banished from all the tribunals of his empire, a whole legislation, the fruit of the meditations and wisdom of ten centuries, which even in our century of prodigies, the most enlightened philosophers and jurisconsults have decorated with the sublime name of written reason. This written reason which blind passion may at times take a savage pleasure in overthrowing from its throne, which, after having outlived Rome, its mother-country, had re-

sumed its sway amidst the barbarians who had destroyed the "king's nation," is immortal as the principles of natural justice whose oracle it is, it is the torch of human justice and will be so when names more famous than that of Chindasvendo, (whom I have just exhumed), will have fallen into oblivion. Assuredly, it proved to all a sad subject of congratulation, let us acknowledge it with Hon. George Mathews in the nineteenth century, without suspecting it, to have followed the example of an ignorant, presumptuous despot who reigned twelve hundred years ago. Let us hope that, aware of the harm of this act of vandalism, we will soon find a way of repairing the harm we have inflicted on ourselves. After having traveled in a large circle of errors, real progress and the only possible one for civilized man is to return promptly to the eternal laws of reason and justice.

If, before 1828, all our judges and legislators required varied and extensive knowledge, many studies or researches to derive advantage from the treasures of knowledge and wisdom which centuries of experience had transmitted to us, can we, at this time, flatter ourselves with the assurance that they are, or may become in the future, rich enough from their own resources to supply all that is wanting in our modern codes? Equity, they will say, equity is the source from which they will draw. Ah! Let us fear that it be with equity as with common sense of which every one speaks, which each one believes he possesses, and which is, in reality, the possession of but a small number of beings gifted by nature such as was our worthy judge. Into what frightful chaos have we been thrown! What wide portals have we not opened to the despotism of the tribunals.

The Roman digest alone, transcribed in part in the code of Alfonso the Wise, contained over one hundred and forty thousand divers laws and decisions of which fifty thousand perhaps referred to matters succinctly treated in the 3,522 articles of our new code. The matter referring to legacies alone takes up eleven hundred texts of the Justinian Digest; our code holds but thirty-one rules on this immense subject. Consequently, would there not be a certain amount of folly in persuading ourselves that this code, aside from some deserved praise, can cover everything? Experience has often taught us that, even if we were rich in the fruits of the wisdom of over twenty centuries, we did not yet have all that was desirable to have in order to resolve

many questions which seemed new, and which probably had been rarely presented for examination before the juriconsults of antiquity. To what were those new questions due? They were probably due to the very perfectibility of our species; but they were specially due to the astonishing development of manufactures, agriculture and all human enterprises since the discovery of the new world; the passage to the East Indies by the Cape of Tempests and the glorious revolution of the American Colonies, which was the signal for emancipation of the genius of commerce all over the earth. These new questions were due to the perfection and mixture of our languages; to the variety, the complication, the infinite multiplicity of our new relations from nation to nation, from man to man; to the modifications which, from all these causes, must necessarily subsist in our contracts, our arrangements, our treaties, or engagements, our obligations, as a result of our prudence or of our levity, of our confidence or of our fears, of our hopes or of our anxieties, of our sincerity or of our lack of good faith.

Therefore, Gentlemen, when we wish to consider seriously the task which our judges had to fulfill and the difficulties which they met at every step as the natural result of the instability of our laws, and of the new studies which incessant changes necessitated, who among us will find it surprising that they often committed grievous errors? Who could conscientiously complain if such had been the usual result of their decisions. The more I reflect on this the more pleased I am to think that if until now we have had judgments (as I like to say it) which may generally stand the most severe criticism, it is that our judges were endowed with a knowledge superior to that of our statesmen.

Under the conditions from 1808 until now, what prudence, what indefatigable zeal, what sagacity, what rectitude were required by our judges, and particularly by those of our courts of appeal, to fulfill their duties worthily? Imposing duties everywhere, but certainly more difficult in a country where civil legislation had no fixity, and in the midst of such a population as ours. This population (let us not forget it) composed, and to be composed, for a long time undoubtedly of men of different origin, language, education, manners and prejudices. It changes and renews itself in some sort, from year to year; and is constantly agitated in every sense to exploit the resources presented to all

industries and to all ambitions by a country still new, and above all, by this great mart of all the rich products of the vast western regions of our fine and powerful republic.

But prudence! Education and experience may give it, if, besides these, one has been gifted by nature with an observing and just mind.

Zeal! It would be difficult to deny that it depends, more or less, on this love of justice which springs only from a virtuous heart.

Sanctity! Rectitude of judgment! Ah! From Heaven only come gifts so precious, so rare, so indispensable to the organs and interpreters of the law, that they may not frequently immolate innocence and equity in the august temple of justice, too often profaned by bad faith.

What a loss does a country like ours incur when sounds the last hour of a judge who possessed to such a high degree the most invaluable qualities, and who, during thirty years of duty never gave occasion for complaint or for a reasonable reproach! This loss is a great and deplorable public calamity, the memory of which, pride and presumption alone would boast of effacing in a short while.

In old Europe, even in our time, notwithstanding the efforts of philosophy, subject to laws which emanate from and depend only on the will of a man seated on a throne, and decorated with the pompous title of duke, king or emperor, by the grace of God, it is always the prince who is blessed, and to whom all thanks are rendered when they enjoy the advantage of having a just and honest judge seated in a tribunal, and one who is penetrated with the holiness of his duties, and ever disposed to render unto each what belongs to him. There, where an education entirely in favor of the dominators and a long habit of submission do not give men the faculty of believing that, in giving them existence, nature has endowed them with some rights; there, where, to reflect and to reason is a crime, and to obey blindly is the first of virtues, it is, in some sort, natural to thank a master for not having pleased to give, instead of a true judge, one of those odious, subaltern tyrants, who believe they cannot serve him better, and better deserve his sovereign good will than in oppressing his subjects. And when inexorable death snatches a virtuous judge from the love of those to whom he administers

justice, it is plain that all carry their prayers and wishes to the foot of the throne, and implore what they call the clemency of his goodness, to replace the worthy magistrate, who is no more, by a successor as just, as enlightened, as worthy of the confidence of the weak and innocent.

Amongst us, Gentlemen, where the holiest and the most glorious of revolutions has made of poor provinces, of feeble colonies oppressed by a metropolis as unjust as it is rich and powerful, free, sovereign and independent states, which being united by a constitution which is the masterpiece of human wisdom, have taken a high rank among the most civilized and the most flourishing nations of the earth. Amidst us, owing to enlightened philosophy and to the pure and ardent patriotism of the immortal founders of the grandest and most powerful republic of ancient or modern times, the man of our race rises to the height of the natural dignity of his being, and, as a citizen, knows no other master but God and the law! Who shall we bless when the scales of justice will have been intrusted to stainless hands who held them so long without ever knowingly letting them lean towards despotism or iniquity? To whom shall we express our wishes that the judge who has ceased to live be replaced by a judge, who as well as he, will deserve our esteem, our confidence and our respect?

Ah! If all passions excepting the sacred love of public safety were foreign to the hearts of the high functionaries to whom our fundamental pact has intrusted that formidable as well as seducing power of nominating to positions; if these positions might never be given but to those who, by their enlightenment, their zeal, their virtues and their talents are most worthy to be called to them, Gentlemen, we could be free from alarm for the future. But pardon! I feel that the word I was about to say, might be considered as a censure, which is far, very far from my thoughts.

If the depositaries of authority were not so frequently tormented, circumvented, the deceit of their solicitors playing on their human frailty to the point of depriving them of the faculty of seeing that, far from following the inspiration of reason, they are most frequently under a foreign and interested influence. If, when we, ourselves, solicit for our friends, or when we exercise our precious right of suffrage, we were truly worthy of the

noble title of citizen, with which we love to decorate ourselves, we would consult naught but public interest, we would then perhaps have the right to be severe, even inexorable when we see the proxies of the people regardless of what public good demands. But alas!!!

Oh! Let us abstain from all comments that Christian charity may forbid, and offer our most fervent prayers to the Eternal author of all good, that it may please him to imbue us more and more every day with the necessity of shedding all personal predilections for the public interest, and to rekindle in the depths of our hearts the love of our country without which there is neither citizen nor republic. Let us thank him for having so happily inspired, first, the illustrious Thomas Jefferson when George Mathews was commissioned Judge of the Superior Court of the Territory of Orleans, and then the Governor and the Senate of the State of Louisiana when they called this honest judge to the bench of our Supreme Court. Let us ask this same all powerful God to give us another proof of his protection in inspiring our present virtuous Governor and our honorable Senate to make such a choice as will not only justify the confidence of the people, but which will also prevent our feeling more deeply each day the loss we have sustained.





DISCOURSE ON THE LIFE AND CHARACTER OF THE  
HON. GEORGE MATHEWS.

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*By the Hon. Chas. Watts,*

*At the Request of the Members of the Bar of New Orleans.*

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*Brethern of the Bar, and Fellow Citizens of Louisiana:*

Upon the decease of any person of note, it was a custom among the ancient Egyptians to institute an investigation into the life and character of the deceased, and to pass a sentence of censure or approbation, according as he merited it, in relation to his public and private life.

It may be considered as an emanation of this popular feeling, that at the present day, on the decease of any man who has deserved well of his fellow-citizens, they call for a review of his life and character.

As funeral rites to the body assuage the grief, and gratify the affections of the relations and friends of a private person, so the public expression of the sentiments of respect, and veneration for the character of a man whose departure from life is felt as a public loss, and an analysis of the traits and qualities which called forth public esteem, is a discharge of some portion of the debt of public gratitude, and is an incentive to the honorable ambition of those whose minds are so constituted as to find more happiness and satisfaction in serving their fellow-citizens, than in the attainment of the objects of a private and personal nature.

To this source, I trace the resolution adopted at a meeting of the brethern in the profession of the late Judge Mathews, in pursuance whereof we are now assembled, and in compliance with which, I shall proceed to lay before you such reflections on his life and character as suggest themselves to me. A deep participation in the general sentiment is all the qualification

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I possess for the trust assigned me, and I must crave your indulgence, if the pressing nature of my daily avocations, has left me insufficient leisure to do justice to the honor conferred on me, and to a full and minute delineation of the character, conduct and life of a man so eminent, and who received so large a tribute of the public esteem and veneration.

The most natural introduction to what I have to say on the life and character of Judge Mathews, will be to lay before you such particulars of his parentage, early life and private fortunes as on inquiry I have been able to procure.

The subject of our discourse was born on the 21st September, 1774, a few miles below Staunton, in Augusta County, State of Virginia.

At the time of his birth, his father was absent on that memorable expedition which was terminated by the battle at the mouth of the Great Kenhawa, on the 10th October, of the same year. He was called George (the name of his father) by his mother, who doubted the return of her husband.

From his birth until the age of ten years, all the education and instruction he received was from his mother, a lady distinguished for her excellent mind and other qualities—his father being absent the greater portion of that time in the service of his country.

In the year 1785, the father of Judge Mathews removed to the State of Georgia with his family, and settled in what was then called Wilkes County, afterwards called Oglethorpe, on Broad River, at a place known as the Goose Ponds, at that time on the frontiers of Georgia, where George Mathews remained until the year 1792, receiving only such instruction as frontier counties at that period afforded.

In the year 1792, in the eighteenth year of his age, he returned to Virginia, and in 1794 became a member of an academy known as Liberty Hall, in the town of Lexington, Rockbridge County, where, during the years 1794-95, he finished his course of academical studies.

In 1796, being then twenty-two years of age, he returned to Georgia, and commenced the study of the law with his eldest brother, John Mathews, with whom he continued until the year 1798. In that year he went to the city of Augusta, and finished

his law studies with George Walker, one of the most eminent lawyers in the State.\*

In the year 1799, in his twenty-fifth year, he was admitted to the bar, and continued the practice of law from that time until the year 1805, when, without any solicitation on his part, he was appointed by Thomas Jefferson, Judge of the Territory of Mississippi. From thence he was transferred to the territory of Orleans in 1806, and on the erection of Louisiana into a State in 1812, he was appointed by Governor Claiborne, Judge of the Supreme Court of the State of Louisiana, and shortly afterwards, by the resignation of Judge Hall, took the place of presiding judge. This station he filled till his decease on the 14th November, 1836, in the sixty-third year of his age.

Judge Mathews greatly attributed the formation of his character and his success in life to the high intelligence and excellent qualities of his mother, and the education and instruction he received from her—and how many distinguished men, among whom may be named Washington and Napoleon, have expressed the most tender gratitude for the influence and benefits of the maternal culture of their minds and formation of their character.

The prize for the best essay on morals was lately well bestowed in France on the production of Martin, which treats of the education of women, or of the civilization of mankind by means of mothers of families. And let me assure my young friends that if they wish to have intelligent and well educated children, they must give them intelligent and well educated mothers. And what a recompense it was, that, at the close of a long life, the son remembers with gratitude and tenderness the benefits and instruction he received from his mother. It is only to our children we can pay the debt we owe to our parents.

But if his mother was distinguished for the excellencies and proper qualities of a woman and a mother, his father was not less distinguished for his heroic virtues as a patriot, his lofty character and services as a citizen, and his sound judgment and excellent sense as a man.

We have seen that Colonel Mathews was engaged in the campaign against the Indians, which terminated in that battle,

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\* Young Mathews had a great desire to follow the profession of medicine, but in this wish he was overruled by his father, whose discerning mind perceived that his son's character was better adapted to the profession of law. He always, however, had a great fondness for medical studies.

memorable in our frontier warfare, at the mouth of the Kenhawa, which entirely broke the power of the savage tribes, at the time that the subject of our discourse was born. Nor did his services end with this event. His valor and skill as a military man were duly appreciated by his fellow-citizens. He was placed at the head of a regiment of the Virginia line, in our revolutionary struggle with Great Britain, and largely did he share in the danger and glory of that mighty undertaking. It is told of him, in history, that he acted a distinguished part on the occasion of the battle of Germantown, when our great commander attacked the British army. The attack was made early in the morning—the battle ground consisted of fields intersected with fences and stone walls—there was a dense fog. When the order of attack was given, Colonel Mathews, at the head of his regiment, made a furious onset over ground entangled with fences, and forced the British lines. One part of the American army fell into some confusion, which prevented a complete victory, and an order to retreat was given.

Colonel Mathews either did not receive the order to retreat, or in the obscurity of the fog, and led on by the fury of his charge, advanced so far beyond the American line, as to get in the rear of the British army—and there he was left, cut off from his compatriots, when the American army retired. On this occasion he was taken prisoner.

He was equally distinguished for his civic virtues and services. Not long after he removed to Georgia, he was elected governor of that State, and received the praise of being one of the best governors in the United States, from that most cynical of men, the celebrated John Randolph.

Governor Mathews afterwards removed to the neighborhood of Natchez, in the Territory of Mississippi where he afterwards died at an advanced age.

From such ancestors was descended the late Judge Mathews—and if it be not altogether true, that virtues and vices are hereditary, yet from a mother possessing so many excellent qualities, and a father so distinguished for his civil and military virtues, a son could not fail to derive sentiments and a character which would stamp him as a useful citizen.

How strong is the incentive to virtue and honorable conduct, if we realized the effect of example on our children, and would

entertain no sentiments, contract no habits, and commit no actions which we do not wish our children to imitate.

Another fact is important in the life of Judge Mathews. I have said that he continued his academical pursuits till the age of twenty-two, and was not admitted to the bar till he was twenty-five years of age. I cannot but think that maturity of mind and body, before embarking in the pursuits of life, has a great tendency in forming a sound mind and character, and in giving solidity to the judgment and understanding.

It is also to be observed that Judge Mathews practised his profession for a very short time. He was appointed a judge at the age of thirty. In ancient France, men were educated to the office of magistrates—and perhaps this is the best means of making good judges. Men who have been long engaged in the practice of the profession, unless they possess unusual candor of mind, identify themselves too much with their clients, acquire the habit of regarding only one side of a question, and hence are apt to lose sight of the abstract principles of justice—more especially men of great ingenuity, who delight more in the exercise of that ingenuity than in the perception of justice. Too often such men, even on the bench, display their ingenuity in supporting one side of a question, or in answering the arguments urged on the opposite side, rather than in analysing and weighing the principles of law and justice which ought to produce the decision. These false habits of mind are more easily avoided when the lawyer early becomes the judge.

There are some men who seem naturally fitted and destined by the constitution of their minds, for the station of judges. Men who possess great candor; in whom judgment is the predominating faculty; and to whom the pursuit and attainment of justice affords the highest mental gratification. Such appears to have been the character and constitution of mind of the late Judge Mathews.

A review of the peculiar difficulties of the station he was so early called to fill, and the manner in which he acquitted himself of its duties, will make this manifest. Appointed at the age of thirty to discharge the duties of a judge, according to a system of law with which he could have had no previous acquaintance, a knowledge of which was locked up in languages, to which

a man, inland bred, as he was, must have been a stranger, and on which even books were scarce, his mind must have been frequently thrown back upon itself in the decisions he was called upon to make. Notwithstanding these difficulties, the very able bar which had emigrated to Louisiana, from the east and from the west, and from across the ocean, attest the uniform ability and correctness of his decisions, even in the early period of his magistracy. Let it be remembered that he was appointed to preside over a people who were aliens to the government; who felt uneasy at being transferred to a new sovereignty without their consent, and were jealous of strangers; that he had to administer justice under laws of Spanish and French origin and colonial legislation, and yet he succeeded in obtaining the confidence, esteem and respect of all classes.

The period between the appointment of Judge Mathews and the adoption of the Constitution, and to the close of the war with England, must be an interesting one in the history of the feelings of the colonists of Louisiana; and, with this period of time, Judge Mathews was intimately connected, visiting every part of the state in his circuits, and presenting a scene new to the people among whom it was acted. No one but a person who was an actor can adequately describe it. My own arrival in the state was long subsequent to these events; and the gentleman who addressed you in French, and who was a participator in the events of that period, has given you some account of it, and of the share of Judge Mathews in its occurrence.

My personal acquaintaince with Judge Mathews commenced in the year 1822, when I found him presiding in the Supreme Court of the state. He was then in the vigor of his faculties, and in high physical health, and took upon him a full share of the business of the court. He possessed great quickness of mind, readily seizing upon the difficulties and disputed points of a case. He was patient in listening to whatever could be urged in the way of argument or illustration, but his mind was too clear to be led astray by sophistry or ingenuity.

Judge Mathews was a great lover of justice; and if it was possible in any manner to reach the justice of a case without violating fixed principles of law, he would always do so. The nature of civil law jurisprudence requires of a judge to refer

back to the principles of law applicable to the facts of the case, rather than rest the decision on precedents, or the authority of other decided cases; and this is surely the correct mode of administering justice where law is reduced to a science and its principles collected in elementary works; for, if the cases are analogous, the principles invoked in the previous case ought alone to be the reason for deciding the subsequent ones. As a celebrated chancellor of England, having one of his own decisions pressed upon him as authority, exclaimed, "Do not tell me how I decided—tell me why I so decided." This species of jurisprudence, therefore, admirably suited the mind of Judge Mathews, for the Civil Law is the very essence and source of equitable jurisprudence.

If, by learning, be meant an original intimate acquaintance with all the books in his profession, Judge Mathews, no more than his distinguished prototype, Judge Marshall, could be said to be a learned lawyer; but he possessed a perfect familiarity with elementary writers, and having embodied the principles of the science of law with his own perceptions, it was not difficult for him to work out and deduce the proper result by the operations of his own mind, on the materials it possessed; and an early familiarity with the Latin language, and with French and Spanish afterwards acquired, enabled him, when his investigations called for their examination, to avail of the aid of the best writers in the original languages.

The minds and professional character of judges and lawyers may be divided into two different classes. There is one class who know the profession of law as a result of memory; who store their minds with authorities, cases and dicta, and, when called to act in their profession, rely on books, cases and authorities, and are nothing without them. They know law as the student learned mathematics, by committing Euclid to memory, without being able to explain the principles on which any one proposition is demonstrated. Among this class of the profession may usually be ranked those who have been deprived of an early regular education, or have taken up the profession late in life, and also, those who are naturally deficient in the organ of intellectual system and arrangement. With this class of persons, law is not a system, but an undigested mass of particulars, without arrangement, connection, or dependence.

There is another class who embody the principles of the science with their own perceptions, and mix them up with their elements of thought, and when called upon to give an opinion, their decisions are the results of the operations of their own minds.

With the first class, law is an effort of memory of what has been said, written or decided by others; or, frequently, no more than a knowledge of the books which treat on the different subjects of the science; with the other class, law is an emanation of their own minds, and they speak as being authorities themselves.

Such was eminently the case with the late Chief Justice Marshall, whose decisions required no authorities to support them, and such also was the character of the judicial mind of the late Judge Mathews.

Neither judges nor courts are infallible, but the character of mind of judges as well as their knowledge, has much effort on the general soundness and correctness of the conclusions at which they arrive.

If we examine the decisions delivered by Judge Mathews, and which it must be considered were left principally to his own investigation, it will be found that the decision is almost without exception, in accordance with sound reason, with law and with justice.

In all the judgments delivered by him the case is analysed with a view to exhibit the various relations of the rights of the parties, and the decision is deduced like a mathematical proposition, from the relation which those rights and duties bear to each other. This decision was not delivered in a dry, hard and repulsive form—in which it was difficult to perceive the steps which led from the premises to the conclusion. It was deduced in a clear, methodical and lucid manner, which was easily followed, and ended in giving satisfaction to the understanding.

The composition of his decisions is neat and elegant—his language pure and correct—the sentences are well put together, and the style fluent, rising sometimes to a chastened eloquence, which is the only kind the decisions of a court admit of.

Judge Mathews possessed in an eminent degree that great essential requisite quality in a judge, firm and unbending integrity, which drew to him the public confidence. It is wonderful



how much sound morality contributes to produce sound judgment and sound intellect. Whether in law, politics, legislation, or any other subject—the instinct, as some would call it, of an honest, uneducated and even ignorant man, will lead him to adopt right conclusions and opinions, whilst the intellect of the most educated and talented, when at all affected by interest or passions, will lead them astray on the plainest subjects. In this sense it is true that *vox populi, est vox Dei*. For although the people may be misled by passion and prejudice to commit rash actions, their ultimate opinions and conclusions are always right—for no personal interest warps and blinds their judgment and perceptions, as is too generally the case with those who assume to lead in life.

To a mind not corroded by the passions, or harrassed by cares and disquietudes, the business of judging is not difficult. The difficulty is to find the man well educated in his profession not goaded by ambition or the lust of wealth, free from cares, and willing to devote himself to serve the public in this capacity—and such a man is the highest gift of the providence of God to a people. In all these respects, as well as in the possession of a naturally sound judgment and discriminating mind, Judge Mathews greatly excelled. He did not discover justice solely by the penetration of his mind, but also by a certain instinct, and his heart moved towards it as towards a beloved object. The passions which troubled others did not affect him. Without ambition, he seemed wholly devoted to discharge the high functions of a minister of justice.

To these admirable qualities as a judge, was united the most amiable exterior. The spirit of domination not reigning within him, did not manifest itself in his deportment. His mildness, amiability and patience became the station of a judge, and sometimes a dryly humorous remark, relieved the heaviness of legal discussion.

The members of the bar will never forget that venerable and patriarchal head and countenance on which were depicted benevolence, intelligence and goodness—that patient attention, aided by a quick perception of the real points of controversy which was given to every one who addressed him. Every advocate felt that he was appealing for justice not only to the living oracle of law, but to the impersonation of justice herself. In addition to

these excellent qualities he presided with great dignity on the bench, and commanded the respect of all who approached him.\*

Judge Mathews inherited but little property from his father, and his fortune, ample at the time of his decease, was the result of his economy and judicious management. He always lived in a retired manner, without any extravagance or ostentation, yet without denying himself any thing that his fortune enabled him to attain, or that his station required. Happy in his family, his whole life was accompanied by a prosperity of that modern nature, which, without dazzling the mind, or corrupting the heart, diffuses a pure and tranquil feeling, which constitutes the happiness of the wise and the good. He was cheerful and lively in private life, and his conversation was tinged with a vein of humor which greatly enlivened his society.

Such was the man whom it pleased Providence to send to preside over Louisiana in her infant condition, and such was the man who is felt to be an irreparable loss to the State. I fear that amidst the distractions and dissipations of active life, we do not sufficiently consider how great and good a man is lost to us.

Let us pause, look around, and ask each other how many are there qualified to fill the important station lately occupied by Judge Mathews, so honorably to himself, so usefully to the public. How many are there in whose integrity, talents, honor and knowledge, the citizens of Louisiana will repose with the same confidence the high duties of administering justice in the last resort, as they felt in Judge Mathews. In whom will be found united the same capacity, soundness of judgment, talents, purity of character, amiability of disposition, simplicity of life and venerable aspect.

The duties of a judge are those of painful responsibility, even when supported by a consciousness of rendering great public service. It is his duty as a minister of justice to look to the God of Justice for guidance, direction and assistance. It has been well said, *Judicare est orare*, that to judge is to pray, for there ought to rest upon the mind a solemn religious sense of duty, in meting out justice among our fellow men. It is an aw-

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\* In his personal appearance Judge Mathews was of the middle stature, and constitutionally disposed to corpulence, which even much exercise could not repress. His countenance was always placid, with a lurking expression of humor, indicating playfulness of mind, and a disposition to repartee, and many excellent ones are told of him.

ful and responsible duty, and those who most feel its responsibility, least aspire to court its labors. Yes, fellow-citizens, the station and office of a Judge of the Supreme Court, of a court of last resort, is, in any country, an honorable, and important, and a difficult station. It is emphatically and peculiarly so in Louisiana. The Court is entrusted with a revision of the rights of parties, not only on all branches of the law, but also as to questions of fact, and in the complication and conflict of Spanish, French, English and American law, and by reason of the various legislative enactments, to modify and adapt them to our political and social institutions and feelings, much delicate responsibility, and great extent of power have devolved on the judiciary—and in that branch of the administration of the government, it was and is peculiarly necessary to have honorable, upright and inflexible men, in whose judgment, capacity, integrity and power of discrimination, his fellow-citizens should repose with implicit confidence. If the public do not repose with confidence in the integrity, ability, virtue and character of the judges, there will exist a restlessness, a vague apprehension of evil, an uncertainty and discontent, which poisons and embitters the enjoyment of life—more particularly with a people so sensible of and justly valuing their personal, political and social rights, as are the citizens of republican America.

It is this confidence and the consciousness of usefulness, and not the slender compensation, which rewards the judge and sustains him under his load of labor and responsibility. How important then is a just discharge of the duties of this high station. How important that the persons who fill it should possess the public confidence. How transcendently honorable and praiseworthy must be the life and character of that man, who, on closing a career of thirty years in such a station, receives the unanimous approbation, commendation and regret of his fellow-citizens of all classes, ranks and parties, among a population composed of the descendants of the nations of France and Spain, and of emigrants from every state in the Union.

The regret felt on the tidings of the decease of the late Judge Mathews manifested how fully his character and conduct receive the general approbation—the approbation of all Louisiana. It was the regret of the fathers of the land for a brother—a man whom they had known from early youth—whose virtues and

character were their study for the whole of a past age. It was the grief of the men of active life at the loss of a friend—of a counsellor of the state. It was the grief of those just entering life at the loss of a father—a guide and an example. It was the grief of the whole community at the loss of an honorable and upright magistrate.

Truly and eloquently is it expressed in the resolutions passed by the members of the bar, "That they deeply deplore the death of the Honorable George Mathews, late presiding judge of the Supreme Court of this state.

"That they consider, that in him society has lost a virtuous citizen, the state an able and upright judge, and the profession one of its brightest ornaments; and that the rectitude and ability with which, during a long series of years, the deceased has discharged the arduous duties of the most important and responsible station known to a republican government, entitle his memory to the respect and veneration of his countrymen."

Upon this review of the life and character of Judge Mathews, I proceed to pass a judgment which will be confirmed by this assembly, and by all Louisiana,—that the name and reputation of Judge Mathews shall pass down with the early history of the state, as of one beloved for his virtues as a man, honored for his services as a citizen, and distinguished and revered for his talents, integrity, judgment and usefulness as a magistrate. That he possessed the unbounded respect, esteem, confidence and veneration of Louisiana, during his life, and the heartfelt regret and grief of his fellow-citizens were testified at his death.

May this feeble portrait and testimony to his life and character, serve as an incentive to us and our children to love, respect and revere the name of Judge Mathews, and, above all, to imitate his virtues. That although all cannot attain to the same degree of distinction and usefulness, yet every one may possess the conscious satisfaction of having in his day and generation, and to the extent of his talents and opportunities, deserved well of the Republic.\*

\* Judge Mathews was twice married; first to Sarah Carpenter, of the Territory of Mississippi, in 1808, of which marriage only one child survived, now the wife of Captain William H. Chace, of the United States Engineers, and a second time to Harriet Flower, of which marriage only one child, a boy of twelve years of age, survived. A few days before the decease of Judge Mathews, this youth received the contents of his own gun in his right arm by imprudently thrusting the butt of the gun into the bushes to frighten out the game. It was at first apprehended he would lose the arm, but this misfortune was avoided. This accident never came to the knowledge of his father.

## FIRE PROTECTION IN NEW ORLEANS IN UNZAGA'S TIME

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*From Cabildo Archives, Louisiana.  
Edited by Henry P. Dart.*

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### Ordinance of Governor Unzaga Requiring Mechanics to Attend Fires and Prescribing Penalties for Neglect of Rule Concerning Chimnies and Open Fires.

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This ordinance is undated but being French we locate it in the period shortly after O'Reilly's "conquest" when French was still used in the public proclamations. It shows the primitive condition of New Orleans as to fire protection and is interesting as a specimen of Spanish laws and legislation by the Executive.

The translation is by Mrs. H. H. Cruzat and is followed by the text.

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### Ordinance of Gov. Unzaga Concerning Fires.

Don Luis de Unzaga y Amezaga, Colonel in His Majesty's armies,  
Intendant of Finances and Governor General of this Province of Louisiana:

Be it known to all citizens and inhabitants that sad experience having shown us the little inclination existing among private individuals to lend the necessary help in case of need, on the occasion of fire, and the lack of promptitude in hastening to help, being unprovided with the proper objects suited to that purpose, such as ladders, axes, gaffs, pick-axes and buckets, the indifference to the rights of humanity and the want of foresight for their own interests, the evil being liable to spread, and above all the small number of persons assembling to cut off the danger of conflagrations, our attention to watch over all the subjects of this government and to give our utmost care to their happiness and tranquility, though we do not suppose that any of them be sufficiently discouraged to refuse to adhere to the natural obligation of preventing the evils which might befall them, however, we have deemed it urgent to have recourse to the most efficacious means

which prudence can dictate, by encouraging those inspired by an ardent zeal for the public good, and by punishing those who obstinately and inhumanly refuse to extend the necessary succor to arrest the progress of the flames in consequence of which, we have exhorted, incited and do exhort and incite, and, for greater safety, order and command:

That at the first sound of the bells which will ring with that of the principal guard-house to notify that there is a fire, all the carpenters and joiners of this town, be they whites or negroes, slaves of private houses, shall hasten punctually and promptly with axes, gaffs, pick-axes, and clubs to the place where fire has broken out, to cut and throw down entirely, or in part, the building in danger of burning, as need be, conformably to the intention which guides them in rendering so important a service to their country, under penalty of imprisonment and a fine of one ducat for the whites and other free men who will fail to attend.

It is likewise ordered that all citizens, without exception, be held to have in their houses ladders, buckets, axes, pick-axes, gaffs ready for use in case of an emergency, under penalty for the delinquent of a fine of four ducats, and one of five ducats for their negro slaves who will fail to hasten to help in extinguishing the fire, the said fines applicable to the purposes of justice.

Moreover, we order and ordain that all proprietors of houses repair their chimneys and put them in safe condition, and we prohibit the lighting of fires in the centre of houses or cabins; where there are no chimneys, we order that they be built immediately, under penalty of having them built at owners' expense.

Ordered that the present be read, published to the beat of the drum, and posted in the customary places of this town.

Given in our Government House, at New Orleans,  
Signed: "Luis de Unzaga y Amezaga".

"By order of His Lordship."

"Signed: "Garic, Government Scrivener."

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Original Text:

Ordinance of Gov. Unzaga Concerning Fires.

Don Luis de Unzaga y Amezaga, Colonel des Armées de Sa Majesté, Intendant des Finances et Gouverneur General de cette Province de la Louisiane:

Scavoir faisons a tous citoyens et habitans que la triste expérience nous ayant fait apercevoir du peu de disposition qui règne dans le particulier a donner les secours nécessaires et au besoin lors de quelque incendie, de la foible promptitude a y accourir sans estre muni des objects propres et convenables, comme des échelles, haches, gaffes, pics et *sceaux*: de l'indifference aux droits de l'humanite et du peu de prévoyance a ses propres intérêts, le mal pouvant devenir commun, et enfin du peu de monde qui s'assemble pour couper court au danger dans les incendies, notre attention a veiller et a donner tous nos soins au bonheur et a la tranquillité d etous les sujets de ce gouvernement, malgre que nous ne présumions point que quique ce soit puisse estre assez décourage pour se refuser a l'obligation naturelle de prévenir les maux qui pourroient fondre sur luy; nous avons cru nonobstant devoir pratiquer les moyens les plus efficaces que la prudence puisse dicter en encourageant ceux qu'un zelle ardent pour le bien public attire, et en punissant ceux obstinés qui se refuseront inhumainement a donner les secours necessaires pour eviter les progres des flammes, en consequence de quoy, nous avons exhorté, incité, exhortons et incitons, et pour la plus grande sureté, ordonnons et mandons qu'au premier son des cloches qui sonneront, y jointe celle du corps de garde principal, pour avertir du feu tous les charpentiers, menuisiers de cette ville, soit blancs ou negres, les esclaves des maisons particulières, ayent a accourir precizément et promptement avec des haches, gaffes, pics et massues aux endroits ou le feu aura pris pour couper et abattre en tout ou en partie, le batiment qui sera dans le cas de bruler, suivant ce qui sera nécessaire et conformément a l'intention qui les dirigera de rendre un service si distingué a la patrié, a peine pour les gens blancs et autres libres qui manqueront, de quinze jours de prison et d'un ducat d'amende.

Ordonnons pareillement que tous les citoyens, sans exception, seront tenus d'avoir dans leurs maisons des échelles, sceaux, (i) haches, pics ou gaffes prêts au besoin dans les cas pressants, a peine contre le delinquant de quatre ducats d'amende, et de cinq ducats pour leurs nègres esclaves qui manqueront d'accourir au secours, les dites amendes applicables aux peines de justice.

Mandons et ordonnons en outre a tous proprietaires des maisons de reparer leurs cheminées et de les mettre en etat, et defandons a tous généralement quelconques de faire du feu dans le

milieu des maisons ou cabanes; ou il n'y auroit point de cheminée leur ordonnons d'en faire construire incessamment, a peine contre ceux-ci de le faire faire a leurs dépens. Et ordonnons que le présent sera lue, publié au bruit du tambour, et affiché aux lieux accoutumés de cette ville.

Donné en notre Hotel du Gouvernement, a la Nouvelle Orleans.

Luis de unzaga y Amezaga.

Par mandement de  
Sa Seigneurie  
Garic, Ecrivain du  
Government.

(i) sceaux meant for seaux—pails or buckets.  
Sceaux (seals).





## THE OATH OF ALLEGIANCE TO SPAIN

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*From Cabildo Records. New Orleans.*

*Edited by Henry P. Dart.*

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O'Reilly took formal possession of the colony of Louisiana for Spain August 18th, 1769, and immediately despatched orders to the different posts to administer the oath of allegiance to the inhabitants or to send representatives to take it in their name before him. At Pointe Coupee it was administered Sept. 10 and in Illinois Nov. 19th of the same year. The Spanish portion of Illinois was governed by Louis St. Ange de Bellerive, who had transferred to the English the portion allotted to them by the treaty of Paris. The Spanish flag had floated over Illinois under Ulloa and St. Ange was highly respected by the Spanish Envoy, who deputed him to act in his name on this important occasion.

H. H. C.

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### No. I.

Oath of Allegiance to the King of Spain Taken by the Inhabitants of Illinois  
Before Lous St. Ange de Bellerive.

#### Translation:

In the year one thousand seven hundred and sixty-nine, on this nineteenth of November, we, Louis St. Ange de Bellerive, Captain, commanding the Spanish colony at Illinois, ceded by His Most Christian Majesty to His Catholic Majesty, by virtue of the orders addressed to us by His Excellency, My Lord O'Reilly, Commander of Benfayan, of the Order of Alcantara, Lieutenant General and Inspector General of His Catholic Majesty's armies, Captain General and Governor of the Province of Louisiana, in consequence of the act of possession which we have just taken of the said colony in the name of his said Catholic Majesty,

We order that all subjects of this colony who wish to remain here under the domination of His said Majesty, take the oath of allegiance which He demands, and on the moment, being as-

sembled in the Chamber of the said Government, we made them take the oath of fidelity as follows, viz:

That they promise and swear to God and to His Catholic Majesty to be faithful to him and to sacrifice their lives for his service, to warn him or his commandants of anything coming to their knowledge prejudicial to his state or to the support of his crown and of his person, and to live under the laws it shall please His said Catholic Majesty to impose on them, to all of which submitted those hereafter named whose names are hereafter designated and marked:

**LEFEBVRE DEBRUISSAU.**

Labuxiere.	hivon.
Baron	Jh Second.
Conde.	Rene Kiercereau.
Dubreuil	Dodie.
Sarpy	Malhieux laborde.
Aug. Chouteau.	Jean Baptiste Montigna.
Laville.	hervieux.
francois Le Page.	Belland.
Mallard.	ortes.
Antoine Berard	Marie
Laclede Liguest.	Francois Denoyer.
Pery.	Bequete.
Cambas.	Jacques Dennis.
Bouchier.	hubert.
Cotte.	Gille Chemin.

**Names under ordinary marks:**

Louis Marchetaud	Alexis Rivard
Charles Roulier	J. Bte Gamache
Joseph Denoyer	Louis Chancellier
Jacques Laby	Isidore Peltier
Jn Bte Provencher	Louis Lirete
Fr Gervais	Jh Mainville
Pierre Sans Soucie	Paul Kièrcereau
J. Bte Pety	Antoine Rousset
Antoine Rivard	Pierre Gagnon
Jacques Noise	Fr Thibaut
Pierre La Croix	J. Bte Savoie
Louis Letourneau	Fr Delin
Pierre Bequet	Fr Bissonet
Toussaint Hunaud	Jh Taillon
Toussant Hunaud	Baltasar Aillot
Pierre Balin	Fr Corneau
Charles Parant	Louis Ride

Louis La Roche  
J. Bte Langoumois  
Louise Honore Tesson

J. Bte Dechamp  
Louis Deshetre  
Nicolas Boujeneau

I certify that this is a true copy of the original which is in my hands. At St. Louis, Nov. 23, 1769.

Signed: "St. Ange."

---

Text:

L'An Mil sept Cent soixante neuf ce dix neuf novembre nous lous de St. Ange de Bellerive, Capitaine Commandant La Colonie espagnole aux illinois, Ceddeé par Sa Majesté Tres Chretienne a a Sa Majesté Catholique en vertu des ordres a nous adresses par son excellence Monseigneur 'oreilly Commandeur de Benfayan dans l'ordre d'alcantara lieutenant general et inspecteur general des armées de Sa Majeste Catholique Capitaine General et Gouverneur de la Province de la Louisianne, En Consequence de l'acte de Possession que Nous venons de prendre de la ditte Colonie des illinois au Nom de Sa ditte Majeste Catholique

NOUS ORDONNONS a tous les dits sujets de cette Colonie qui Voudront y rester sous la domination de Sa ditte Majeste de Preter le Serment de fidelité qu'elle Exige, et a l'instant Etant assembles en la Chambre du dit Gouvernement Nous leur avons fait faire le serment de fidelite ainsi qu'il suit, SCAVOIR:

QU'IL PROMETTENT ET JURENT a Dieu et a Sa Majeste Catholique de lui etre fidele et sacrifier leur vie pour son service Lavertir ou ses Commandants de tout ce qui pourroit Parvenir a leur Connoissance au Prejudice de Son Etat, ou Soutient de Sa couronne et de sa Personne et de vivre sous les Loix qu'il plaira a Sa ditte Majeste Catholique de leur imposer Et a quil les dits denommes Cy apres se sont Soumis, et dont les nomes sont cy apres designés et marqués—

LEFEBVRE DEBRUISSAU.

Labuxiere.  
Baron.  
Conde.  
Dubreuil.  
Sarpy.  
Aug. Chouteau.  
Laville.

hivon  
Jh second  
Rene Kiercereau  
Dodie  
Malhieux laborde  
Jean Baptiste de Montigna.  
hervieux

francois Le Page,	Bellano
Mallard.	ortes
Antoine?	Marie
Laclede Ligest.	Francois Denoyer
Pery.	Bequete
Cambas.	Jacques Dennis
Bouchier.	hubert
Cotte	Gille Chemin

## Noms sous marque ordinaires

Louis Marchetaud	Alexis Rivard
Charles Roulrier	J. Bte Gamache
Joseph Denoyer	Louis Chancellier
Jacques laby	Isidore Peltier
Jn Bte Provencher	Louis Lirete
Fr Gervais	Jh Mainville
Pierre Sans Soucie	Paul Kiercereau
J Bte Pety	Antoine Rousset
Antone Rivard	Pierre Gagnon
Jacques Noise	fr Thibaut
Pierre La Croix	J Bte Savoie.
Louis letourneau	fr Delin
Pierre Bequet	fr Bissonet
Toussaint hunaud	Jh Taillon
Toussaint hunaud	Baltasar aillot
Pierre Blain	fr Corneau
Charles Parant	Louis Ride
Louis La Roche	J. Bte Dechamp
J. Bte Langoumois	Louis Deshetre
Louis Honore Tesson	Nicolas Boujeneau

Pour copie que je certifie conforme a L'original que est entre mes mains. A St. Louis le 23 9bre 1769.

St Ange.

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 No. II.

Oath of Allegiance to the Spanish Government by the Inhabitants of Pointe Coupee and "Fausse Riviere", Sept. 10, 1769.

## Translation:

Under the Government of Don Alexander O'Reilly, Commander of Benfayen, of the Order of Alcantara, Lieutenant General and Inspector General of the armies of His Catholic Majesty Captain General of the Province of Louisiana.

We, the undersigned, and all others from Pointe Coupee and False River, now assembled by order of the King in presence of M. Duplessis, Knight of the Royal and Military Order of St. Louis, Captain, commanding for the King at the said post and of M. Alain, captain of Militia.

We give full power to MM. Allain, George Baron and other notables of this establishment to take in our name, and in the usual form, the oath of allegiance to His Catholic Majesty.

We promise from this time and swear fidelity, zeal and obedience to His Catholic Majesty, recognizing that we are his subjects and as such held to conform to all that may be ordered and prescribed on the part of His said Majesty.

By so doing we hope to become worthy of his favor and august protection which we have been fortunate enough not to forfeit.

At Pointe Coupee, Sept. 10, 1769.

X mark of Jean Cava.	Janriche.
X mark of Vincent Cava, J, Batis Legros.	X mark of Simon Piague.
X mark of Joseph Mior.	Jh Bourgeat.
P. Jarreau.	Mchel Rieker.
Pierre Guebo.	G. Lamothe.
Jacques Halluys Derabun Subt.	X mark of Rousseau.
J. Porche.	X mark of Sr Desantel.
X mark of Joseph Porche.	Auguste Langlois D'Ormaro.
Joseph Patin.	J. Lafleur.
X mark of Antoine Patey.	X mark of Bte La Fleur.
A. H. Allain, son.	X mark of Sr Claise.
Decouoz.	GREMILLION.
Joseph Turbert.	X mark of Sieur La Cour.
A. Metede.	J. B. Lacour.
Tanonay.	X mark of Jean Toussin.
Meuillion.	Antoine Bordelon.
A. Olivier.	X mark of Antoine Poupard.
Marieu.	Jean Stephen.
Benoit Md.	Philippe Dagnieau.
Messonnie B. C.	Phe Guichard,
sheriff and cryer	surgeon.
Rivard de Rieutard	Le Doux, son.
King's store.	X mark of Milan the elder.
X mark of S. Emond.	Francois Mayeux.
Emond, son.	X mark of Sr Jean Decuir.
Louis Dezzerre.	Francois Decuir
Balquet.	Joseph Decuir.
	Francois Le Geay.

- Pepin.  
 Maure.  
 X mark of Verdon.  
 Aubin de Gallory.  
 X mark of P. Dervus.  
 P. Carmon.  
     v pd  
 Crouzes.  
 Duval.  
 Jean n t  
 Surircup Zarue  
 X mark of Rendon  
 Pierre Ducote.  
 Pieer Ducote.  
 Joseph Carmane.  
 H. Peyroux.  
 Denis.  
 G. Olivo.  
 Madir, Surgeon major of the  
     King.  
 X mark of Sr Estienne major  
 Allain son, Ofc'r of Militia  
 X mark of Pierre Major  
 X mark of Jean Major  
 X mark of Andre Olivo.  
 Guerem.  
 S. Armadic  
 F. Jorlait.  
 Guiot.  
 X mark of Pierre Olivo.  
 Mavre  
 Samson.  
 X mark of La Vigueur.  
 Marionnaud.  
 Antoine Prevot.  
 X mark of Sr. Leonnard.  
 X Martin Commagere.  
 Dubertrand.  
 X mark of Louis Marie  
 Joseph Collete.  
 X mark of J. Himel.  
 X mark of La Ville.  
 X mark of Louis Destalles.  
 X mark of Claude Destalles.  
 X mark of Michel Lejeune.  
 X mark of Charles Lejeune.  
 X mark of Sr Du Gué.  
 X mark of Joseph Janisse.  
 Paul Moro.  
 Martin Moro.  
 Joseph Roy.  
 Noel R. . . . z  
 Jh Oderu.  
 X mark of Sr Gaudoz.  
 X mark of Pierre Romain.  
 X Joseph Malus.  
 X mark of Sr Ncolas Lacour.  
 X mark of Pierre Cuvillier.  
 X mark of Pierre Morin.  
 Tous saint Truberdean.  
 X mark of Augustin Gamache.  
 X mark of Claude Jommeau.  
 X mark of Pierre Geoffrion.  
 Mark of Bap. La Cour.  
 X Levoy.  
 X mark of Smon Le noine.  
 X mark of Joseph Geoffrion  
 Jacque Firmain Sere.  
 X mark of Re Gallot.  
 X mark of Josef Gallot  
 X mark of Jean Assailly.  
 X mark of Francois Moron.  
 X mark of Pierre Moron.  
 X mark of Francois Moron.  
 X mark of Pierre Larches.  
 X mark of Pierre Landremon.  
 X mark of Louis Huet.  
 X mark of Francois Deperata.  
 X mark of Fcs Rixner.  
 X mark of Andre Rocheau  
 X mark of Joseph Jofrion.  
 X mark of Sr Huzerian.  
 X mark of Jacque Gobe  
 X mark of Armand Morin.  
 Jacque Honhae.  
 X mark of Francois Meru.  
 X mark of Perrot.  
 Nicolas Belagé  
 X mark of Charles Robillard.  
 S. L. Ducrost.  
 X mark of Joseph Wills.  
 PUISSE.  
 X Antoine Guashevaud.  
 X mark of Sr Pernat.  
 X mark of Sr. Estienne.  
 X mark of Estienne, son.

X mark of Augustin Porche.	X mark of Louis Lamy.
X mark of Pierre Porche.	JEAN OLIVIER.
Martin Pette.	X mark of Martin Sondrigue
LEMOINE.	X mark of Louis Sondrigue.
X mark of Joseph Ledoux.	X mark of Pierre Eneza.
X mark of Pierre Bonhomme.	H. Jaba, engage (1)
X Thomas Morin Volant.	X mark of Nicolas Prevot.
X Nicolas Dorion.	X mark of Joseph Prevot.
X mark of Pierre Le Doux.	SERVAT.
Pierre Pizani.	X mark of Pre St Onge.
X mark of Joseph Bartelmy.	X mark of L. St Onge.

We, the undersigned deputies of the inhabitants and all others established at Pointe Coupee and False River, in this province of Louisiana, now at New Orleans, in our name as well as in that of all those who are established in the said places and whose orders and full power we hold;

On this day, twenty-first of September, one thousand seven hundred and sixty-nine, of our own free will and pleasure, Swear to God to observe the most inviolable fidelity and obedience to His Catholic Majesty, our sole and legitimate sovereign, to reveal, without any delay, to the Governor of this Province all that we shall know of against his sovereign authority and service, and to oppose execution of same with all our strength and at the peril of our lives.

Signed: "George Baron, officer of militia and syndic."

"Joseph Decoux".

"Louis Armand Decrest"

X "ordinary mark of Sr Jean Bavat, so-called Le Blond"

"X Ordinary mark of Jacques des Autels"

"Duplessis"

"Duplessis"

The oath of allegiance which precedes was taken in the presence of His Excellency Don Alexander O'Reilly, Commander of Benfayan, of the Order of Alcantara, Lieutenant General of the Royal Armies and Inspector General of the Infantry, especially commissioned by His Majesty with the superior authority as Governor and Captain General of this city of New Orleans and the province of Louisiana etc. before us, as I here certify in due form and dated as above.

Signed: "Fran. Xav. Rodriguez

Sno de la Expedizon (paraphe)"

(Apparently): "Joseph Fermo (paraphe)"

## Text:

Sous le Gouvernement de Don Alexander O'Reilly, Commandeur de Benfayan dans Lordre d'alcantara, Lieutenant general et inspecteur general des armees de Sa Majeste Catholique, capitaine general, et gouverneur de La province de la Louisiane.

Nous soussignez et tous autres de la Pte Coupee, et fausse riviere, actuellement assemblees Par ordre du roy, en presence de Mr Duplessis chvr de L'ordre royal et militaire de St. Louis, capitaine Pr Le roy au Dt Poste, et de mr alain capitaine Des milices.

Donnons plein pouvoir a Mrs allain, georges Baron, et autres notables de cet etablissement de preter a La nlle Orleans en notre nom, et dans la forme ordinaire, le serment de fidelite a Sa Majeste Catholique

Promettons des apresent, et jurons fidelite, zele, et obeissance a Sa Majeste Catholique, de laquelle nous nous reconnoissons Les sujets, et comme tels, tenus de nous conformer atout ce qui nous sera ordonne, et prescrit de la part de Sa Ditte Majeste,

Ce Que Faisant, nous esperons nous rendre dignes de ses graces, et de son auguste protection, que nous avons et assez heureux pour ne pas demeriter.

A La Pte Coupee le 10 7bre 1769

marque de jean cava	Glamothe
marque de Vincent Cava	X marque de Rousseau
J batis Legros	X marque du Sr Desantel
Marq de Joseph mior	Auguste Langlois D'ormaro
P Jarreau	j lafleur
pierre guebo	X marque de Bte la fleur
Jacques halluys Derabun Subt	X marque du Sr Claise
J porcke	GREMILLION
marque Joseph Porche	Marque du Sieur La Cour
Joseph patin	J. B. Lacour
marque d'antoine Patey	JBLACOUR
A H allain fils	X marque de Jean Toussin
Decouoz	antoine Bordelon
joseph turbert	X marque d'Antoine Poupard
AMetede	jean stephen
Tanonay	philipe dagnieau
Meuillion	Phe Guichard
A olivier	chireurgien
Marieu	Le Doux fils
Benoit Md	X marque de Milan laine
Messonnie B C	francois mayeux



huissier audiencier	X	marq, de S jean Decuir
Rivard de Rieutard magasin du		pierre Decuir
roy		joseph Decuir
X marque de S Emond		francois Le Geay
Emond fils		paul MORO
Louis dezzerre		martin moro
Balquet		Joseph Roy
pepin		Noel R...z
Maure		JH ODERU ?
X mqe de Verdon		X marq. du Sr Gaudoz
aubin de Gallory		X marq de Pierre Romain
marque de P Dervus		X Joseph Malus
P Carmon		X marq. du Sr Nicolas La Cour
v pd		X marq. de Pierre Cuvillier
Crouzes		X marque de Pierre Morin
Duval		tous saint truberdean
jean	n t	X marque d'Augustin Gamache
Surircup Zarue		X marque de Claude Jommeau
X marque de Rendon		X mark de Pierre Geoffrion
pierre ducote		Marq. de Bap. La Cour
pieer Ducote		X Levoy
joseph Carmane		X marque de Simon Lemoine
h Peyroux		X marque de Guillaume Le-
Denis		moynes
G Olivo		X marq. de Joseph Geoffrion
Madir chirurgien major		jacque firmaint Sere
du Roy		X mark de Re Gallot
X marq du Sr Estienne major		X marq. de Jean Assailly
Affain fils Ofc'r de milice		X marq. de Francois moron
marque de Pierre Major		X marq. de Pierre moron
marque de Jean Major		X marq. de Francois moron
X marque dandre olivo		X maq de Pierre Larches
GUEREM		X marque de Claude Destalles
armadie		X marque de Michel Lejeune
f jorlait		X Marque de Charles Lejeune
Guiot		X marque de sr Du Gué
X marque de Pierre Olivo		X marque de joseph janisse
Mavre		X marque augustin Porche
Samson		X marque de Pierre Porche
X marque de la Vigueur		Martin pette
Marionnau		LEMOINE
antoine prevot		Marque de joseph Ledoux
X marque du Sr Leonard		X marque de Pierre Bon-
X martin Commagere		homme
Dubertrand		X Thomas Morin Volant
marque de Louis marie		X Nicolas Dorion
joseph Collete		X marque de Pierre Le Doux
janriche		Pierre Pizani

X marq de Simon piague	X marque de joseph Bartelemy
jh Bourgeat	X marque de Charles Robillard
Michel Ricker	S L Ducrost
X marque de Pierre Landre-	X marque de joseph wils
mon	PUISSE
X marque de Louis huet	X Antoine Guashevaud
X marque de francois Depe-	X marque du Sr Pernat
rata	X marque du Sr Estienne
X marque de Fcs rixner	X marque d'Estienne fils
X marque dandre Rocheau.	X marque de Louis Lamy
X marque de joseph jofrion	JEAN OLIVIER
X marque de Sr huzerian	X marque de nartin Sondrigue
X marq de jacque Gobé	X marque de Louis Sondrigue
X marq. darmand morin	X marque de Pierre Eneza
X jacque honhae	h jaba engage
X marq de Francois meru	X marque de Nicolas Prevot
X marq. de Perrot	X marque de Joseph Prevot
Nicolas Belagé	SERVAT
X marq. de j himel	X marque de Pre St Onge
X marq de la ville	X marque de L St Onge
X marque de Louis Destalles	

Nous soussignes deutes des habitants et tous autres etablis a la Pointe Coupee et Fausse Riviere dans cette province de la Louisianne presentement a la Nlle Orleans, tant en notre nom qu'en celui de tous ceux qui sont etablis dans les dits endroits et dont nous avons les ordres et pleins pouvoirs;

Aujourd' hui vingt-un de Septembre Mil Sept Cent Soixante-Neuf de notre libre volonte et de plein gre Pretons Serment a Dieu, de garder la plus inviolable fidellite et obeissance a Sa Majeste Catholique, notre unique et legitime Souverain; de reveler sans aucun delai au Gouverneur de cette Province tout ce que nous saurons etre contraire a sa Souveraine autorite et Service, et de nous opposer a son execution de toute notre force et aux perils de nos vies.

George Baron aufisier demelys Cendique

Joseph Decoux

Louis Armand Ducrest

X marque ordinaire de Sr jean bavat, Dt eL Blond

Duplessis

X marque ordinaire de jacques des autels

Duplessis.

El juramente de fidelidad que antecede fue.....en la presencia de Su Ex Dn Alexandro O Reilly, Commendador de ben-fayan, en la orden de Alcantara, Teniente General de Los Rs Exer-

citos y Inspector General de Infanteria, en cargado por especial mosion de S M del mando Superior Gobierno y Capitan General de Esta Ciudad de la Nueva Orleans y Provincia de la Louisiana &c y por ante nos, Infraescritos Escribanos, Como asi lo certificamos en debida forma, y de ello damos fe Fecho y Supia.

Fran. Xav, Rodriguez, (paraphe)

Sno de la Expedizon

(apparently:

“Joseph Fermu  
paraphe.)



CABILDO ARCHIVES

FRENCH PERIOD

No. IX.

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*Edited by Henry P. Dart.*

---

Passport to Capt. Latiolais of the Ship Apollo and Instructions Regarding  
Cargo to Mobile.

*April 23, 1748.*

The short document which follows is signed "de Noyan," who was acting governor in New Orleans, during Gov. de Vaudreuil's absence, necessitated by the panic in Mobile following Choctaw depredations. The Choctaws who had so long been friendly to the French in the beginning of 1748 were divided into two factions. The majority were still friendly to French and the minority called "Rebels" were English sympathisers. Mobile was terrorized by their frequent raids and de Vaudreuil went there to devise means of protection and to organize a defense against these marauders. The Choctaw chief Red Shoe had received a medal, a costume and a commission from George II of England and defied the French in their settlements and on the very outskirts of New Orleans. At the German Coast Bouchereau and Rousseau nobly exposed and sacrificed their lives to save others. The warrior who led the Choctaws in this raid was killed by his own brother for having broken the promise given to de Vaudreuil and Red Shoe was assassinated shortly afterwards, but peace was not established before 1750.

The report of the date of the boat's arrival at Mobile and that of its return to New Orleans over Louboey's signature gives us the correct orthography of the name of a gallant officer who served in Louisiana from the early days of the colony until his death in 1752, over half a century, participating in all the Indian campaigns to his extreme old age.

HELOISE H. CRUZAT.

---

Order and Passport to Sieur Latiolais to Sail With an Important  
Cargo for Mobile.

*April 23, 1748.*

We, Lieutenant for the King, commanding in New Orleans during the absence of M. de Vaudreuil, Governor of Louisiana,

order that Sr Latiolais, Captain of the King's ship "Apollo" leave immediately for the post of Mobile, to carry the effects committed to his care by orders of M. des Clozeaux, Commissary at said post. We recommend that he be as prompt as possible and request all those who are to be asked, to allow him to pass freely and to give him all necessary succor, promising to do the same on a similar occasion.

Signed: "Noyan".

Arrived at Mobile April 27 and leaves for New Orleans on this 30th of the said month. (1)

At Mobile, April 30, 1748.

Signed: "Louboëy".

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ORIGINAL TEXT.

No. IX.

Order and Passport to Capt. Latiolais of Ship Apollo and Instructions  
Regarding Cargo to Mobile.

*April 23, 1748.*

Nous, Lieutenant pour le Roy Commandant a la Nouvelle Orleans en Labsence de Monsieur de Vaudreuil Gouverneur de la Louisianne Il est Ordonne au Sr Latiolais Capitaine de Batteau du Roy Lapollon de partir incessamment pour se Rendre au poste de la Mobille pour porter les Effets dont il est charge aux ordres de Monsr des Closeaux Commissaire au dit poste. Luy enjoignons de faire le plus de diligence qu'il pourra prions tous ceux qui sont a prier de le Laisser Librement passer et luy donner tous les secours dont il pourroit avoir besoin prometant En faire autant en pareille occasion  
fait a la Nouvelle Orleans Le 23 avril 1748.

Noyan.

Arrive a la Mobille lw 27 avril, et en repart pour la Nouvelle Orleans le 30 dud. (mois). (1)

A la Mobille ce 30 avril 1748.

Louboëy.

(1) The word "mois" omitted in text and supplied.

RECORDS OF THE SUPERIOR COUNCIL OF LOUISIANA

No. XI.

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*Motion For Sale of Property.* May 17, 1727. Attorney General Fleuriau reviews the affairs of late Gaumy alias La Riviere, who died at Natchez while on business for the Company (contract of timber), and left a partly paid house at N. O., together with two negroes (one of them still at Natchez). Let property be sold in settlement of debts and for benefit of surviving minor children.

Council orders appointment of a guardian, and sale.

Hire shall be paid for slave at Natchez.

Filed No. 254.

*Decisions in Sundry Suits.*

May 17, 1727

1. DeChavannes vs. Perault. Mr. Perault, both on his own account and as security for Mr. Perry, shall pay given claim, 437 francs. They may recover as they please in claims of theirs.

Costs on defendants.

2. Michel Roger vs. Rossard. (Apparently compromised; passage torn). Costs divided.

3. Canceled.

4. Vincent vs. St. Leger. Deferred. Costs reserved.

Filed No. 253.

*Petition of Recovery.* May 20, 1727. Darby claims 72 francs from one Thomelin (joiner), due on his note of past February 5.

Action granted.

*Letter of Terrisse de Cernan.* May 21, 1727. Name of "Monsieur" to whom letter is addressed, does not appear in-

scribed. Reference to strange inaction of Mr. De Beauharrais on the side of Canada, and of Mr. Perrier here in the wake of the death of Mr. De Melique and of several Frenchmen with him. That occurrence has decided the writer's movements in favor of Illinois, rather than "des Alibamous." Two years "in the capital" have greatly reduced the writer's funds.

*Petition For Assisant Accountant.* May 23, 1727. De Mandeville has been asked to take charge of the grants *Ste. Catherine and Chaouachats*. The labor of accounting is too great for his unaided facilities; let a competent assistant be allowed him, at the proprietor's expense. Assistant will also travel, as required.

May 29. Note referring to advise with Mr. de Kolly.

*Decisions in Civil Suits.*

May 29.

1. *De La Loire vs. Rossard.* Plaintiff will be governed by settlement of Ceard estate. Costs divided.
2. *Darby vs. Thomelin.* Claim allowed. Costs on T.

Filed No. 255.

*Promissory Note.* June 4. "Undermarked" *Dancy* promises to pay *Rousaux* alias *La Flamme*, 128 francs, 8 sous Value received.

Witnesses:

L D'Alenne, Si Say Receipted by *Senet*, August 4, 1727, for sum of "sequante" (50?) francs on said *pileist (billet, note.)*.

*Promissory Note.* June 4. L D'Alenne acknowledges and confesses that he owes, and promises to pay, *Louis Rousaux*, alias *La Flamme*, the sum of 154 francs, 6 sous. Value received in provisions and expenses at his house.

Endorsed receipt for "sequante" (50?) francs on said *pileist (note)*, by *Senet*. August 4, 1727.

*Promissory Note.* June 4, 1727. Yve Leonn promises to pay Louis Rosaux, alias La Flamme, the sum of 112 francs, 8 sous. Value received in provisions and expenses at his house. Endorsed receipt for 60 francs on said pileist (billet, note) by Senet, August 4, 1727.

*Sale Announced.* June 7. Balingant, alias St. Quentin, property will be offered to the highest bidder on June 11. Terms, cash. Torn and faded.

*Sale Announced.* June 7, 1727. Property of Nicolas Gomy, alias La Riviere, will be offered to highest bidder, cash terms, on June 11.

Stained.

*Petition of Recovery.* June 7, 1727. Raymond, settler *aux Tonics*, furnished the Late La Riviere some provisions for his raft workmen, and moves to collect promptly. He has lost a month's time in the growing season, by delayed payment, and would now return to his crops.

Attorney General grants him preference on La Rivière assets, after Company's claims.

July 10. Subjoined receipts for 267½ francs.

*Petition of Recovery.* June 8, 1727. Claude Herpin, attorney for former Councillor Perault, shows that Mr. P. furnished former director of DuBuisson grant (Mr. de Verteuil) a cash advance of 988 francs, 2 sous, in copper. Since Mr. Bonnaud is now director, let him be cited.

Approved, and notice served, June 19.

*Report of Last Wishes.* June 9, 1727. Desarboy declares that one Richard, sailor who guarded the powder magazine, charged D, at the hour of Richard's death, to see to payment of his dues from the Company to the Reverend Capuchin Fathers in behalf of prayers for the repose of his soul.



*Decisions Between Caron and Lagoublaye and Dumas Lempileur, Party Distraining.* June 9, 1727. Lempileur nonsuited in his opposition. Lagoublaye shall pay Caron according to terms of Contract, what remains after payment of Company, plus costs.

Filed No. 256.

*Petition of Recovery.* June 14, 1727. Francois Brunet, edgetool-maker in Company's service, claims 1397 francs from *Sieur Tixerant*, for two years' wages.

Action allowed.

*Letter of Merveilleux to Gaulas. Dictated and Unpunctuated.* June 18, 1727. Acknowledging a letter of June 14, and rambling over sundry matters of everyday concern between M. and G. Send some corn by dugout, if only a barrell or two at each trip. Not one grain of corn with M. for homing liquor, which has been prescribed for his sole drink. He must even feed a negro and a savage on French bread at present. Urges G. to punish lazy *Alexis* by lashing till blood flows. Look after the few garden onions. Send some prunes; order peaches preserved by Madame Soelo. Also send some dried peas, garlic and shallots, and four dried tongues.

*Summons to Satisfy Claim.* June 28, 1727. At the instance of Mr. Bonnaud, attorney for St. Martin de Morge, Sheriff Vincent notifies Mr. DeVerteuil to appear on Saturday next and see himself sentenced to pay Mr. Bonnaud the sum of 3273 francs in gold and silver specie, due on a letter of exchange that should have been paid in France.

*Petition To Sell Vacant Property.* June 30, 1727. Mr. Rossard, attorney, shows the good economy of promptly selling the effects of the late Mr. Rouzeau and asks leave to proceed in accord with the usual forms of law.

Granted.

*Summons To Attend Hearing.* July 2, 1727. Sheriff Vincent, at the instance of Mr. Harpin, attorney for Mr. Perault, notifies Mr. Bonnaud, acting director of DuBuisson grant, to appear on Saturday at 8 A. M.

*Decision Between Brunet and Tixerant.* July 5, 1727. T., in default, and bound to pay B.'s claim of 1397 francs. T. will either complete the two remaining months of his arrangement with B., or their equivalent account will be deducted from said claim.

B. is notified of seizure in the hands of Cashier Duval.

Duplicated.

*Decision in Civil Suits.*

July 5, 1727.

1. Harpin *vs.* Bonnaud. Judgement withheld until Mr. DeVerteuil produces his power of attorney as bestowed by his associates.

2. See 27<sup>149</sup>.

Filed No. 257.

Lower half torn off.

*Promissory Note.* July 7, 1727. L. Lartaud promises to pay to the order of Mr. Sennet the sum of 80 francs in three months.

Value received.

*Will of Francois Deserboy.* July 13, 1727 He leaves 100 francs to the Capuchin Fathers for his burial; 50..... for Masses; 50 francs to the poor. His few personal effects are bequeathed to Mr. Larou's negress, for her faithful care of him while sick. The Capuchin Fathers will please to hand his death certificate to Mr. Larou, for transmission to D.'s family in Brittany. Casn bequests payable from his wage account Surplus, if any to said negress.

Addressed to R. P. Théodore, "very worthy priest" and Apostolic Vicar.

Faded almost extinct.

*Memorandum of Medical Attendance.* July 15, 1727 To wit, of "drugs, bleedings and visits," in behalf of "several negroes or negresses on the plantation of late Mr. Payon." Total bill 80 francs. Doses include "hipecac" and astringent opiates.

Receipt of foregoing bill to Mr. Dagoublets (manager), same date, by *Alexandre*.

*Complaint Against False Accusation.* July 16, 1727. Etienne Bouet, joiner, has been charged by Sieur and Dame Lagoublaye with robbing them of a flask of brandy, a jacket with gold buttons, a bundle of linen, and other articles; but no such goods were found at his house. He denies the charge, and asks that Mr. and Madame Lagoublaye be held liable to fine of 500 francs for alms, together with Court costs.

*Redress Demanded.* July 16, 1727. Etienne Bouet repeats his complaint, offers to be committed to jail, and now asks that Madame Lagoublaye be fined 2000 francs; 1000 for hospital, 1000 for the deserving poor.

Notice served to Madame Lagoublaye to appear on Saturday next, at 8 A. M.

*Will Filed of Sieur Desherbois.* July 19, 1727. Formality of signing and filing with reference to copies when required. Envelope was addressed to R. P. Théodore, Vicar Apostolic "very worthy priest resident at New Orleans."

Contents not here indicated.

Proceedings signed by Delachaise, Bruslé, Desurins, Dauseville and Fleriau.

Filed No. 259.

*Decisions in Sundry Suits.* July 19, 1727.

1. St. Amant vs. DeMerveilleux.

Compromised.

Costs divided.

2. Bouet vs. Lagoublaye (Sieur and Dame).

Further in process.

Costs reserved.

3. Dame Peingault vs. Sarazin.  
 Judgment for plaintiff, S., in default.  
 Filed No. 260.

*Report of Runaway Negro.* July 20, 1727, St. Catherine. Undersigned Longraye certifies that on July 17 about 10 P. M. there came to the St. Catherine grant a negro belonging to Mr. de Merveilleux, Choucoura by name, two days marooned, who was then arrested and put in irons.

His owners' deputy, Mr. Gaulaz, took him away on the morrow.

Stained and faded.

*Memorandum of Sale.* July 22, 1727. Alain Dugué acknowledges having sold to Mr. Durivag two cows and a bull; the cows in a state of expectancy which vendor is willing to guarantee. Terms, 700 francs; 591 being received, and the residue, 109 francs, being payable when buyer takes possession.

Witnessed by Francois Thomas and Pierre Jeanet.

*Notice of Seizure.* July 24, 1727. At the instance of Francois Brunet, edge-tool-maker, Sheriff Vincent seizes Cashier Duval of all funds owing to Mr. Tixerant, so as to satisfy claim of 1397 francs due to F. B.

*Petition for Separation.* July 31, 1727. Marie Magdelaine Mangon de La Tour tells a tale of cruelty and petty tyranny on the part of her husband, St. Malo, and requests either transient or permanent separation from him, with board allowance. Action approved, and notice served to St. Malo.

*Petition to Recovery Attached Property.* August 1, 1727. Mr. Rossard shows that Mr. de Noyan, on behalf of Monsieur de Bienville, was permitted to take possession of some slaves and cattle of Bordier estate, until it were learned whether the letters of exchange had been

paid or not. The presumption is that de B. recovered his claim in France; but anyhow, Mr. de Noyan rendered an account of what he took in hand. This property should now be returned and sold in settlement of Bordier estate.

Notice served to Mr. de Noyan.

*Petition of Recovery.* August 2, 1727. Pouyadon de la Tour sold a negress to Mr. Bourbeau for 1600 francs, and received 1100 francs, but is continually put off with the residue, 500 francs. Let B. be cited.

Approved, and notice served.

*Memorandum of Account.* August 8, 1727. Statement of transactions between St. Pierre de St. Julien and Ste. Reine grant.

Total, 612 francs.

Balance debit against St. Julien, 382 francs.

Signed: J. B. Kolly, St. Julien.

Received by Mr. Kolly, March 10, 1728.

*Decisions in Sundry Suits.*

August 9, 1727.

1. Marie Magdelaine Mangon *vs.* St. Malo. Husband is willing to behave becomingly and would avoid disgrace. His wife shall return to him. Costs divided.
2. Canceled.
3. Herpin *vs.* Duval. Compromised. Costs divided.
4. Brunet *vs.* Duval and Tixerand. Settled by SCRAWL.

Filed No. 261.

*Petition of Recovery.* August 14, 1727. Antoine de Joye de La Goublaye, having married Francoise Martin, widow of Jean Hugot, formerly tenant of Pailhox plantation, seeks to recover 480 francs on a house which he built on said property; also, 130 francs which he paid for medical sundries, or total 580 francs.

Order referred to Mr. Perrier, Commander General.

*Promissory Note.* August 21, 1727. Bourbeau promises to pay Mr. Amiot Dausseville the sum of 380 francs which he lent in cash to pay for negress and her baby boy, obtained from Mr. Pouydan. Date when due, October 10, 1727. Received by D'Auseville, Dec. 2, 1727.

*Certificate of Wage Account.* August 28, 1727. J. B. Faucon Dumanoir certifies that Francois Brunet, edge-tool-maker, is entitled to net sum of 338 francs, 17 sous, for outstanding wages while he worked at Ste. Catherine grant.

*Decisions in Sundry Suits.* August 30, 1727.

1. *Quenot vs. J. B. Massy.*  
Referred to Mr. Bruslé.
2. *La Goublaye vs. Perier.*  
Claim allowed. Provisos follow by the act of SCRAWL.
3. *Veuve Perigault vs. Roquet.*  
Referred to Mr. Bruslé.
4. *Pouyadon de La Tour vs. Senet (for Bourbeau).*  
B. shall pay net residue claim, 400 francs, on previous residue of 500 francs.  
Costs divided.  
Filed No. 263.

*Copy of Testimony on Cruelty to a Slave.* Sept. 2, 1727. Under-signed, F. W. De Knepper, notary at Natchez, reports the evidence received in the house of R. P. Philibert, priest at Natchez, concerning the inhuman punishment of a negro belonging to Mr. Merveilleux, and supposed to have been maimed by Mr. Gaullas. Case of aggravated violence where vindictive anger gives free reign to its momentary frenzy.

Report certified by Major Cazeneuve and R. P. Philibert.

Edges torn.

*Petition of Recovery.* Sept 2, 1727. Michel Bagory, alias Du-elos, formerly carpenter on Ste. Catherine grant, claims an unsettled wage account of 2397 francs and

(contingently), a still pending letter of exchange on the same account.

Action allowed, and notice served to Mr. de Mandeville, director in charge.

*Copy of Petition and Attached Memorandum.* Sept. 2, 1727. Repeating request of preceding document, and adding a statement of Bagory's account with Ste. Catherine grant, dating since March 16, 1725.

*Surgeon's Report.* Natchez, Sept. 4, 1727. Lasonde, surgeon at Naquechez, certifies that he was called to attend a negro belonging to Mr. Merveilleux, and found both hands of the negro mutilated (by gangerine, apparently). Two fingers had dropped from his right hand; two finger tips from his left hand, in sequel to strangulation by tight cords.

*Decision in Two Suits..* Sept. 6, 1727.

1. Dame Perigault *vs.* Roquet.  
Quashed, save that plaintiff may have recourse to SCRAWL.  
Costs divided.
2. Michel and Attorney General *vs.* Denizens of Mobile.  
Jumble will jumble Jumble, and 60 francs go to the Hospital.  
Filed No. 264.

*Petition to Continue as Notary.* Natchez, Sept. 9, 1727. While transmitting the evidence on a maimed slave of Mr. Merveilleux's, Acting Notary F. W. De Knepper asks to be retained in his present office as recorder and notary; especially, too, because he is a licensed lawyer, and has already tendered his oath in presence of R. P. Philibert, Monsieur de Merveilleux and Mr. Casseneuve.

*Petition of Recovery.* Sept. 6, 1727. Claude Herpin claims 57 francs and 15 sous from Mr. Dreux, due on a transferred note.

Action forward.

*Sale of La Rivière Property.* Sept. 17, 1727. After several auctions below desired results, the two given lots, house and poultry house (in rue Bourbon), are now awarded to Joffre, alias La Liberté, for 520 francs; terms, cash and costs of sale.

*Petition to Recover Fees.* Sept. 18, 1727. Recorder Rossard moves for citation of Mr. DeVerteuil, who owes him 122 1-2 francs in fees.

Action allowed.

Torn and crumpled.

*Memorandum of Recorder's Fees.* Sept 18, 1727. Mr. Rossard submits a statement of his dues from Mr. DeVerteuil, dating since February 22, 1725.

Net account, 122 1-2 francs.

Torn.

*Remonstrance of Court Fees.* Sept 19, 1727. Mr. DeVerteuil objects that some of the charges in Mr. Rossard's account, legally devolve on the Attorney General, prosecutor in DeV.'s libel suit. And the other items now that Mr. DeV. is no longer director of (DuBuisson) grant, are the business of new manager.

Let Mr. R. be nonsuited and DeV. discharged.

No note by Court.

*Report of Evidence.* Sept. 20, 1727. Natchez. As favoring Mr. Gaullas, Madame Lambermond, settler at Natchez, declares that she heard a negro at Mr. Merveilleux's provoke Mr. Gaullas with abusive language, some instances of which she repeats.

*Receipt.* Sept. 20, 1727. Chaperon has received from Mr. de St. Julien the sum of 20 francs on account.

Witnessed by Barson de la Perière.

*Testimony in favor of Mr. Gola (Goulas).* Natchez, Sept, 21, 1727. R. P. Philibert certifies that Mr. Gola showed entire diligence as manager in absence of Mr. de Mer-



veilleux, working from morning till evening during extreme heat, and neglecting no part of his service.

*Testimony for Mr. Gaullas.* Natchez, Sept. 21, 1727. Fredric, Surgeon Major at Natchez, certifies to setting a dislocated shoulder for Mr. Gaullas; the dislocation being caused by strain of loading tobacco for Mr. Merveilleux. For want of subsequent care, the shoulder became dislocated again.

*Testimony for Mr. Gaullas.* Sept. 21, 1727, Natchez. Jean Sortier, alias Dauphine, soldier at Natchez, certifies that Mr. Merveilleux tried to induce him to testify that Mr. Gaullas had given him tobacco wrapped in linen, for carrying away by night to Jean's quarters. Even threatened Jean with irons.

*Petition to Recover Loss of Slave.* Sept. 24, 1727. Captain de Merveilleux, commander at Natchez, had to leave his post, 1 May in order to obtain medical treatment at N. O. He strictly enjoined his substitute Gaullas to commit all discipline of unruly slaves to Mr. de Caze-neuve, and not to punish them himself: "not knowing him to be apt and fit in this matter." Contrary to this injunction, Gaullas ruined one of the most valuable negroes by so strangulating his wrists that mortification of both hands ensued, with loss of three fingers on right hand, two on left. Hands were bound five hours while more than 600 rawhide lashes were inflicted. Gaullas has been trying to evade restitution by diverting his tobacco, and some of de M.'s from the premises.  
Redress besought.

Action allowed, subject to a month's margin for distance.

*Petition of Recovery.* Sept. 25, 1727. Michel Brosset, surgeon, claims 465 francs from estate of late Duval Chevreuil due on two notes, and a further item of 32 francs (medical bill). Let Mr. Rossard, attorney, be cited.

Notice served.

*Petition of Recovery.* Sept. 27, 1727. The noble Chevalier Estienne de Benat claims of St. Julien, officer, 32 barrels of rice, 13 barrels of corn, 80 francs cash, shoes and other articles, as shown by his note of 29 October, 1726; together with other two barrels of rice, a quarter of Apalachee beans, four quarters of sweet potatoes and 14 francs cash.

Action allowed.

*Petition to Confirm Arbitration.* Oct. 1, 1727. Noël Busson moves for citation of Mr. Jean Baptiste Faucon Dumanoir, that he may note the ratification of arbitration verdict rendered by Messrs. Massy and Duval on July 1.

Approved and notice served.

*Petition of Recovery.* Oct. 2, 1727. Captain Dutisné, creditor of the late Duval Chevreuil to the sum of 201 francs, and preferred creditor to deceased's estate, remonstrates that Mr. Rossard slights this preference by paying other claims, not preferred. Let Mr. R. be ordered to pay Captain D.

Action forward.

Duplicated.

*Decisions in Sundry Suits.*

Oct. 4, 1727.

1. De Benat *vs.* St. Julien.  
Referred to Mr. Fleuriau.
2. Dutisné *vs.* Rossard.  
Council consigns the case to SCRAWL.
3. Noël Busson *vs.* Dumanoir.  
Arbitration sentence to be carried out.  
Filed No. 267.

*Apprenticed Slave.* Oct. 5, 1727. Laurent Chevirty, alias Vitry, locksmith, agrees to teach his trade for three years to a slave apprentice, property of the Company. Terms, 400 francs when contract is filed and approved. Item, on arrival of next slave ship, another negro will be intrusted to Mr. Vitry for same purpose, but contin-

gently on Vitry's own account, rated at 1000 francs. However, if second negro proves better skilled than the first, Company may claim the second slave.

*Petition of Recovery Against La Rivière Estate.* Oct. 14, 1727.

Mr. de Tronquidy, Captain of La Loire, sold to late La Rivière two lots, a house and adjuncts at N. O. for 1000 francs, payable by instalments, on which 600 francs are still standing.

Mr. Droy, guardian of minor children, disclaims this debt because the buyer states in his will that he owes only 400 francs to Mr. deT. Let receipts be produced and the full claim discharged.

Notice served to Mr. Droy.

Duplicated.

*Petition of Recovery.* Oct. 14, 1727. Jean Bareau, having married

Madame Veuve Lafontaine, seeks to collect on her behalf the sum of 100 francs due on a note which is payable by one Aufrère, who says that he paid it. Let him be cited.

Action granted.

*Decisions in Sundry Suits.*

Oct 18, 1727.

1. Bareau *vs.* Aufrère.  
A. to pay 100 francs and costs.
2. Jacques Vincent *vs.* St. Léger.  
Deferred.
3. DeTronquidy *vs.* LeRoy (Droy). Defendant to pay stated residue, 600 francs, and costs.  
Filed No. 268.

*Petition of Counterclaims.* Oct. 21, 1727. Pierre Gaulaz, some-

time Swiss officer, and former steward of Mr. de Merveilleux at Natchez, declares that he had instruction to punish slaves, and that the negro Choucoura lost his fingers by thrusting them into boiling water after wounding his hands by struggling while bound. Witnesses against Gaulaz were untruthful, and the really injured party is Gaulaz, now crippled for life

by his dislocated collarbone. De M. has also extorted of him a note of 200 piastres, to pay for slave. Damages and compensation besought.

Notice to Mr. De M., dated January 20, 1728.

*Remonstrance Filed.* Oct. 21, 1727. Pierre Gaulaz lodges complaint that when he was preparing to leave Natchez for N. O., he had to buy his liberty of Mr. de Merveilleux by tendering a note for 200 piastres, rated at 7 1-2 francs to the piastre. He protests that this note is void.

*Surgeons' Certificate.* N. O., Oct. 22. Hospital Surgeons Alexandre and Pouyadon De La Tour certify that they visited (former) Lieutenant Gaulaz, and found his collarbone fractured, and so badly set that correct setting is now out of question, owing to stiffening process. Freedom of his arm movements is largely impaired.

*Petition for Settlement of Account.* October 21, 1727. Mr. de Mandeville, attorney for parties interested in Ste. Catherine grant, asks that Mr. Dumanoir be ordered to turn in the account of his management; the goods that he has with him; the value of goods sold and variation since removal of seals; the negress and the Indian at present in his charge.

• Signed: Larou, on behalf of Mr. De Mandeville.

Indian in question is the plantation hunter, and a white hunter must be hired while the Indian is absent.

Edges worn.

*Petition of Recovery.* Nov. 4, 1727. Pierre Pitard, alias La France, holds a note of Mr. De Benat's for 1050 francs, whereof 500 francs are payable to La France and residue to heirs of late Mr. Rostot. Let Mr. DeB. be cited. Action allowed.

*Petition to Recover Cattle.* Nov. 4, 1727. Yves Keret, alias Durivage, bought of one Allain Dugué two cows and

a bull for 700 francs and paid 591 francs. Hence only 9 francs remain owing. Meanwhile the cattle are with one St. Joseph; let him be cited to release them.

Action allowed, and notice served to St. Joseph, au Bayou.

*Money Order.* Nov. 4, 1727. Alexandre requests Mr. Durivage to retain the sum of 100 francs, which Allain owes Alexandre, on account of what Alexandre owes Mr. D.; "thereby obliging his very humble and very obedient servant."

*Promissory Note.* Nov. 7, 1727. Cariton owes Monsieur Le-Cape the sum of 26 francs, value received, and promises to pay on the "twentieth of this month." This 7 November, 1727.

*Decisions in Sundry Suits.*

November 8, 1727.

1. *La France vs. De Benat.*  
De Benat to pay plaintiff 500 francs, and 550 francs to Company's treasury in account with late Rotot. Further provisos detailed.  
Costs divided.
2. *DuRivage vs. St. Joseph.* St. Joseph to release the cattle to DuRivage under provisos defined by SCRAWL.  
Costs divided.
3. *De Mandeville vs. Dumanoir.* Provisional adjustment.  
Costs reserved.
4. *Lemotte vs. Dupuy.*  
Deferred.  
Costs reserved.  
Filed No. 269.

*Petition For Direct Title.* November 13, 1727. Pierre Fillart, former mariner, seeing that the Company might not care to grant land to an active seaman, engaged one Bureau to apply for six acres, and backed him with

capital. Since Fillart's return from France he has also paid debts contracted by B. But B. is drowned, and application went astray. Let F. receive right in his own name. Notice served to Mr. Rossard to appear with reference to proper measures.

Duplicated.

*Sale of Real Estate.* Nov. 4, 1727. Rodolph Guillard, German, who lives two leagues from N. O., has sold to Jean Baptiste De Chavannes, Secretary of Council, six acres of land fronting on the Mississippi, and 40 acres deep, for 320 francs cash. Moreover, De C. will pay 36 francs in yearly rental to Mr. De Noyan, attorney for the original proprietor, Monsieur de Bienville, together with twelve capons each year, and twelve days of bounden labor.

Filed No. 270.

*Petition to Superior Council by Arnaud Bonnaud.* Nov. 1727. (26608.) Former storekeeper of the Company of Indies, for sale of lot acquired from M. de Bienville. Signed "Bonnaud".

*Permit For Sale.* Nov. 10, 1727. (26608) After complying with required formalities. Signed: "Perier." "Delachaise." "Brusle." "Dausseville." "Meurrin."

*Statement Before Notary Royal.* Nov. 10, 1727. (26606) by Arnaud Bonnaud, former store-keeper of the Company of the Indies, of sale and transfer of above mentioned lot to Mahor Claude Damouchel de Vilainville, on condition of perpetual annual rent to Mr. de Noyan and moreover of No. 499 to vendor for clearing, and buildings on lot. Signed: "Bonnaud."

*Memorandum of Account.* Nov. 15, 1727. Statement of Mr. Trepannier's account with Company.

Debit, 30 francs, 1 sou, 6 farthings.

Credit, 30 francs, 1 sou, 6 farthings.

Accordingly closed, same date.

Delachaise.

*Receipt.* Nov. 16, 1727. Bonnaud has received of Mr. De St. Julien by the hand of Simon Coon, German, the sum of 100 francs on account.

*Petition to Recover Wages.* Nov. 17, 1727. Claude Himbert, alias St. Laurent moves to collect his wife's wage account for three years while she was in the employment of Mr. Coupillon at *Natitoché*. Let Mr. B. be cited. (Wife's name: Thérèse Le Compte).  
Action allowed.

*Petition and Summons in Suit of Claims.* Nov. 19, 1727. Captain Dutisné has a claim (in Spanish dollars, commutable in French crowns), against the estate of late Duval Chevreuil, and Mr. Rossard requires a Court order before paying. Let Mr. R. be so ordered.  
Approved, and notice served.

*Petition to Recover Property.* Nov. 22, 1727. Père de Beaubois shows that all the goods left by the late Sarrazin at Natchez belonged to the petitioner, being the stock of goods consigned by him to Sarrazin and Borée for trade. Let seals be removed and goods duly sold.

Referred to Attorney General, who approves in accord with specified formalities.

Council seconds this decision, and provides how certain accounts shall be settled.

*Decisions in Sundry Suits.* Nov. 22, 1727.

1. Dutisné *vs.* Rossard. R. to pay 201 francs.  
See 27<sup>207</sup>.
2. De Trenonay *vs.* Bonnaud. Deferred.  
Costs reserved.
3. Fillart *vs.* Rossard. R. shall give F. desired application, conveying right of perpetual possession.  
Costs divided.
4. Himbert *vs.* Goupillon. Plaintiff nonsuited and subject to costs. Document worn partly through.  
Filed No. 271.

*Petition of Recovery.* Nov. 27, 1727. Dreux freres move to collect an account of 177 francs from estate of late Mr. Ceard, who was charged by Mr. Delorme to pay his debt, but died before discharging it. Let Mr. Rossard, attorney for said estate, be cited.

Approved, and notice served.

Faded.

*Marriage License, Free Negro and Slave.* Nov. 28, 1727. Darby, director of Bernard Cautillon grant, authorizes marriage of John Mingo, English free negro, to Thérèse, a slave negress of said grant, on specified conditions. John is to pay as much as he clearly can each year to redeem 1500 francs, price of Thérèse. Darby, meanwhile will allow so much rice, corn, beans, and so many sweet potatoes, to feed Thérèse; item, her clothing. When price is paid, Thérèse shall have her liberty. Children, if any be born meanwhile, shall also be free. French text; with broken English copy.

Faded.

*Promissory Note.* Nov. 28, 1727. (Name effaced) promises to pay Mr. Dalby 200 francs each year until full amount 1500 francs be covered, on account of negress Thérèse. Payments to begin with November 1, 1728. Value may also be committed with another slave negress.

Faded.

*Decisions Between Trenonay and Bonnaud.* Nov. 29, 1727. Defendant shall restore to DuBuisson grant the negroes, negresses and cattle in question, and pay costs.

Filed No. 272.

*Sale of Real Estate.* Dec. 12, 1727. Joseph Larchevesque, with the consent of Mr. de Noyan, on behalf of Chevalier de Bienville, sells six by forty acres of land to Jean Antoine Maslon and Jean Baptiste Bergeron, together with buildings and improvements, for 500



francs, payable in 15 days. Mortgage security. Buyers will also pay yearly rental to Mr. de Noyan, of 36 francs, twelve fowls and twelve "stunts" of labor.

*Sale of Real Estate.* Dec. 12, 1727. Pierre Manadé, former surgeon Major, and his wife Demoiselle Louise Jousset, convey Jean Marie Corbin alias Bachemin and Dame Judith Anne Marie Hardy, his wife, ten by forty acres of land on the Mississippi, three leagues from N. O. with house (bark roof) and barn (palm thatched), and levee 3 to 4 feet wide, extending along seven acres, together with nine negroes. Terms. 15000 francs in stipulated installments. Contract of sale, Nov. 12, 1727; memorandum of tools, utensils, and various incidentals, a dugout included, which Mr. M. is to deliver to Mr. B., dated December 12, 1727.

*Decision Between Kolly and Duplessis.* Dec. 20, 1727. Council has allowed K.'s opposition, and orders parties to refer their papers to Mr. SCRAWL, for adjudication thereafter.

Costs reserved.

Filed No. 273.

*Petition to Remove Attachment.* Dec. 22, 1727. Tixerrant beseeches release of 103 francs (his money), distrained on some walnut wood that he had sold to Gilberty. The wood was seized in Pichon's canoe.

No note by Court.

*Testimony in Robbery Affair.* Dec. 26, 1727. Examination of Nicholas Monsignat Cadier alias Pepy, native of Laon, aged 28 to 29. (Document too badly scrawled and scorched for coherent elucidation). Some proceeds of meat at issue, and the acts of one Renaudot, alias Sans Chagrin, soldier.

Filed No. 274.

*Testimony in Robbery Case.* Dec. 26, 1727. Examination of one Babaz, aged 36, native of "Marymy in Savoy."

Implicated with Sans Chagrin and Pepy in disposing of a treasury check for 638 1-2 francs, taken from Dupuy Planchard, in error for six francs. Conscious, if not premeditated, fraud appears plain from the answers. Large note was given by mistake for a small one; did the accused parties know the nature of large note? It seems that were aware of the mistake, and ready to profit thereby.

Scorched and partly broken.

Filed No. 275.

*Summons to Testify.* Dec. 29. Sheriff Dargaray notifies Sieur Gaulaz, Renaudais alias Sans Chagrin and Heleine Houard, wife of Busnel, to appear tomorrow at 8 A. M. and testify concerning the negotiation of 638 francs in mistake for six francs.

*Testimony in Robbery Case.* Dec. 30, 1727. Witnesses Pierre Gaulaz, aged 60; Antoine Bunel, aged 31; Pierre Renaudot, alias Sans Chagrin, aged 25, told what they had to say in regard to the circulation of 638 francs in error for a petty sum; but the evidence is irreparably shattered by charring.

Documents 27<sup>216</sup>, 27<sup>217</sup>, 27<sup>218</sup>, 27<sup>219</sup> are placed on discarded list.

*Court For Further Hearing.* Dec. 31. Prisoners Nicolas Montsignat Cadier, alias Pipy, and Claude Babaz, shall be heard again and confronted.

Signed: Bruslé.

*Trial For Fraud and Robbery.* Dec. 31. Confronting of Pepy with Babaz. Contradictions exchanged.

Charred and torn. Placed on discarded list.

*Trial For Fraud and Robbery.* Dec. 31. Examination of Pepy. Admits sharing the 638 francs with Babaz.

Charred and partly torn.

Placed with discarded list.

*Trial For Fraud and Robbery.* Dec. 31, 1727. Examination of Babaz, tanner by trade. Denies sharing 638 francs with Pepy. Objects to witnesses, and is willing to submit to any sentence if case can be proved against him.

Charred and torn.

Placed on discarded list.

*Contract of Restitution.* Jan. 1. 1728. Pierre Gaulaz agrees to pay whatever balance there shall be required above auction figure, in order to realize 200 piastres gold to Mr. de Merveilleux for his (crippled) slave, Choucourea; since the said sum had been stipulated between Mr. de M. and Sieur de Beaulieux, settler at Chapi-tolas. Further, P. G. will satisfy Surgeon Lasonde for all costs on account of said slave. These obligations will mature in January, 1728.

*F. N. De Knepper.* January 1, 1728. On request of Mr. de M. certifies to the voluntary nature of the propositions put forth by P. G. in the cause of settlement with Mr. de M.

*Sentence For Fraud.* Jan. 3, 1728. Attorney General Fleuriau requires that Babaz and Monsignat be condemned conjointly to make restitution of the given sum, 638 1-2 francs; and they shall each be fined 50 francs in alms for the Hospital. They are to stay one month in prison, and must not relapse? Costs on both conjointly.

*Petition of Recovery.* Jan. 3. Councillor Louis Prat claims 20 bottles of claret and a beaver from estate of the late Mr. de Pauger. Let Mr. Delachaise, executor, satisfy this demand from estate's assets.

Ordered "communicated to Mr. de la Chaise."

*Petition to Recover Sale Proceeds.* Jan. 3, 1728. Mr. Rossard, attorney, moves to collect 154 francs due by Mr. Roquigny, for goods which he bought at auction of the

late Mr. de Pauger's property. Let Council order Mr. Delachaise, executor, to meet this claim.

Order "Communicated to Mr. de la Chaise."

*Contract of Emigrants.* Jan. 3, 1728. Marie Anne Morin, widow of Gabriel Valleau desiring, to emigrate with her daughter Marie Anne Valleau, aged about six years, to Louisiana, agrees to certain financial provisors with Mr. Edmé, Company's agent at La Rochelle; but the context is worn and effaced beyond legible construction.

Torn and faded.

*Summons to Attend Hearing.* Jan. 5, 1728. Sheriff Dargaroy notifies Sieur Gaulade, and one Renaudaud, alias Sans Chagrin, and Heleine Houïard, wife of one Busnel to appear at 8 A. M. to-day, for review of their testimony and to be confronted with Boibase (Babaz) and Pipy. (This by motion of the Attorney General.)

*Before Antoine Brusle.* (No. 280) Councillor in the Superior Council, Jan. 3, 1728. Interrogation of Claude Babaz; store-keeper being called in to complete number of judges before prosecuting said Babaz criminally, on demand of Attorney General of the King.

Signed: "C. Babaz," "D'ausseville" (paraph) "Pratt," "Sir Duval" (paraph) "Pellerin" (paraph).

Ip. Document in good condition.

*Interrogation of one Monsegna before Councillor Brusle.* Jan. 5, 1728. (No. 280.)

Signed: "Brusle" (paraph). "Prat", "Monsegna," "Pellerin," "Sr. Duval."

I. P. Document in bad condition.

*Re-examination of Witnesses Who Testified Against Babaz, and Monsegna, so-called Pepy.* Jan. 5, 1728.

Signed: "Brusle" (paraph) "Rossard", "helenne bu-rel," P. Gaulaz," I p. Document in good condition.

*Confrontation of Babaz and Pepy.* Jan. 5, 1728. Signed: "helenne burel," "Monsegna", "Brusle" (paraph). "Rossard." No. 284. 1 p. Document in good condition.

*Confrontation of Babaz and Pepy.* Jan. 5, 1728. (No. 283) Signed: "helenne burel," "Babaz," "Brusle" (paraph). "Rossard." 2 1-2 pp. (in good condition).

*Petition to Recover Document.* Jan. 6, 1728. Charles St. Pierre de St. Julien, officer, moves for citation of Andre Suandre (also written Crequiandre)' who balks at releasing a certain application for land. Late holder, Dauphin, had bequeathed this paper to Gintel, towards collecting 40 francs from St. Julien; but the paper was left in the custody of Mr. Suandre. Mr. St. Julien has paid Gintel, and now desires possession of corresponding voucher.

Notice served.

*Sentence (Repeated) For Fraud.* Jan. 7, 1728. In final review of the case, including the procedure of January 5, 1728, Attorney General Fleuriau pronounces judgment in same terms as already provided in his requirements of January 3, 1728.

*Certificate of Voluntary Action.* Jan. 10, 1728. Surgeon Lasonde certifies that Sieur Gaulaz came to arrange with him at Natchez concerning the dressing of the wounds of negro Choucoura, and that Mr. G. was not constrained by Mr. De Merveilleux to pay the surgeon's account, but acted on his own free will.

*Marriage Contract.* January 10, 1728. (9283) (2242) Before notary marriage contract between Jacques Bouchanne and Geneviève Cheval. Signed: "Jeanne Cheval," "Creval Caston," "F. Gallot," "Vongy," "lenormand," "Henry" (paraph).

*Demand by Attorney General.* Feb. 1, 1728. Demand of the King that above contract be published at the next session of

the Superior Council and be registered by Clerk of Council. Signed: "Fleurian," "Hugault." Document in good condition, contains 7 pp.

*Petition to Receive Estate Goods.* Jan. 14, 1728. Mr. Duverger, attorney for widow Queant, and guardian of her minor children, moves to obtain charge of the estate's property, commercial paper included.

Approved and notice served to Mr. Michel Rossard, attorney for vacant estates.

*Petition of Recovery.* Jan. 20, 1728. Francois Brunet, edge-tool-maker, claims a wage account of 338 francs, 17 s<sup>ous</sup>, from Ste. Catherine grant. Let Mr. de Mandeville be cited since he succeeds former Director Dumanoir.

Action allowed.

Duplicated.

*Judgments Rendered in Following cases.* Jan. 24, 1728. No. 285:

Lecas vs. Cartelon.

Pierre Gonlar vs. Sr. de Merveilleux.

Duplessy vs. Kolly.

Signed: "Perier," "Delachaise," "Brusle," (paraph). "Prat," "D'auseville rapporteur" (paraph).

Document in good condition. 1 1-2 pp.

*Memorandum of Medical Attendance.* Jan. 28, 1728. Dr. Alexandre submits his account for treatment dispensed on Ste. Reine grant; also to the late Mr. Céard during his illness.

Ingredients include usual stock items like "hipe-cac," laudanum, oil of almonds; but also more unusual "dragon's blood," eyes of crabs, extract of red roses, "water of the Queen of Hungary."

Total bill, 472 francs.

Councillor Prat appends a note certifying that he affixed the drug prices.

*Judgments Rendered in Following Cases: January 31, 1728, No. 286:*

Gaspard Aigle *vs.* Regnier.

Francois Brunet *vs.* de Mandeville.

Signed: "Prr," "Del," (paraph of Brusle) "Dlle," (paraph)

P. Document slightly torn. 1-2 p.

*Notice to Keep the Peace.* Feb. 1, 1728. Demoiselle Françoise Martin, widow of late Mr. de la Goublais *vs.* Marte Valette, wife of Jean Coupard. Sheriff Dargaray notifies Dame Coupard (also written Poupard) that a decision has been proposed, enjoining her to cease vexing, ill treating and insulting the plaintiff, under penalty of corporal punishment.

Charred and partly broken.

*Decisions Rendered in the Following Cases: Feb. 14, 1728:*

Duplessy Georges *vs.* Kolly.

Brunel *vs.* Mandeville.

Signed "Prr," "Del," (paraph) "P." Document torn, 1 p.

*Petition of Recovery.* Feb. 14, 1728. Arnaud Bonnaud, attorney for one Cordier, apothecary at Port Louis in Brittany, moves for citation of Mr. Kolly, to meet a protested letter of exchange for 220 francs, 7 sous, 6 farthings, payable in gold or silver specie and not otherwise.

Action allowed, and notice served to Mr. Daniel Kolly.

*Petition For Separation in Marriage.* Feb. 15, 1728. Madame Louise Jousset La Loire, wife of Surgeon Pierre de Manadé, lodges complaint against his violent cruelty, sundry acts of which their very venial provocations she relates. She desires to obtain legal separation from him, and meanwhile, to retire to the Ursuline Convent.

(First reference among the records thus far examined under the records under early period, to the Ursulines at N. O.

*Petition of Recovery.* Feb. 20, 1728. Morisset, employe (cashier), has attached the sum of 293 francs against one Quider, who disputes this amount. Let Q. be cited. Action forward.

*Petition to Sell a House.* Feb. 21, 1728. Coupard asks leave to sell a house of his opposite the barracks, having bought another lot.

“Permitted the said sale, seeing he owes nothing to the Company.”

Signatures: Perier, Delachaise, Bruslé, D’Auseville. Mark of Coupard.

*Petition For Extension of Time.* Feb. 23, 1728. Pierre de Manadé has been cited to pay a protested draft for 545 francs in gold and silver specie. He objects that copper has been declared legal tender in this Colony on same footing with gold and silver specie; and he further beseeches one year’s respite.

Notice given to Mr. Arnaud Bonnaud, plaintiff.

*Account of Labbe, farmer, with the Company of the (1728-1737)* Indies for negroes and advances of money, amounting to £7520. Said account verified by vouchers, calculations made in New Orleans Nov. 19, 1737.

*Decisions of Superior Council in following cases* Feb. 28 No. 288:

Rossard, Attorney of vacant property *vs.* de Noyan and Rev. P. Raphael.

Morisset *vs.* Guidor.

Dupralong *vs.* Gusson.

Pimard *vs.* Egle.

Sr. Lavique *vs.* One Parisien.

Signatures visible:..... “Del” paraph of Brusle. paraph of Dausseville. Document falling to pieces. Parts missing. 1 1-2 p.

*Petition of Recovery by Seizure.* Feb. 24, 1728. Deschamps seeks to seize a coat which his debtor, Parisien, a sol-



dier, also known as Postet, has ordered of the tailor, Robert; in security for claim of 49 francs.

Approved, and notice served to Parisien.

*Petition For Extension of Time.* Feb. 25, 1728. Quidort still disputes the sum claimed by Mr. Morisset, and calls for presentation of his note in question. He also bespeaks one year's respite, as he has incurred various losses.

Incidental reference to death of Sheriff La Morisière.

*Report of Inventory.* Feb. 25, 1728. Sheriff Dargary notes the articles which he has found after proceedings of attachment against Pierre Sage; the goods being stored in a dugout belonging to Mr. Raymond Amyot Esquire D'Auseville. Miscellany of items includes a barrel of pecans (pacannes), mirror with walnut frame, bear's grease, a deerskin and a small bearskin. There were also 23 barrels of whole corn (in the ear) one barrel of peas, two of Apalachee beans. Mr. R. A. D'A. had consigned the goods to Sage, alias Busson, for trading purposes.

*Petition to Recover Slaves and Cattle.* Feb. 27, 1728. Mr. Rosard once again revives his claim on Mr. de Noyan, on account of Bordier's missing letter of exchange. Case was put off till "arrival of next vessel," but more than one vessel has arrived, and Mr. M. de N. still retains the slaves and cattle. Even if the drafts were not yet paid, these "movables" cannot be held indefinitely against preferred claims. Let the slaves and cattle be returned, and hire paid for slaves since Feb. 1, 1727, at 4 francs a day for each slave, until date of restitution.

Action allowed.

*Petition of Recovery.* March 1, 1728. Joseph Larchevesque sold to Jean Antoine Malon (also, Maslon) and Jean Baptiste Bergeron, six acres (frontage) of land, for

500 francs. B. has paid his portion, but M. refuses.  
Let M. be cited.

Action allowed.

*Petition of Recovery.* March 2, 1728. Captain De Tronquidy of La Loire, claims 200 francs of Messrs. Hamon and Co., due on a note dated Jan. 26, 1727.

Action allowed.

*Petition of Recovery.* March 2, 1728. Mr. Droy, guardian of the minor children of the late Larrivière, moves to collect 200 francs due to Larivière estate by Mr. Langlois.

Action allowed, and Mr. Augustin Langlois cited.

*Petition of Recovery.* March 2, 1728. Louis Rousseau, alias La Flamme, shows that Malon the tailor had agreed to pay L. R. 420 francs in money or in letters of exchange, but that M. now refuses. Let him be cited. Approved, and notice served.

*Petition to Cancel Contract.* March 4, 1728. Mr. Hammon admits that he gave his note (for 200 francs) to Captain DeTronquidy, but in the understanding that the payment should be "at will," and would not be pushed Mr. H. lacks funds, and begs to surrender the land in question, subject to annulment of given note.

*Decisions in following Cases:* March 6, 1728.

Arnaud Bonnaud *vs.* Kolly.

Joseph Larcheveque *vs.* Jean Corbin Masson.

Roussard *vs.* Masson.

Rousseau *vs.* Malo.

Signatures torn away. Document in bad condition  
1 1-2 pp.

*Petition in Remonstrance.* March 8, 1728. Antoine Bonvillain was judged in default and sentenced to costs in his suit against Madame Roy, for a bill of 72 francs due for iron work on a plough. Mr. B. was prevented

from appearing by lack of conveyance, and he begs to oppose the said sentence, that he may still recover his claim from Madame Roy.

Action allowed.

*Petition For More Time.* March 8, 1728. Claude de Trenonnay Chanfret, director of DuBuisson grant (at Bayougoula), cannot comply with ruling which calls for prompt accounting by him; he lacks the necessary papers. He, therefore, asks for six months' delay; or else let Mr. De Verteuil turn over his account to petitioner, and in this case let three months be allowed.

Nonsuit DeV., and put costs on him.

Notice served to DeV. to appear on March 16.

*Petition in Separation Suit.* March 11, 1728. Madame Louise Jousset Laloire Manadé moves to recover her marriage portion, here described in detail, and applies for a board allowance of 800 francs yearly.

Notice served on Pierre Manadé, and seizure allowed of his credit with Mr. Bachemin.

*Petition in Remonstrance.* March 12, 1728. Mr. De Verteuil, pleads that he made an offer to examine the accounts of his administration of DuBuisson grant, in conjunction with Mr. Trenonay de Chanfret, who refused brought suit for extension of time. Eight days would be long enough to overhaul the accounts with Mr. DeV.'s assistance; and without it, Mr. T. could make no headway, seeing that Mr. DeV. alone can clear up doubtful matters by the way. Neither can Mr. DeV. afford to postpone by the month his proposed departure for France by the Duc de Noailles. Mr. DeV. would also recover the four distrained trunks. Let Mr. T. be nonsuited.

Notice given to Mr. T.

*Petition in Remonstrance.* March 13, 1728. Pierre de Manadé "protests from this date and as far as he can protest," at the course of the proceeding in favor of his wife. Let a reporter be named to brief the articles at issue,

and let the seizure moved by Madame be suspended.  
No note by Court.

*Separation Suit Adjourned.* March 13, 1728. Council allows defendant, Surgeon Pierre de Managé, a week's respite; in which time he may turn in his defense, either avowing or contesting the pending charges.

*Decisions in Following Cases:* March 13, 1728 No. 390.  
De Noyan vs. Verteuil.  
Louise Jousset de Laloire vs. Pierre de Manadé.  
Marguerite Savard vs. Sr. Jallot.

Signed: "Prr," "Del," paraph of Bruslé. "P" paraph of Dausseville.

1 p. Torn and ink eaten.

Meanwhile he shall not molest Madame de Manadé (now harbored by the Ursulines); who "will not stay safeguarded by the King's Justice."

Notice served to defendant.

*Decisions Between Droy and Larivière.* March 20, 1728. Mr. Augustin Langlois shall pay Mr. Droy the given claim of 200 francs, and A. L. is nonsuited in demands of his own.

Costs on A. L.

*Declaration of Sieur de Manadé that he consents to separation of property demanded by his wife, but not to separation of bed and board.*

March 20, 1728.

Signed: "Pre Manadé," "Rossard clerk". 1-2 p. Document in good condition.

*Decisions of Superior Council in following Cases:* March 20, 1728. No. 292.

Droy vs. Langlois.

Courot vs. Kolly.

Jean Lasserre vs. Duplessy.

Signed: "Perier," "Del," paraph of Brusle. "P." paraph of Dausseville.

2 pp. Not torn but badly stained.

*Contract To Buy Slave.* March 23, 1728. Laurent Chevirty, alias Vitry, locksmith, having received a slave from Mr. Gerard Pellerin, guard of Company stores, agrees to pay for said (negro) slave, 1000 francs in three crops of indigo, tobacco or other produce marketable in France. Mortgage security. Slave was imported by the ship Duc de Noailles. Buyer must also furnish 30 days of labor in the public service.

*Receipt.* March 27, 1728. Chapitoulas. J. Viard received of Mr. Lafrénière the quantity of 7 pickaxes and other sundry articles of trade utility, and promises to pay at his option.



Statement of the Ownership, Management, Circulation, etc., required by the Act of Congress of August 24, 1912, of the Louisiana Historical Quarterly, published quarterly at New Orleans, La. for April 1, 1921. State of Louisiana, Parish of Orleans. Before me, a Notary Public, in and for the State and Parish aforesaid, personally appeared John Dymond, who, having been duly sworn according to law, deposes and says that he is the Editor of the Louisiana Historical Quarterly, and that the following is, to the best of his knowledge and belief, a true statement of the ownership, management, etc., of the aforesaid publication for the date shown in the above caption, required by the Act of August 24, 1912. Publisher, Louisiana Historical Society. Editor, Managing Editor, Business Manager, John Dymond, New Orleans, La., 2. That the owners are: The Louisiana Historical Society and issues no stock. Officers are: G. Cusachs, President; John Dymond, First Vice-President; William Kernan Dart, Second Vice-President; Henry Renshaw, Third Vice-President; W. O. Hart, Treasurer and Bussiere Rouen, Corresponding Secretary, all of New Orleans, La. 3. That the known bondholders, mortgages, and other securities holders owning or holding 1 per cent. or more of total amount of bonds, mortgages, or other securities are: None. Signed John Dymond, Editor. Sworn to and subscribed before me this first day of April, 1921. (Seal) Augustus Williams, Notary Public. (My Commission is for lifetime.)

# THE LOUISIANA HISTORICAL QUARTERLY

Vol. 4, No. 3

July, 1921

*Courts and Law in Colonial  
Louisiana.*

*Servinien's Case—1752.*

*Records of the Superior Council  
of Louisiana.*

*Cabildo Archives (Supplement  
to No. VI and No. VII.)*

*Louisiana Confederate Military  
Records.*

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## TABLE OF CONTENTS

VOLUME 4. NO. 3

JULY, 1921

Courts and Law in Colonial Louisiana.....	255
Henry Plauché Dart	
Servinien's Case—1752.....	290
Edited by Henry Plauché Dart	
Records of the Superior Council of Louisiana.....	324
Cabildo Archives (Supplement to No. II and No. VII).....	361
Edited by Henry Plauché Dart	
Louisiana Confederate Military Records.....	369
A. B. Booth	



# THE LOUISIANA HISTORICAL QUARTERLY

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## COURTS AND LAW IN COLONIAL LOUISIANA

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*By Henry Plauché Dart*

of the New Orleans Bar

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Address at Annual Meeting, Louisiana Bar Association,  
Shreveport, La., June 3, 1921.

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*(Reprinted from Official Report.)*

*The President:* The next number on our program will be an address on the "History of the Louisiana Law," by the Honorable Henry P. Dart, one of the most distinguished lawyers of the New Orleans Bar as well as of the entire State of Louisiana.

*Mr. Henry P. Dart:* Mr. President, and Brethren of the Louisiana Bar Association, because there is no sex before the Bar.

I scarcely know how to begin to talk about the subject which has been cast upon me, while still hearing in my ears the announcement of my friend in the chair. I did not know that I had, even in my own borders, any such reputation.

I ought to say to you, gentlemen, that the program's title to the address which I am to deliver is, to some extent, a snare. To imagine that the speaker, or any other lawyer, old or young, could tell the history of the law of Louisiana, or, rather, of the law in Louisiana, within twenty, thirty or forty minutes, would be to believe that we have returned to the day of the marvel and the miracle. I shall ask the Secretary to give it another title after he hears me this morning.

I suspect the only reason my service was enlisted is that, for eighteen months, I have been working in a treasure house of French

and Spanish times down at the Cabildo in New Orleans. This treasure house holds the judicial records of the French Superior Council and the Spanish Cabildo ; a collection of French and Spanish legal documents running from 1712 to 1803; a quaint mixture of old French legal phrases and current Colonial French; and a like mixture in Spanish form. Those whom I thought could read those documents soon stranded on the translation. It was clearly a task requiring skill and knowledge, not only in languages, but also in antiquarian knowledge of Louisiana. I saw enough, however, to realize that I had found the archives which would throw light on the origin and sources of Louisiana law and practice; that indeed I was at the threshold of our law. And with the missionary spirit strong upon me I began to try to arouse interest. At first it was but a cry in the wilderness; the brethren would stop and listen courteously, but alas, these are strenuous times, they would say, and we must get on. The newspapers thought they saw something in it that would increase their circulation, and the reporters handled the manuscripts, but they, too, turned away. They took some pictures and wrote some headlines, but who the devil, said the editor, knows anything about it? One of the scribes, indeed, wanted to know why these people wrote "in a foreign language anyway?" English is so easy.

And yet, there before me lay fifty thousand documents or more that told of the daily life of our ancestors; of their births and deaths, of their marriages and their children; their contracts and disputes, their purchases and sales, their wills and their estates. My unskilled eye picked out precedents that were appearing in the same forms in our practice today, and references to legal systems that we still refer to, but nevertheless, the door which had been opened to me seemed about to close again, as doubtless it had opened and closed on others who perchance had strayed upon these papers before me. One may have a spiritual and patriotic interest in ancient documents, but at my age he may not undertake this task alone, for the spiritual and the physical are necessary elements in a job of this character. Then literally out of a clear sky, came the relief. A philanthropist of New Orleans had seen one of the appeals, and with a gift in his hand he said to me, "I don't know what it all means, but here is something to begin the work with. Maybe," he said, "the people will follow it up if we begin it." It was a very perfect thing he did, for his gift enabled me to employ competent help, and for twelve months the good work has gone on.

These records have a history; there has been a legend in New Orleans that the papers locked up in certain black boxes, an hundred

or more, contained all the secret history of the wicked French and Spanish days; now and then some historian would get a glimpse at a box and was appalled at the confusion, and perhaps at the jargon, yet the legend prevailed and one news writer revived it when we opened up the boxes, and he warned all the descendants of Creole days who had a skeleton in their closets to be on the *qui vive*, for now it was about to be exposed, and one dear old soul visited us, fixed in the belief that she would be able to see it. "Please," she said, "please let me see the skeleton."

The local archives of ancient Louisiana were sealed in 1803 under the orders of Laussat, the French commissioner, and when Claiborne took charge he found under these seals the judicial records of the French and Spanish periods, and also the notarial records of the latter era. On the ground of public necessity he permitted access to these records, which he had caused to be placed in the custody of the Municipal Council of New Orleans and which later on were transferred to the care of Peter Pedesclaux, who was a notary in Spanish times and who was appointed to the same office by Claiborne. Under this appointment Pedesclaux may be considered the first custodian of notarial records in New Orleans, an office well established in our system. These papers of the preceding governments remained intact for many years, but unfortunately no list or index was made, though this had been ordered by the Legislative Council. The writings of Judge Martin and Mr. Gayarre show familiarity with these records, but those authors made very little use of the material, possibly because it did not fall within the scope of their literary work. Finally, in Gayarre's early years, the archives were removed to Baton Rouge, doubtless through his efforts, and they were placed in the custody of the Louisiana Historical Society, whose domicile was fixed in that place by the Legislature, which made the Society custodian of the archives.

When the capitol was burned by the Federal troops in 1862 the archives were injured by fire and water and the better part plundered and carried off by the invading soldiers. Years after the war a great quantity were located in Wisconsin; principally through Gayarre's efforts they were recovered and brought to New Orleans, where, after still other adventures and vicissitudes, they reached again the custody of the Historical Society, and what remains of the archives so sedulously preserved by Laussat are now in the Cabildo.

We are late at the feast, so to speak, and can only do our best now with what is left. Perhaps in time the minute books of the

Superior Council and of the Cabildo and valuable other lost material, may still be recovered; like strayed kittens such things have a canny habit of returning to their owners, and we expect much to happen when it is known that the State has recognized her duty and created a department of archives.

These records which we have are now, for the first time, being examined and put in order. An alphabetical and topical index has been started, and here and there translations are being made, chiefly to whet the appetite of the student and as an evidence of the value of our collection, which covers much information regarding the judicial, governmental and economical history of the Colony and Province of Louisiana. We have here enough to develop the course of life in all these departments during nearly one hundred years under French and Spanish rule.

But the gift which enabled us to start this work is insufficient to complete the task, even on the meagre lines here indicated, and clearly the preservation of these archives; the search for others; the accumulation in one place of material uncared for in the various departments of government; the establishment of a safe place or central location for the archives; the employment of caretakers; in short, the creation of a Department of Archives in Louisiana, are all matters for legislative action.

As lawyers, the shame falls on our profession if we neglect this vital thing, and I shall use the few moments allotted me on this program to establish, as I hope I can, the duty that is on us to take action to preserve not only our colonial archives, but also the vast accumulations of State and private papers which fall under that definition. If time spared I could rebuild before your eyes from these records at the Cabildo the machinery of government in French and Spanish Louisiana, and picture the procedure and practice in the courts and revive some of the decisions which created precedents that found their way later into our codes and jurisprudence, but this is not possible here and I shall content myself, instead, with glimpses at the contents, leaving your imagination to kindle the scene, the historical procession which would follow if these records were at public command.

## I.

### French Period

The history of this part of ancient Louisiana begins with La Salle's classic adventure on the Mississippi River in 1682, and our first legal document is a proces verbal prepared for him, at or near



the present site of New Orleans, in authentic form before Jacques de Metaire, a notary of Fort Frontenac, Canada, who accompanied La Salle as scribe, and for the purpose of executing and preserving in due and permanent shape, according to law, the evidence of the discovery and taking over of Louisiana for his master, the King of France. That document is just as modern in every way as any proces verbal of today, or as any other act of like nature to which we lawyers address ourselves. That document which we would still call a proces verbal is designated as a proces verbal in the archives of Paris, and it is also an authentic act, that is, one executed before a notary, signed by the parties making it and the witnesses and the notary.

The next step in our history was made, as everybody knows, with the little colony at Biloxi under Iberville. For the period from 1699 to 1712, thirteen years, this beginning of Louisiana was governed by a hierarchy. There was a lieutenant of the King at the head of military and naval affairs, and as such exercising the functions of governor; a commissioner, who was a civil officer, called the Commissaire Ordonnateur, who was at once auditor, treasurer, storekeeper and general manager, and there was a curé who ran the ecclesiastical side. That was the first government that we are taught about in Martin and Gayarre; there is nothing in our archives to indicate the presence of law courts, or a judicial department.

Civil government in its proper understanding began in Louisiana in 1712, with the Crozat grant given by Louis of France, who constituted Crozat the overlord, lessee or manager of the colony of Louisiana. That grant is interesting to us because in it we received the Custom of Paris as our fundamental law and the two things: the establishment of civil government and the enactment of a law for its guidance, fix the date at which the history of our legal institutions must always begin. From this point of view, the Custom of Paris is the cornerstone of the civil law of Louisiana. That custom was in 1712 a written law, a codification begun in the fifteenth century and completed in the sixteenth. The redaction of the Customs of France is a story too familiar to repeat in this presence, but a word must be said about this particular codified custom, whose influence still persists in our law. Prior to the period when the King concentrated the might of France under the regal power Paris was a duchy or county extending over a wide area of which the city was only a part. Its original law was tribal and these customs had in time been subjected to Roman influences and to the customs brought in by the Germanic irruption. These in turn had

been subjected to the regulations and necessities of a busy and teeming population divided into guilds or clans. In time the Custom of Paris, or law of Paris, came to be regarded as the rule or right of all those who were not controlled by ecclesiastical, military or feudal laws. The people, the common people, did not wholly escape these last-mentioned laws; indeed, the first sections of the Custom as redacted preserved a body of law concerning fiefs and feudal rights which fortunately did not gain foothold in Louisiana, principally because in 1719 the ground was swept from under them by the provision in the charter of the Company of the West authorizing the grant of land in Louisiana in *franc aleu*, allodially, and also because the adventurers who colonized under that grant escaped the possibility of a feudal creation of baronnies and duchies which was contemplated in the large gifts or divisions of the new country which marked the beginning of that company, but which were sterilized, one might better say nullified, by the financial impoverishment resulting from the downfall of Law and the bursting of the Mississippi Bubble.

This Custom of Paris, as it was received and enforced in Louisiana, was a code divided into sixteen titles and containing three hundred articles. I have not time here to follow the particulars treated in it, but I must notice that in its third and fourth titles it treats of movables and immovables and the disturbances of real rights, in language and definitions that we find repeated in the *Code Napoleon* and in our own code. In title fifth you will find the germ of that part of our Code of Practice dealing with actions real, personal and hypothecary, and the rules regulating the joinder of issue and pleas in compensation and reconvention. The sixth title handles prescription, and here again the Civil Code of Louisiana recalls the student to these origins. The eighth title may be found scattered in many provisions of our codes; the pledge of the landlord on the goods of the lessee is only one of many easily recognized sources of our law. But I must move faster, noting only the fascination which you will find in the titles on servitudes, on community of acquets and gains, on dower, on tutorship, on donations *inter vivos*, on wills and testaments, on successions and on seizures and sales; and here in this last title we see the executory process in its first shape, so perfectly elaborated later in O'Reilly's Code. In truth, a book could and should be written by some of you comparing this Custom of Paris with our own codes; a work you should undertake to pay your debt to the profession; it will bring you no financial gain, but you would have splendidly paid that debt we all owe to our mother—the law.

In Paris, in 1712 and for a century before that date, the Custom was administered by a law court called the Presidial Seat and Court of the Chatelet, to which I will presently recur, so that when Louis XIV extended this Custom to us, the gift carried a law and a practice, a law and the judicial construction thereof extending over one and perhaps two centuries. The gift also carried freedom from the shackles of any other system: military, feudal and perhaps ecclesiastical, but of this last we cannot be sure until the archives of the Cathedral and of the Holy Church elsewhere can be consulted. However, our civil law was here contained in easily understood limits and save that then and thereafter the ordinances of the King were of equal force, we were free within this law, our law, the French law of Louisiana. But this in no wise minimizes the force and effect of those ordinances which hold, on the contrary, a high place at the sources of our law, as you will see in W. K. Dart's *Louisiana Judicial System*, 1 La. Digest, page 13.

With the grant of the Custom of Paris there was created for its administration the first law court in Louisiana, called the Superior Council. It was established for three years, made up of a lawyer who was the First Councillor or Presiding Judge, and an Attorney (or Procureur) General, who was at once the lawyer of the people and the legal adviser of the government. The remaining members of the Superior Council were laymen. This court was granted jurisdiction over all Louisiana, and in 1716 it was made a permanent establishment. Upon the passing of the Crozat regime in 1717 the Company of the West became masters of the colony. The Superior Council was reorganized in 1719, and thenceforward Louisiana had at all times this court administered by a lawyer acting as its First Councillor or Presiding Judge, assisted by the Procureur General, who represented both the people and the government. This court followed, in pleading and practice, the forms prevailing before the court of the Chatelet in Paris; doubtless they were installed here under the supervision of the first Attorney General of whom we have any record, who was *Sieur Chartier de Baune*. He was appointed in 1719 with the statement in the ordinance covering the Superior Council that he had been a Councillor of the Presidial Seat and of the court of the Chatelet of Paris, and it was probably because of this experience that he was sent to Louisiana to install in our court the Custom of Paris, and to set our legal machinery in motion.

I have seen a contemporary commentary on the Custom of Paris with special reference to the practice and jurisdiction of the court of the Chatelet. This was one of the oldest law courts in France; it

was served by many judges, called Councillors, and it survived until the French Revolution. In the light of this commentary, and the pleadings found in these old records, I am convinced we took our pleading system of that period from the forms then in use in the court of the Chatelet in Paris, which in turn followed the Code Louis or Ordinance of 1667 on Civil Procedure; those pleadings themselves being then and thereafter the most simple statements of the matters in issue. Having been devised for the common people of France they were never confused with the forms of pleading prevalent in other jurisdictions. In brief, these old records, gentlemen, would seem to establish the proposition that during the entire French period the Custom of Paris was our sole law, never departed from, save where ordinances of the kings qualified or overrode it. The sole legislator in those days was the king. All edicts ran "we" and all signatures "me," seldom "Louis," but nearly always "moi."

Chartier de Baune, the first Attorney General, the man who apparently brought in the method of pleading and practice under the Custom of Paris, also gave us, according to our records, our first criminal prosecution. He had hardly landed in New Orleans, which had then not become the capital, when two roving soldiers of the Marine Detachment there established took a liking to his linen and raided his establishment, and in due course were arrested and prosecuted. The indictment says that the Attorney General recused himself, and called in the Town Major of New Orleans to prosecute in his stead. That first criminal prosecution in our records is in the shape, however, of a court-martial, because the men were soldiers, but the forms they followed are forms prescribed by the Criminal Ordinance of Louis of 1670.

In due course of events one of the poor wretches was acquitted, or rather, it was held that the deed had not been proven on him; but the other was condemned to be flogged by a negro at the four corners of the village, and thereafter to serve time three years as a convict of the company, wherever it saw fit to send him. As the record indicates it is probable the Sieur Chartier de Baune suffered a trifling loss, it is evident our early forbears did not temper justice with mercy, notwithstanding they were in a wilderness where human sympathy might be expected to control the stringent criminal laws of the old world.

At this period Louisiana was ruled by the Company of the West, and, strange to say, not by the king of France. It controlled Louisiana from 1717 to 1732. The company named the judges and indeed named all local officers. The king merely confirmed the appoint-

ments or recommendations as the edict called this privilege. All legal process, however, ran in the name of the king and was sealed with the king's seal, but this was in accordance with the tenor of the company's grant.

Turning again to our documents of the French period, we find that the judicial system of 1719 and thereafter was this Superior Council, a working court of five to seven members, two of them lawyers and the remainder laymen. This principle of a mixed tribunal was never changed in French times, but the membership was sometimes reduced or enlarged either by the council itself or by decree of the king. The ordinance under which they operated was a flexible charter or constitution covering every detail, but leaving much to the judges, including the fixing of costs. We have found in our records three ordinances, edicts or decrees of Louis, king of France, relating to the Superior Council of Louisiana. These ordinances or edicts have never been discussed in any history of Louisiana. We have caused them to be printed in translation, and to you students, who may be interested in such things, we commend specially the 1919 and 1920 volumes of the Louisiana Historical Quarterly, which has printed these edicts and other material from our archives. The edicts particularly are perfect specimens of the draftman's skill, well co-ordinated and carefully prepared, more so perhaps than our laws of the present day. These documents constitute the first, second and third judiciary acts of Louisiana, but they are really one law, remodeled and re-enacted.

The pleadings, as I have told you, were drawn in the most simple shape. Take one of them as an illustration, a petition to open a succession. It is addressed to their Lordships of the Superior Council. Then comes the petitioner's name and occupation; he "humbly petitions"; there follows then a recitation in a few words of the matter which he is submitting to the court, and that, in turn, is closed with a prayer for such relief as he desires, or for such relief as the court may grant. In other words, this document which I am describing to you, dated, say 1719 or 1732, it makes no difference which, followed one unvarying form, the petition for relief that has been common in Louisiana for two hundred years; the form was employed in all proceedings, whether for legal or equitable relief, in probate and in civil matters of every description.

The petition was written out, as a rule, by the clerk of the Superior Council. This official was one of the most important men in old Louisiana. That office, it is believed, was bought and paid for, and he seems to have held it for life. One of them, feeling the

grip of death upon him, bargained it away for a price represented by the note of the would-be successor. One of the contemporary lawsuits of that period is a suit by this purchaser against the ex-clerk's estate. The plaintiff got back his note because the Superior Council had refused to recognize the sale, although the decedent had paid for his office; they held it was not assignable, and the power that gave it had a right to sell it again to the next comer.

As I have said, this clerk of court, either by himself or through a deputy, wrote the petition or complaint. There were no lawyers in Louisiana in those days, except those two paid men, the First Councillor and the Procureur. Having a cause of action, I stepped into the office of the Procureur or Attorney General, whose duty it was to advise me as well as the State. He probably passed me over to the clerk, and the clerk in turn wrote my cause of action and I signed it, or if I could not sign, I made my mark, and the clerk signed as a witness with me. If it was an issue of fact or matter of any kind that required attention, the First Councillor endorsed at the foot of it, that is, the judge, endorsed his permission to file it—the clerk does not seem to have had that right. And by the way, that permission is a form that in part has come down to us even unto the present day. I will read you one such order from 1730, endorsed upon a petition, which asked for citation:

“Scit signifié et assigné au delay de l'ordonnance a la Nouvelle-Orléans le 13 Fbr. 1730.”

which, roughly translated, runs:

“Let the defendant be notified to appear before us within the delay of the ordinance.”

“Let” still remains the first word in most of our orders.

The ordinance referred to in this order is the civil ordinance of Louis, promulgated in 1667 like the criminal one of which I have already spoken in 1670. As English-speaking people, who have largely forgotten the tongue of our ancestors, it seems as nothing to speak of these ordinances of 1667 and 1670, but they were important laws of that period. If you will brush up your French and read them I promise you an interesting session, a subject of information as well as an introduction to ancient legal remedies in Louisiana.

The petition having been filed and the order having been rendered for its service and for the defendant's appearance, the *huissier* or sheriff of the court then took it to the other party and read the

original to him and served a copy upon him. He endorsed upon the original a return, the typical return of the sheriffs of Louisiana today. In effect he says, "I certify that I took the petition and the order in this case to John Smith, merchant (or planter or laborer), at his house (or farm or shop, giving its location); that I read to him the contents of this petition, in order that he might not say hereafter that he did not know what it was, and that I then left a copy of the same with him: In testimony of all of which I am making and signing this return." The defendant, haled into court by this process, immediately went to the procureur or to the clerk and told him what his defense was, and the clerk wrote it out in similar fashion, addressed to their lordships of the council. So-and-So "humbly petitions," etc., setting forth his defense, and that, in turn, is endorsed, "Let it be filed," and the case is at issue, and the hearing follows immediately."

In all the records thus far, I do not find any evidence of the formalities of a trial. I imagine it was a dignified but also an informal proceeding. These five laymen and two lawyers sat around the table and there heard their friends and neighbors who were involved in this quarrel, and they decided it then and there; but where a case was serious each side presented his views in writing, written also by this wonderful clerk. It may be too that this was their way of presenting the evidence in the case. The clerk seems to have prepared the version of each side with equal impartiality. I ought to add that the Procureur General sometimes prepared one of these statements, and if he did the clerk generally wrote the other one.

In the edict of 1716 the judges were required to have three of the Superior Council agree in all decisions in civil cases, and five to agree in all criminal cases; and this provision runs through all the edicts. The court must also have been required, by some rule we have not found, to state its reasons for judgment, because all judgments of this ancient period all start off very much like the report in the *Journal de Palais*,—"Considering," "whereas," etc. Due to this practice it is possible in every case decided in French colonial times to find something to indicate what it is all about wherever a scrap of the record has survived.

There was no expense to the litigants, for judges or lawyers; in that respect justice was free in French Louisiana. The only costs that anybody paid was the clerk's and possibly the sheriff's expenses which were fixed by the court from time to time, and taxed in the margin of the register of the court.

I have found in these old records innumerable wills. The olographic will as we draft it today in our offices and execute in court

without trouble was a familiar thing in that ancient day. Most of them start with the consignment of the soul to God and the Saints, followed by "I, So-and-So, etc.," and they close with "All written and done in my own hand." The nuncupative will by public and private act is also very common in those records, and hardly distinguishable from the form we now follow. It could be and was executed before the *curé*, before the judge or before the clerk, and, in the absence of those, before three or five citizens or inhabitants of the place. When they came to presenting these documents for proof and probate, the clerk and the judge used the same forms that we now use almost identically. The nuncupative will which was executed before the *curé* or judge was probated without any other formality, because when it was executed it was turned into the Superior Council archives; that was considered a filing of that will. I have found no case of such a will that did not primarily and at once go into the records of the Superior Council. It is probable that we will find differences in the methods of making and probating wills as we study the later periods of the French era. The Custom of Paris no doubt governed until the changes made by the ordinances of 1731 and 1735. Indeed this applies to all our legal studies in this period.

These archives are full of marriage contracts, and these are extremely interesting, particularly in reference to the community and to marital donations. There are emancipations; innumerable successions; appointments of executors; qualifications of tutors. One singular thing that I notice is that there was no under-tutor, but there was a curator *ad litem*. A female child up to twelve years of age and a male up to fourteen had a tutor; after that they had a curator *ad lites* or *ad bona*, who was charged with the child's affairs. Tutorship before puberty, curatorship thereafter, was the rule, and this system was perpetuated in the Code or Digest of 1808. This rule, it is believed, was derived directly from the Custom of Paris. Whether under-tutorship came in later and before the French period ended we have not yet discovered. They had the family meeting composed of five relatives and friends, and there are the same allegations in the petition of propinquity of relationship, and connection and as to friends, etc. The form is almost exactly as we do it. The proces verbal advises the belief of the family meeting that the thing sought to be done is for or against the best interest and welfare of the child, and when their deliberations were closed the proces verbal was carried before the judge and homologated just as we do it today.

In short, gentlemen, if any of those learned officials, my friend Garic for instance, because I have become intimately acquainted



with him; my friend Garic, clerk of the Superior Council, if he could wake up from his long sleep and return to now-a-days and get the dust out of his eyes, and pick up his quill pen, he could, after two or three hours reflection, begin to write our petitions and judicial proceedings all over again, even as he did in 1721; there would be no real difficulty, either with the judge or the procureur or with the forms in probate matters and in pleadings and methods of practice and delays and citation, service and return and the different processes and writs (orders) of execution, etc. All those things, our friends of that day, if they could return to earth, would be able, with very little preparation, to resume as of yore.

These French legal ancestors had also the business characteristics of some of our brethren of today. For instance, the first succession we find opened was that of a captain of marines, who died on Dauphine Island in 1717, at two o'clock in the morning. Somebody notified the clerk of the council or the procureur that he was dead. The proces verbal says that within the ensuing hour they had affixed the seals upon his property. They described how they did it, with great particularity. They adjourned for his funeral, but after his funeral they made an inventory, etc., and all those proceedings are exactly as we carry them out today, affixing the seals, making the inventory, description of the goods and property, etc., but an appraisement seems not to have been a part of the duty. Thereupon, having made the inventory, the man's will is produced; he names the major of his regiment as executor, who promptly declines; a dative executor is appointed without further formality, and there after all the effects of the succession are sold at public auction by drum beat on the Island, and the proces verbal recites that notice was given by beating the drum and calling upon the inhabitants of the Island to assemble at a certain place, and that they did assemble, to-wit: that the majority of the inhabitants were at the place when the selling began. Not of any legal interest, perhaps, but this document is a human one, just to show you how a gentleman of that period, a bachelor, lived in his bachelor quarters; he was an officer of the army and a major by brevet, and a captain of marines. It shows how he lived, because the little room and outroom of his house is described, with its windows and door and its furniture and coverings; it shows how he dressed, because his vest and his long breeches and short breeches are described, and the various other things that he wore and used are all set out in minute detail; and the proces verbal of sale shows what those things were worth. I would like to say, as illustrating the way they lived in those early days,

those who have so long since gone to the Happy Hunting Grounds, that there were found among his effects several grades and qualities of brandy and wine, white and red, and quite a lot of it, and when these were sold, there was very active competition for them. There was evidently no prohibition in the Island of Dauphine!

We have not found as yet anything of special interest regarding the first judge, who was *Sieur Hubert*. His name figures all through the early French records, however, and it may be when we get deeper into it they will tell something, or some future student may find and tell us something about him. He was the first judge, just as *Sieur Chartier de Baune* was the first attorney general or procureur.

The jurisdiction of the Superior Council was original, and at the beginning, exclusive and final. It possessed civil and criminal jurisdiction, and was besides the only court in Louisiana. At the posts, such as the Opelousas, where my distinguished friend here present lives, there was a local commander who acted as judge and conservator of the peace, but if litigation or trouble of any kind arose there his sole function was to take the testimony and forward it from that place to the Superior Council sitting in New Orleans, which proceeded to decide the case. In New Orleans, as we have shown, the issues were tried orally without reducing the evidence to writing. Toward the end of the French period local judges were appointed at the posts with power to decide, subject to appeal to the Superior Council, without bond. But the ordinance provided that the successful litigant could enforce the judgment by giving bond to abide the result of the appeal. There seems to have been no method of suspending the execution. This, too, is said with reservations. The actual operation may have been changed, but so far we have found nothing either way.

While there was no appeal from the judgment of the Superior Council, we find that the Council of State at Versailles exercised a right of review. In a printed brief of the later French period in our records it would appear the method of invoking this relief was akin to our certiorari, mandamus and prohibition. Among litigants at the close of that era one of the most frequent names is *Etienne de Bore*, who seems never to have lost a case without exhausting this remedy, and the notice that he gives of his intention to apply therefor is not unlike our own notices in similar cases. In the brief just mentioned the argument indicates that the Council of State could be appealed to only against usurpation of jurisdiction or clear refusal to follow the ordinances or because of conflict in the same. The history of French law tells us that the Council of State was at once

the Privy Council of the king, and the Court of Courts in France. It could halt the parliaments for instance, but it is added that its interferences with the higher courts was very infrequent. It would appear also that when the relief was granted, the whole case was re-examined.

Perhaps the most curious feature of these old archives is the occasional criminal record. One full and complete file covers a murder in Natchitoches just before Spain took over the colony. The accused was arrested in Natchitoches and sent down to New Orleans, where chains were put upon him and he was immured in the dungeon. The proceedings against him are started by the attorney general, very much like it would be done today by the district attorney. It was called an "information." Mr. Pain, (some of you may be interested in hearing that name), is designated as the judge in Natchitoches to hear testimony upon this prosecution. The accused remained in jail. He was not even served with a copy of the indictment. He did not know what he was there for, unless his conscience afflicted him. In the meantime, Judge Pain sat in Natchitoches and summoned and examined all the witnesses, and he transcribed all the testimony, without, however, indicating his own finding or opinion. This was returned to the Superior Council in New Orleans, where a confrontation occurred, namely, one of the judges of the Council visited the accused in his dungeon and confronted him, not with the indictment, not with the testimony, but with the testimony of the principal witness who testified to the time, the place, and the physical blow. This was the testimony of a woman who saw the blow which caused the death. Her testimony was read to the man in the dungeon, and he is categorically asked to say if it is true or not true, and his reply was taken down. He answered that the woman was a fool; that she was under the influence of his enemies; that she had never seen the affair, in all of which he was without volition, because he had no privilege to refuse to answer; he was compelled to answer categorically because the ordinance under which he was prosecuted so required. Having denied categorically at this confrontation the testimony of the prosecuting witness, that witness was called down from Natchitoches, where she resided, and the accused was brought into the courtroom from his dungeon. The report says his chains were taken off, and he stood free of his shackles, but he was put on the criminal chair or bench, and there in his presence, the accusing witness' testimony was read to her and she was again asked, "Is this the man and is this true?" and she said it was. He was allowed no questions to her. The presiding judge asked

some questions and the proces verbal says that, having reiterated her testimony, the accused was remanded to the jail and the case set down for trial. Well, in due course, the fellow was tried, that is, his case was heard before the Council, where he was again questioned by the judge and in due course convicted. It would take too long to tell you his sentence, but, briefly, he was condemned to be taken from his cell in a dirt cart and to be carried across the streets and crossings of New Orleans to the place of execution, labeled with a sign that he was a murderer. At the place of execution he was to go upon his knees and ask forgiveness of God and of the dead one for his mortal sin of murder, and thereupon he was to be broken on the wheel, and it even says what part of his body is to be first broken and mutilated, and then he was to be hung by the neck until he died. Subsequently, and shortly after they reached this decision, and before the sentence was carried out, the judges modified the sentence, so that the condemned man should be hung first and broken afterwards, a very tender attention on the part of his judges. This decree bears the signatures of the full Council. Below it, is a certificate that the sentence of the court was carried into execution. The Place d'Armes was the usual place, in front of the Cathedral, where these executions were conducted. The record of this case has been translated and published in a recent number of the Louisiana Historical Quarterly.

There are many equally interesting cases in these records, one of them (1726) involves a question of superior and inferior rights of drainage. In that case the right of one owner to dam up and turn back the drainage on his neighbor was beautifully presented in pleadings, proofs and argument, and fortunately the whole record is there. The loser was ordered to undo the mischief and to furnish slaves and land to the victim ready for a crop to be grown to replace the lost one. This case was presented, heard, decided and execution satisfied within a fortnight. There was evidently no congestion of the dockets in French times.

I submit it to you, gentlemen, whether archives such as these are not worthy of preservation; whether it is not well for us to put them where students can examine them and where they can be made the subject of historical investigation. I have only touched the matter in this talk, but I am convinced you are converted, and that you believe we should act now to save these precious remembrances of our French legal period.

## II.

## Spanish Period

The legal history of our Spanish era is almost a blank. Little or nothing is known about the judicial side of Spanish times in Louisiana. We are entering on ground here that, historically, has never been plowed, but with these records in our hands we can supply the story. These Spanish records are intrinsically more valuable than the French archives, for the Spanish period colored our early codes and even now there is seldom a volume of Louisiana Reports that does not contain some case that discusses old Spanish law.

You will remember France ceded Louisiana to Spain in 1762, and that the French local commander, d'Abadie, was duly advised thereof by his King, who ordered him to hold the colony to await the demands of Spain and to evacuate and withdraw from the same, when he should surrender it to the new comer.

Three years later (1765) Don Antonio de Ulloa appeared in New Orleans, authorized, as we now know, to take possession for Spain, under the terms of the cession. He did not follow the letter of his instructions, but philandered with Aubry, the French commander, who had succeeded on the death of d'Abadie. Ulloa did not exhibit his credentials to the Superior Council, nor did he proclaim the Spanish rule. On the contrary, he left Aubry in office and in command. The French Superior Council continued to function, and indeed, it increased (or perhaps usurped) prerogatives which it had not previously enjoyed, drawn on or urged to this by the necessities of the situation. The people turned to the Council, who were all Creoles of local origin and interests, rather than to Aubry, the Frenchman, whom they had begun to regard with suspicion, and justly so, because we know now that Aubry had taken Spanish pay, and was in truth disobeying his instructions, which looked, as I have said, to a complete severance of himself and his rule upon the arrival of the Spanish Commissioner in the colony.

Why Ulloa preferred the devious course pursued by him remains one of the inscrutable mysteries not explained by his own apologio, subsequently published in Spain, nor by Gayarre's labored defense in the Spanish section of his history. Through Aubry, the Spaniard, Ulloa, began to restrict the rights of the people, particularly with reference to the commerce of the colony, and it was not long before there was a popular response. The Creole had no particular love for the Spaniard; that was, perhaps, only contemporary racial ill-feeling, but it was there and to be considered. The leaders also knew and

feared the governing principles of Spanish colonial rule; they believed it was now intended to reduce them to the position of other subject races of that kingdom; they felt, in their persons and property, the slow strangulation of their ancient privileges, and it only needed the commercial decrees which Aubry promulgated to fan the spark to flame.

The time produced the leader, though Gayarre would have it the leader produced the time. A Creole held the French King's commission as Attorney General, and he had not been displaced by Ulloa. This son of the soil, Lafreriere, soon dominated the situation; under his lead the Superior Council increased its membership, as it had a right to do; it took over the government of the colony, expelled Ulloa as an intruder, and with an outburst of popular applause they settled down to peaceful enjoyment of the victory. The ensuing lassitude is explicable only on the theory that the movement was not supported by a united people, or that the leaders were afraid to commit the issue to the arbitrament of arms. Whatever the cause, this admirable beginning of a revolution sank to the level of an "emeute" or local row. In due course O'Reilly came with an army in 1769 and extinguished French and Creole rule in the blood of the leaders. A change of government was decreed, and to root out the schism the old laws were abrogated and the laws of Spain brought in. The official language of the race was suppressed and Spanish established in its place.

This peaceful invasion of O'Reilly in short rejected the rule that prevailed then and now in regard to conquered peoples. Not only did he subvert and overthrow the government, but he trampled on the law and the rules of law which regulate private rights in such cases. He sought even to eliminate the language of the people, and to reverse the action of the human heart. He seemed to believe he could, by proclamation, convert a French Creole into a loyal Spaniard, unless maybe he hoped these drastic decrees would sink the native to the level of his peons in Mexico.

Before making these changes, however, O'Reilly had devoted his entire time to the prosecution of the leaders of the revolt. This is called by Gayarre a State trial. His title indicates he had in mind such trials as they were conducted in the early English periods, but there is no resemblance here to any, even the most tyrannous and bloody Jeffrian example of our race. Those victims were tried in the open. If they were baited and brutally handled, as in truth they were, it was done in a courtroom and before a jury, and the world heard and history recorded their defense. It was at the worst

judicial tyranny and regal oppression. But Lafreniere and the remainder of his group were separated and immured in dungeons; they were secretly examined in that place by two lawyers brought from Havana to conduct the "investigation," which was wholly after the Spanish manner. It was a secret inquiry, the witnesses examined against the accused (and more than five-score depositions were obtained), were examined secretly and under instruction not to disclose either the fact that they had testified nor the substance of their testimony. We have not found in our archives the record of this "trial," but it is believed it is still extant in Spain. Until this is found we are entitled to doubt whether there was a *court* in any trial sense. It is probable O'Reilly was the sole judge, and at best he may have been attended only by his military attaches. It is sure that he alone signed the judgment, which in its body seems to rely on the advice or concurrence of the investigators aforesaid.

Gayarre's report indicates the accused were not present at this "trial." They were convicted, so far as we know, by a decree rendered out of their presence. Their defense, as presented by Gayarre's pages, does, however, raise the incident to the dignity of a State trial. In substance, they defended themselves on the grounds just stated by me, namely, that they were at the time of their offense French subjects, living under French law, that Spain had not then assumed sovereignty over Louisiana; that under the terms of the cession and under the instructions of their King, dominion would not pass to Spain until she had taken physical possession, and until France had withdrawn her representatives and her soldiers. In brief, that until France evacuated, Spain could not rule. They claimed that their offense, if any, was against their own King and to be prosecuted and decided according to the laws of France. Without delaying you further on this first *cause celebre* of Louisiana, it remains to be said that it is part of our duty as Louisianians to bring the record of this trial under examination. As lawyers it is our duty to re-examine at the bar of history the legal questions presented and to endeavor to write the final verdict. Whoever does this will be entitled to the gratitude of the State.

When O'Reilly had soothed his official soul with this bloody assize, he proceeded to map out the future for the new Spanish colony. By two proclamations (November 25, 1769) he abolished the old government and created a new "political and military" unit which he called the Province of Louisiana, and promulgated rules for the new government and a code of laws for the people. He did not differentiate the civilized race he found in possession in any re-

spect from the Indians and other races his predecessors had conquered in America. We know from his proclamations and from the records in Spain that he was vested with power to alter the government, but it has not been satisfactorily shown that he was authorized in advance to destroy the private law and legal rules of the conquered territory. The subsequent ratification by the King and the Council of the Indies transferred the wrong to the source of all power in Spain and the question is intrinsically interesting only in the aspect here presented. O'Reilly did not allege any such right in himself. I mean in his proclamations, and we must assume that he acted on his own judgment and considered it within the scope of his instructions and within his general powers as "Governor and Captain General of the Province of Louisiana."

This new Spanish colonial unit was independent of the other Spanish colonies in the sense that its rulers were to be appointed by the King, yet the Governor of Louisiana was subordinated to the Governor and Captain General of Cuba, and had to regulate his conduct by orders received from them, particularly in political and military affairs. The power of the Governor within the limits stated was practically supreme. He represented the person of the King. Under the Governor there was a corps of officials, and each principal officer had a legal adviser for his own guidance. These officials controlled the commerce of the province, and managed its finances, but as to the latter, they were in turn subordinate to the Royal Hacienda (Treasury), which regulated the tariffs, taxes and other exactions, and controlled the general income and expenditure of the province.

Alongside the provincial government, O'Reilly created a Municipal Council for the City of New Orleans called a Cabildo, a form of local government originating in Spain and extended by her to the larger communities in her several colonies. O'Reilly's model for this Cabildo is declared by him to be derived from the provisions of the "*Recopilacion de las Indias*," the great code or digest of the laws and regulations enacted by Spain during the preceding centuries for the government of her colonies, and for the management of their people in all the departments, and down to the smallest details, of life under government, but while every section of the ordinance creating this body is annotated from the *Recopilacion*, other laws of Spain are also cited as the sources of the institution.

This Louisiana Cabildo has a legendary and an actual history, and the study of our archives may settle some of the conflicts be-



tween legend and fact, particularly as to the part it played in the general government of the province.

Using O'Reilly's ordinance of November 25, 1769, as our guide, and having regard also to the brevity which the occasion requires, it appears that the Cabildo was primarily a local Municipal Council, composed of the Governor and six regidores or councillors appointed by the Governor. The office of regidor was sold to the highest bidder, but it had a rating or value, and could be assigned by first paying into the royal treasury the half of this rating or value. But even here the Governor held control and could veto the purchase or the assignment. These regidores were entitled, by virtue of their office, to divide among themselves certain offices with high-sounding names; these offices, regidores and others, were more or less honorable and always lucrative, because in practice no Spanish official ever failed to find some source of revenue in his office. At their first session and on the first day of every year thereafter the Cabildo elected out of their own number the officials aforesaid, namely, the Alferes Royal, the Alcalde Mayor Provincial, the Alguazil Mayor, the Depositary General, and the Receiver of Fines. But the election was always subject to the Governor's approval. He was the head of the first "ring" in Louisiana. The Alferes Royal was the keeper of the royal ensign. What other duties or functions he exercised, or what emoluments he received, we do not yet know, but as a member of the Cabildo he could take over the duties of an alcalde in case of vacancy and he joined in the exercise of many powers which were conferred on that body, some of which I will glance at later on. The duties of the Alcalde Mayor Provincial resembled those exercised today by the Chief of Police, save that he sat as judge over any criminal he had arrested, and here he would be likened to the old recorders of New Orleans or the judge of a country parish, but there was no appeal from his sentence. This officer, moreover, had the authority to, and he was specially charged to, ferret out crimes wherever committed, and to this end he was made the head of the Spanish Tribunal of the Saint Hermandad, which was a powerful secret organization organized originally in Spain to extirpate bandits and other outlaws. Its authority, as stated in the ordinance, smacks of the Inquisition, and its process resembled the procedure of our *post bellum* Ku Klux Klan. We are not able to point out the extent of the revenues of the Alcalde Mayor Provincial, but it was a highly prized office of evident power and doubtless it was a remunerative one.

The Alguazil Mayor combined the duties of our New Orleans Civil and Criminal sheriffs, and he was primarily the guardian of the

peace. He was an active and important official, and one of his sources of revenue was the jail, for every wretch locked behind the bars paid fees before he could get out. The Depositary General had duties resembling that of a city treasurer and received three per cent on the deposits. The Receiver of Fines (*penas de camara*) exacted for the use of the royal treasury was also a lucrative office paid for by commissions of ten per cent on all sums collected.

Besides these monopolies or plums of office, the Cabildo elected each year a manager of the rents and taxes of New Orleans. He was called the Mayordomo in Proprios, and his position may be likened to a combination in one office of the duties of our modern mayor and the commissioner of public works and streets, with those of the comptroller added. Two judges were also elected annually by the Cabildo, called Alcaldes Ordinary, and the Cabildo also elected each year a Syndic Procurador General. Another office financially and socially quite an important one was the Clerk (Escribano) of the Cabildo. He also bought and paid for his office, and it was subject to assignment under the restrictions already noted. All offices for which a price was paid were called, for this reason, venal, and with few exceptions, all official life in those times lived up to this definition. The Escribano apparently held his office for a term of five years, with a preference over other candidates for appointment or confirmation at the end of his term. The power of appointment was vested in the King, but when this happened he had to pay again.

It would appear from the ordinance that the Cabildo had two particular functions. It was a quasi deliberative body and a judicial body. In this first capacity it administered the affairs of New Orleans very much as any other body would do it now, but always in subjection to the Governor. In the second it sat as a court of appeal in judicial matters in civil cases only, and here, I believe, it heard appeals of some character from the province at large. In this capacity it acted by two regidores designated for the purpose. Whether the Cabildo had any power or duty over or in connection with the province outside of New Orleans is uncertain. I am inclined to the view that it had none. The government of Louisiana was vested in and controlled by the Governor and his administrative corps; that he may have deliberated in the Cabildo is possible, but that this autocrat would divide his power with that body is an assumption I am not prepared to accept without the proof, which so far has not been obtained. No writer so far has examined the records of the Cabildo still to be found in Spain, and..while we may supply from our archives

something to help, I fear it will remain true when our work on the archives is finished that the history of the Cabildo has not yet been written.

The offices with which we are most concerned at this moment are of course the Alcalde Ordinary and the Procurador General. The Alcaldes Ordinary were judges in the full sense. In short, they are the ancestors of the district judge of today, except that we no longer exact the "half annat," or yearly contribution of one-half of the rating or value of the office, to which the Alcalde Ordinary was subjected. These judges had cognizance of all matters either civil or criminal within their territorial jurisdiction, which extended throughout the city and the dependencies thereof, excepting those which fell to the cognizance of the ecclesiastical, military, or other special court. These excepted jurisdictions were serious impediments to the revenue of the judges, who apparently lived on the fees of office. The "Special" Court was in truth a very serious competitor because the Governor's court fell in this category and it was a favorite place for suitors, particularly those with a "pull." Outside of New Orleans justice was administered by a local commandante with an appeal or reference to either the Governor or the Cabildo, and more than likely the former. This particular phase of judicial administration in Spanish times needs separate treatment and cannot be covered here, as my time is running away too rapidly.

Nor does our time permit more than a glance at the judicial system as developed in New Orleans, that is also a vast subject, but it still must permit us to quote the instructions for the conduct of the judges. The ordinance says,

"the Alcaldes shall appear in public with decency and modesty, bearing the wand of royal justice, a badge provided by law to distinguish the judges. When administering justice they shall hear mildly those who may present themselves, and shall fix the hour and the place of the audience, which should be at 10:00 o'clock in the morning, at the City Hall; and, for the decision of verbal causes, in the evening between 7:00 and 8:00 o'clock, at their own dwellings and in none other."

I know I raise in your breasts an appreciative comment on that injunction to "hear mildly," because, apparently, it applied to suitors *and* lawyers, and I have heard it is not always observed in these later days.

I have mentioned the judicial power of the Cabildo and should add that it had cognizance of civil appeals from the Governor's

court and the court of the Ordinary Alcaldes, where the sum did not exceed ninety thousand maravides, about \$330 of our money. Judgments above that sum went to an Audiencia (or Supreme Court) created at Havana for that purpose. This appeal to the Cabildo had to be taken within five days after the judgment, and the Cabildo immediately appointed two of its regidores to hear the appeal, sitting with the judge who rendered the judgment appealed from. Whether this appeal was on the law and the facts we have not yet verified from our records. The ordinance required the same to be heard and decided within thirty days. It is certain that the question of executing the original judgment pending the appeal was under judicial control, but here we are also in ignorance regarding method of protecting the appellant or restoring him to his rights on a reversal of the judgment. There is nothing so far developed to indicate that this appellate jurisdiction extended to appeals from the other parts of the province, except perhaps in so far as it could review judgments of the Governor's court, which seems to have enjoyed a wider jurisdiction than that of the Alcalde Ordinary, and as I have just said, we are unable to say positively that the Cabildo exercised any jurisdiction as such over the remainder of the province. This discovery must await the investigation of other records of that body which, so far, have not been found. Those which I am discussing are wholly judicial.

An Audiencia, or Court of Appeal, at Havana was established in 1781 for cases in excess of ninety thousand maravides. It was composed of five persons, namely, the Captain General of Cuba, the Auditors of War and Marine, the Attorney of the Royal Hacienda (this office has no English synonym; it may be said to apply to all financial and revenue departments of the empire), and the clerk of Government. From this Audiencia a further review might be had before the Council of the Indies in Spain.

The Procurador General, says the statute,

“is an officer appointed to assist the public in all their concerns, to defend them, pursue their rights and obtain justice and pursue all other claims which have relation to the public interest.”

This office was a pure monopoly. The Procurador just had to be employed; the litigant had no choice about it. Our records show that this was an extremely lucrative office; in practice the Procurador appeared in every case, and a procurador *ad litem* also appeared

whenever there were two sides to the cause. Their fees and expenses were taxed as part of the costs. And, by the way, every record is closed with a tabulation of the costs. Everybody connected with the courts had something taxed to him at the close of the litigation. Nobody was forgotten, from the judge to the deputy sheriff, and the litigant paid it all. Justice in Spanish times was "free" only to the officers of the court.

O'Reilly's Ordinance carried a table of fees, covering the compensation of every officer from judge to jailer, but he was merciful to the lawyers and attorneys. He allowed them fees according to the scale of the judges and assessors, but left open the door for an appraisal of any services not strictly covered by the fee bill for court work. I must not forget to add that here lawyers and attorneys are not synonyms. The former were of the class of the procurador, the latter merely representatives of the litigant and not necessarily possessing legal knowledge.

This system of charges was the real burden which afflicted the people in Spanish days. Literally, one could say that "every little motion" of an official had a compensation of its own, but the thing that stands out most vividly is the value of a magistrate's signature. In those days a signature was a supreme effort. Few Officials there were who had not received at baptism an extra name or two, and marriage and military service added to the number. Besides these, a "name" included sometimes a rubric, and beautiful specimens a page long may be found in our records. With the rubric you might employ also a "flourish." These flourishes were creations of art; a half page was sometimes taken up before its convolutions were closed, and as legal paper in that period was bought by the sheet, (like everything else it *cost*), we, in our day of manifolds and office waste, can scarcely appreciate the suffering of the litigant who watched the judge enlarge upon his signature.

It is a legend the litigant devised a plan to flank the burden. A signature, bear in mind, could be full, half, or by cipher, the latter being anything that the magistrate devised to represent that awe-inspiring thing, his name. At the bargain counter the cipher cost half or less than half the plain signature, and it is said, I think without authority, that the latter in turn cost less than the "signature." Be that as it may, the O'Reilly rule forestalled the official panic which this cheapening of the signature would have created. He prescribed for the signature of the "baptismal and family name" on certain documents and settled its value at "four reals in silver dollars of America." The litigant might wince, but he had to pay.

In truth, our study of the records suggests to us that this system of officials and of costs was the motive for that household rhyme about the fleas:

*“The larger fleas have smaller fleas that on  
their backs do bite ’em:  
The smaller fleas have other fleas and so  
ad infinitum.”*

And the larger flea in this case was the succulent citizen whose affairs took him to the registry of titles or mortgages, to the Governor, or to any of his underlings, to the courts or to anywhere! In Spanish times, as I have intimated, almost every act of living had to pass before an official and everywhere an open hand was visible in official life, waiting for its palm to be crossed with a bit of silver.

One would think the signature once paid for was sufficient, but the Spanish word *mañana* had a meaning then as now. You appeared before the judge and he entered an order, which you paid for, and usually this order required another, and so on through many pages of orders upon orders, to each of which the judge and the clerk and the procurador and the whatnots subscribed and somebody had to pay. *Mañana*—tomorrow—was the root of all these ceremonies. You had a hearing today, another tomorrow, and so on down to that “perfect day” when all the officials appeared and “taxed the costs” and this was not always the end, for the judicial *contador* (auditor) would sometimes audit this and add his tax!

But when we are at an end of criticism and take up the records of legal transactions we are in a world as new to the French Creole of that day as in truth it is remarkable to us. Here we find almost meticulous care, and what time and fire and water and theft have left to us is enough to prove that the legal end of government under Spain was handled with care and skill and on the whole with a justice which is very pleasant to contemplate. History, like a lewd gossip, constantly repeats the scandal that the judiciary of the Spanish period reeked with graft, and it is intimated that justice was controlled and swayed according to the power or the wealth of the litigant. We have indeed more substantial authority for this charge than scandal, for Claiborne declared officially in his proclamations and in his reports to the President and to the Secretary of State that he found litigation which had run on for years to an apparently interminable end and was still undecided. The jails, he said, were full of criminals who had “rotted” there without charges or who had been forgotten,

if under charge. One of his first acts was a general jail delivery, which raised questions that assumed almost a warlike aspect. The Spanish Governor and the Spanish Intendant of 1803 hotly declared that he had released men charged with treason and other offenses against Spain, but the American was inexorable and the jails were cleared, and the litigation put under rules that soon freed the dockets.

Whoever has the right of this controversy, we can find enough certainly to prove that some cases at least show no taint. In any event, the student of these records will be richly repaid. Here will be found a harvest of legal knowledge far richer than the French French period, and, more than that, we will find precedents for much that was assimilated in the practice acts and legal procedure of the territory of Orleans before the Digest of 1808; precedents that fertilized that law book and reappeared in the Code of Practice of 1826 and the Civil Code of 1825. It is plain, moreover, that these records of the Spanish judicial period were built upon the forms that had been established in the French period. Indeed, intellectual effort to understand the Spanish phrases, particularly in the first ten years, would be wasted unless one was familiar with the model. Here again we find the influences of one man guiding the course of the practice. At the first sale of offices under the new rule the successful bidder for the clerkship of the Cabildo was the clerk of the recently abolished Superior Council. His position in the Cabildo made him clerk ex-officio notary for this judicial system. His power must have been quite as great in the new office as in the old and it is more than probable that the Syndic Procurador General and the other procuradors, who were brought here from Havana or Spain, leaned on and took advice from the man who was familiar with the court proceedings of the previous era. Whatever may have been the cause, it is clear that the meat and essence of the court records of Spanish Louisiana are French in substance. There was more formality, more writing, more signatures, more fees, but the pleadings were substantially as of yore, and we should add that though the Spanish became less Gallic as time wore on, the fundamentals never changed. But the issues did change, and here we find questions debated and decided in a manner quite different from French times.

The cause of this may also be traced to O'Reilly's Code, the general law laid down by him at the reorganization of the government in 1769. This book is a great rarity in our libraries and an expensive item for the bibliophile; indeed, it is about as hard to find as oil is in some of the dusty areas of this splendid region (North Louisiana), which is enriching so many of our brethren with con-

flicts over titles and perhaps with royalties on wells. Out of your surplus you may be minded to provide for the reprinting of this statute, and out of your leisure annotate it with our jurisprudence based on its sources. Incidentally, you may pay here, as above suggested, that debt you owe the profession.

At the close of the preamble to O'Reilly's first ordinance, abolishing the Superior Council and creating the Cabildo, the Governor said:

"As the want of advocates in this country (he had disposed of the only lawyers of the French era, Lafreniere and Doucet) and the little knowledge which his new subjects possess of the Spanish laws might render a strict observance of them difficult, and as every abuse is contrary to the intentions, of His Majesty, we have thought it useful and even necessary to form an abstract or regulation drawn from the said laws which may serve for instruction and elementary formulary in the administration of justice and in the economical government of this city until a more general knowledge of the Spanish language may enable every one, by the perusal of the aforesaid laws, to extend his information to every point thereof."

The abstract of Spanish Law was promulgated contemporaneously with the first ordinance, and it is entitled:

"Instructions as to the manner of instituting suits, civil and criminal, and of pronouncing judgments in general conformity to the laws of the *Neuva Recopilacion de Castilla* and the *Recopilacion de las Indias* for the government of the judges and parties pleading until a more general knowledge of the Spanish language and more extensive information upon those laws may be acquired; digested and arranged by Doct. Don Manuel Joseph de Urrustia and the Counsellor Don Felix Rey by order of his Excellency Don Alexander O'Reilly, Governor and Captain General of the province by special commission of His Majesty."

This work was promulgated in French, which Gayarre says was "*tres mauvais francais*." In my studies I have followed the copy annexed to his *Histoire de la Louisiane*, N. O., 1847, and for the purposes of this essay have used an English translation made by Gustavis Schmidt, a New Orleans lawyer, and published in his



Louisiana Law Journal in August, 1841. I have also seen a Spanish copy in possession of S. J. Schwartz, of New Orleans. There is another reprint of the translation in French's Historical Collections of Louisiana.

The abstract is a little code covering law and practice, and the redactors annotated it with references to the sources whence it was drawn. Through these we know that besides the sources indicated in O'Reilly's first ordinance the redactors also used at least two commentators and possibly incorporated their views as of equal authority with the statutes on which it is based, and in Spanish times this abstract and the first ordinance were regarded as parts of each other. The abstract occupies thirty-two printed pages in English print, covering about ten thousand words. It is divided into six sections, each of which is subdivided into numbered paragraphs. Each section has a title and the subjects treated are the following: Sec. 1, Of Civil Judgments in General (*Des jugements civils ordinaires*): Sec. 2, Of Executory Proceedings (*Des jugements Executives*): Sec. 3, Of Judgments in Criminal Cases (*Des jugements criminels*): Sec. 4, Of Appeals (*Des Appels*): Sec. 5, Of Punishments (*Des peines*): Sec. 6, Of Testaments (*Des testaments*). The work closes with a Table of Fees demandable by judges, lawyers, escribanos, attorneys, and other officers of justice (*Tariff des droits que doivent percevoir les juges, les avocats, les escrivans, les procureurs, et les autres officiers de justice savoir*). As indicated by the titles of the sections, the first, second and fourth sections relate to civil practice; the sixth combines the law and practice on wills; the third and fifth concern crimes and penalties.

The first section prescribes how civil actions shall be brought and defended, and here we may say that the forms of pleading were very similar to ours of today and consisted of the petition, notice or citation, exceptions and/or answer, and a replication thereto, but there was no public trial. The witnesses were examined in secret by the judge, and only after both sides had closed was an opportunity afforded to the parties to see the evidence adduced in the case; on this exposure or "publication" of the proofs, either party could object or except thereto for certain causes, such as the capacity, relationship, or interest of the witnesses, and on this issue proof was permitted. Notwithstanding the provision governing examination of witnesses by the judge, we find in the records constant examinations under interrogatories propounded by each side, but this may have been the method established by the judge under the foregoing rule without, however, conveying current knowledge of the results thereof to the

litigants. Other provisions in this section govern the hearing or argument; the time of decision, and the delay for the appeal, all of which delays are regulated, as for instance, nine days for citation, twenty days for deliberation by the judge, and five days for appeals. If no appeal were taken the successful party, on motion, obtained a definitive judgment which would indicate that the appeal was a method of new trial rather than the suspensive transfer of the case to a new court. After the judgment was final, execution could only be obtained by motion, and as this order was under the judge's control it may be that here is one of the grounds for complaint against delays to which history points. I have found no writs such as we possess, and I judge the order of execution designated the relief or form of recovery which the judge saw fit to grant.

Appeal is treated in the fourth section and, as already intimated, this appeal went to the Cabildo in cases involving less than ninety thousand maravides and apparently without bond, and I am the more convinced of this because provisions are made for speeding the case to a hearing within thirty days and for a decision by the judges within ten days thereafter. In the Cabildo the Clerk took charge of the record, and here it appears the original record was transmitted. The Cabildo appointed two regidores to hear the appeal conjointly with the judge who decided it, and the opinion of two of these judges governed the result and this judgment was final without right of further appeal. It was returned to the lower court for execution. If the judgment involved more than ninety thousand maravides the appeal went to the Audencia in Havana previously described. An Audencia was a court of last review and it had as a rule other duties of an administrative character, but this one at Havana was a special tribunal created for this particular purpose and I judge its functions were purely judicial. When this appeal was lodged, the appellee could bring up at once the preliminary question whether it should not be executed notwithstanding the appeal, and the judge could order its execution in his discretion, but he seems to have had little or no discretion in certain cases, such as dowry, alimony, or the like, "in which appeals should not lightly be admitted." The same rule governed appeals in criminal cases where the lower judge could be induced to certify he had doubts or that from some difficulties on the trial he thought it advisable to submit the judgment to the examination of the superior tribunal. Indeed, I should add that no appeal was allowed in criminal cases as of right; it depended wholly on the grace of the lower judge whether his sentence should be reviewed. I must also add that our records show

many illustrations of judicial good nature in this respect and it is curious that in almost each such appeal there was a reversal.

In all appeals to the Audencia at Havana the original record was transmitted, but a transcript of the same was made and preserved in the court below. Contemporary complaint against delays in this tribunal were as frequent as in our day. Moreover, it is said that when the case was carried beyond that tribunal to the Council of the Indies the appellee ceased to remember his wrongs and was considered fortunate if he lived to see the end of it. We do not know as yet what method was followed to review a decision of the Audencia. Neither have we found any authority for the exaction of a bond for the appeal from that court; the matter was probably in the discretion of the upper judge. None of the Cuban records are here to enlighten us, but many thousands of papers from Cuba concerning Louisiana are still in fair state of preservation in Spain, whither they were removed at the close of the Spanish war of 1898. This and other questions must wait on their examination.

Section 2 of the Code O'Reilly treats of executory process and we may pass this with the remark that one seems here to be reading the Louisiana Code of Practice on the same topic. It is all so delightfully familiar that we are compelled to believe our redactors wrote with the section before them.

"When a debt (says the first paragraph) shall be fully established and *it imports a confession of judgment as by an agreement or obligation made before a notary*; by a simple note legally acknowledged by the drawer; by confession of judgment although without any written title from the debtor; by a definitive sentence of the court, or by the cash books of the debtor acknowledged by him; in all these cases the creditor shall draw up a declaration setting forth his claim and his action *annexing thereto the document which entitles him to an order of execution*, and moving that by virtue of said document a writ of execution be granted him for the sum due."

Other provisions require the judge to cause the debtor to be summoned to pay the demand and, in default, his property shall be seized; the sheriff (Alguazil Mayor) shall make this summons. If the debtor complies, the execution shall cease; if otherwise, his property shall be seized and held unless he gives good security for the payment thereof. If he has not sufficient property he shall be imprisoned unless he be privileged against arrest for nobility or

exempted for legal cause: the military, regidors, officers of finance, women, lawyers, physicians, "and other distinguished persons" are in the exempted class. The debtor could make opposition to the seizure *within three days after notice of demand* and the opposition must be proved within ten days at furthest. In the absence of opposition or on decision adverse thereto the seized property was appraised by "two capable persons" and public notice given of the sale, which for movables was three notices in nine days and for immovables every nine days for thirty days, and it was sold on the fourth and last notice. Our Spanish records are full of proceedings *via executiva*, which with little change would serve for similar purposes today.

Section 6, Of Testaments, covers instructions regarding the procedure in the execution of nuncupative private and public wills and mystic wills:

"For the validity of a nuncupative will it is necessary that the same be received by a notary in the presence of at least three witnesses, residents of the place, or if there be no notary, there must be present five witnesses, residents of the place in which the will is to be made. If, however, it is impossible to procure the last mentioned number, three may suffice."

That sounds like an article of the Civil Code. Mystic wills, apparently, may have been written by the testator or by a witness, for the instructions are silent, but it is provided that it shall be delivered to the notary, who shall seal it, and the testator shall put an endorsement on the cover stating that it is his will, which must be signed by him and by seven witnesses,

"if they can write, and if not, the others shall sign for them, so that there be eight signatures, including that of the Escribano, who shall also put his signature thereto."

The olographic will is not mentioned, but codicils are. A large space, proportionately, is devoted to wills made by deputy or agent which, from its prominence in the statute, must have been a thing of common occurrence. There are provisions covering advancements to heirs and one may deduce that collation was so well understood that a reference was not needed in the abstract. There is a provision concerning legacies to legitimate descendants, as to which the testator

“may impose such conditions in remainder or entailment upon the property bequeathed as he may think proper \* \* \* to the end that the said bequest may never pass to a stranger unless all the relations in the order aforesaid shall be deceased.”

Provision is made limiting the right and capacity of illegitimate children to inherit, and another clause covers intestacy where there are no legitimate children or ascendants. This whole section is the least lucid in the abstract and evidently leaves much untouched that belongs to the subject matter.

Sections 3 and 5 Of Crimes and Their Punishment, need not detain us except to say that here may be found the material for an interesting essay, particularly because we have many records covering prosecutions for varied offenses; sufficient, in fact, to write the history of the criminal law of Spanish Louisiana. Neither should we say more than we have already said regarding the fee bill. These allowances have been with us since the beginning of time and doubtless will continue to follow the revolutions of the earth unto the end thereof, but I am tempted to add that this old “Table of Fees” has all the earmarks of an old acquaintance, for we still maintain some of its antique peculiarities; for instance, that venerable ward of the probate court, the appraiser, was paid in that day two ducats per diem, about four dollars of our money, and we are paying him that now, whenever our courage holds him to the fee bill!

This review of the administrative side of the Spanish system leaves me, I regret to say, little room for special mention of the judicial records. These richly deserve attention and they will get it some day. Due to the method employed and to the character of the issues one may get here much closer to the life of the times than at any other source. I am prone to think a study of the whole era will modify the charges of corruption to which I have referred. I am the more disposed to this view because the roll of the names of those who held judicial office from 1770 to 1803 includes many men whose reputations were then and thereafter spotless in the community. Forstall, Trudeau, Delachaise, Foucher, Almonaster, among the French Creoles, and de Reggio, Ortega and Navarro among the Spaniards, are names that held the respect of the people then and of posterity thereafter.

I have no doubt, the evidence, indeed, is almost indubitable, that the government side was rotten and cursed by the love of gold, and it would not be strange if we found its reflection in the judiciary. I have not, however, seen anything in this vast array of papers to

indicate it. On the contrary, there is much to prove that on the judicial side law was equity and mildly administered, and that it was **this régime** which really created in the people of the province of Louisiana that undoubted love and support of the civil law and its ways, which fought the successful battle for that law in the territorial period. And now I must dwell for a moment before closing on this last thought, to suggest something which I have not seen recorded in our histories, and that is this, when Claiborne took up his task, that herculean and unusual task of ruler, legislator and judge, for he combined all those powers in his single person, and at one time, he found ready to his hand a Municipal Council in New Orleans created by Laussat and composed of the very best material. A leading Creole at its head and a fair division of Creoles and Americans in the membership. Just such a body as the recently deceased Cabildo and not greatly differing from the old Superior Council. Could Claiborne, with his supreme authority, have been led to confer judicial functions on that body he might have altered our legal destiny. We would possibly have slipped gradually into an acquaintance with the other system and in time have forgotten the mild sway of the past under the equally mild justice of a judiciary which had the confidence of the inhabitants. If the idea occurred to him he never expressed it and on the contrary created at once, practically his first act, a Court of Common Pleas, after the model of his home system in Tennessee and Virginia. He filled its bench with judges who spoke his tongue; he established that language in its records, and out of his common law experience he devised rules for this court absolutely foreign to anything the Creoles had ever heard or experienced. He repeated from another angle O'Reilly's ruthless policy. The Creoles took it as a challenge and the war which was thus started ended only when, by congressional relief and ultimate admission to the Union with full right of citizenship, the natives of Louisiana wrote into their fundamental law that principle which preserved the civil law. That law had been the leading institution of Louisiana for one hundred years before Claiborne came among us. We have added another hundred or more years to that score. We may therefore, say that our civilization is based on its principles; that by ancestry, birth, breeding and training we are civilians, and this condition must at least persist until this generation passes. A new school may teach a different principle, but until this is done the civil law must remain. Whether it rests with us to preserve that system or to join hands with our sister states and go over to a new school is for the future to decide. But I say to you before we commit that

decision to the future. Let us make up the record. Let us put our archives in shape for the children who will soon take our places, that they may study the past and plan for the future. With our history ready, and the archives as our text, let posterity make up the judgment!

I cannot sit down without appealing for action by you on this vital matter. You should create a committee on archives, charged with the duty to study the problem and to recommend relief. I have talked about French and Spanish records, now scattered in New Orleans, Baton Rouge, Natchitoches and St. Martinville, but archives is a small word with a large meaning. It covers every public and private document bearing on any feature of life and government in Louisiana as a colony of France, as a province of Spain, as a territory of the United States, and as a sovereign State. The Committee should build a plan which will sustain and protect these archives and open them to public use. The legislature will undoubtedly respond to your appeal. The Bar Association has led in many great movements for the public good. Here lies an opportunity to crown your work; the time is opportune; the object noble. Why not act now and act quickly?



## SERVINIEN'S CASE—1752

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### CRIMINAL PROSECUTION AGAINST THE MEMORY OF A DECEASED SUICIDE.

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THE ATTORNEY GENERAL

vs.

ANDRE SERVINIEN

1752, April 17

BEFORE THE SUPERIOR  
COUNCIL OF LOUISIANA  
AT NEW ORLEANS

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*From the French Records in the Cabildo.*

Edited by Henry P. Dart.

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Our general history of the French period tells of two instances of indictments of dead men for suicide. Gayarre (1:499) mentions *Labarre's* case in 1738, and says that "a curator was appointed to the corpse which was indicted, tried, convicted and sentenced to be deprived of Christian burial and to lie rotting and blackening on the face of the earth among the offal, bones and refuse of the butchers' stall," but we have not found the record of this case. Fortier (1:248-251) gives full details of *Servinien's* case 1752 where a similar prosecution resulted in the exoneration of the suicide's memory on the ground that he was temporarily insane. This record, fortunately, has been preserved, and all the papers connected with the incident are in our archives. Aside from its curious interest this Servinien case is valuable to the legal historian, because it is a perfect example of the Louisiana procedure under the Criminal Ordinance of France of 1670. We learn from it just what that procedure was, and what part the several officials of the Colony took in such prosecutions. From the record it appears that the corpse was treated just as a living person would be for the purpose of prosecution, trial and conviction.

It seems curious in this day that so much time, trouble and expense would be expended upon a suicide who had passed beyond this world's pursuit. But suicide in French procedure was a crime "homicide," and the punishment was a denial of Christian burial, the decedent's memory was made infamous



and at one period his estate was forfeited. Christian burial not only meant much in those days, but the suicide's heirs suffered physically as well, for the "infamy" descended upon them. The poor fellow in this instance was a humble, half-crazed young soldier, but the majesty of the law had to be protected, and it enforced the duty upon the authorities to proceed in its vindication. The result here is that there has survived for our instruction this very unique and perfect set of the forms in use in French Colonial Louisiana in all cases of criminal nature. We have printed the record of another criminal prosecution, with which this may be compared. See *Degout's Case*, 3 La. Hist. Quarterly p. 294.

The documents have been translated by Mrs. H. H. Cruzat and have been carefully studied by others, so as to insure a final edition of the record for future use. We also print the text for the satisfaction of the student who may wish to use the original forms.

There are ten documents in the record, viz:

1. 1752, April 17. Information or proces verbal of Atty. General Fleuriau and Clerk Henry covering visit to the scene of suicide and inspection of the corpse.
2. 1752, April 18. Inquest by Jean Baptiste Raguet, Councillor of the Superior Council, with testimony adduced thereat.
3. 1752, April 19. Proces verbal covering inquiry into surreptitious removal of the corpse.
4. 1752, April 19. Appointment of Curator to defend the memory of deceased.
5. 1752, April 20. Reexamination of witnesses before Raguet and Fleuriau.
6. 1752, April 20. Interrogation by Raguet of Pierre Cecille, Curator.
7. 1752, April 21. Confrontation of witnesses before Raguet and Cecille.
8. 1752, May 5. Opinion of Fleuriau.
9. 1752, May 5. Confrontation of Cecille.
10. 1752, May 6. Decision of the Superior Council.

## Translation.

## I. Proces Verbal of Judicial Inquest of Attorney General Fleuriau and Clerk Henry Upon the Suicide of Andre Servinien.

April 17, 1752.

In the year one thousand seven hundred and fifty-two, on the seventeenth day of April, at 10 o'clock in the forenoon, we, Francois Fleuriau, Attorney General of the King in the Superior Council of the province of Louisiana, on information given by Sr Francois Simare de Bellisle, a bachelor, Major of the troops in this city, that there was a soldier in the neighborhood of the barracks, on the side of the Intendency, who had blown off his head with a gun.

We went to the said neighborhood, where, having entered the first yard, accompanied by the clerk of the Council, we were led to another small yard where were the privies; there we saw a corpse stretched on his back with his gun between his legs and a bad knife on the trigger of the said gun. This man is a soldier, we are told, named Andre Servinien, so-called La Rochelle, a soldier of Benoist's company. His whole skull was carried away and his brains blown at a distance from his head. We saw the marks of the bullets against the wall of said place, which made us think that the said soldier blew out his brains standing, the barrel of the gun apparently resting against his forehead, and that he used his foot to let the trigger loose; the said gun was still lying between his legs. We then ordered that the body be transported to the Royal Hospital of this city to have it laid on the ground, and to institute proceedings against the said corpse on our demand and we have drawn up the present proces verbal to serve and avail as need shall be.

At New Orleans, the above mentioned day, month and year.  
Signed: "Fleuriau".

"Henry, clerk" (paraph).

## 2. Inquiry by Judge Raguet on Suicide of One Andre Servinien.

April 18, 1752.

Inquiry conducted by us, Jean Baptiste Raguet, Councillor of the King in the Superior Council of the Province of Louisiana, on petition of the Attorney General of the King, plaintiff and accuser.

against the memory of a soldier named Andre Servinien, so-called La Rochelle, charged with having committed homicide and destroyed himself by a gun shot in the head, which inquiry was conducted as follows on his life and morals as well as on his homicide.

April eighteenth, one thousand seven hundred and fifty-two, three o'clock in the afternoon.

Joseph Odoj, a soldier of Benoist's company, garrisoned in this city, aged twenty-six years, of the Catholic, apostolic and Roman religion, who having sworn to speak the truth, declared that he was neither a relative, a connection, nor a servant of the parties, and that he was cited on this day to testify to the truth on request of the Attorney General of the King, by a notice which he returned to us.

Testifies on the facts mentioned in the complaint of the Attorney General of the King, which was read to him, that one La Rochelle, a soldier of his company and one of his mess, killed himself yesterday at eight or nine o'clock in the morning, with his gun near the privies, that he, the witness, on what was told him, went to see him with the motive of going to get water from the river and found him dead; that an hour before this happened the same soldier had taken up a knife saying that he wanted to kill himself, that every day as soon as he was in the least intoxicated or that he had drunk a dram he was in a terrible passion, continually saying that he would kill himself with a knife and that his comrades have often prevented his furies and his fits of violence, that in his frenzy he even threatened to kill his father; that on account of his violence and his bad temper he never wished to associate with him and that it is probable that at times he was out of his mind, that he never knew him well enough to form a just opinion, and he said that this was all he knew, the present testimony being read to him he said that it was the truth, persisted therein and declared that he did not know how to write nor sign. On this inquiry following the ordinance.

Signed: "Raguet".

"Henry, clerk" (paraph).

Jean Louis Rabigou, a soldier of Benoist's company, garrisoned in this city, aged twenty-five years, professing the catholic, apostolic and Roman religion, after having sworn to

speak the truth declared that he was neither a relative, a connection nor a servant of the parties and that he had been cited this day to testify to the truth in response to a notice served on him at request of the Attorney General, which notice he showed us.

Testifies on the facts mentioned in the complaint of the Attorney General of the King, which was read to him, that he knows that one Servinien, so-called La Rochelle, a soldier of the same company as himself, who killed himself yesterday morning with his gun, was often in extraordinary passion and fury, even taking a knife to plunge it into his stomach and whilst cursing and denying God, would draw blood from it with the knife, which often made the witness shudder, who prevented him from killing himself and that the comrades of his mess had also prevented him from taking his life; that he often cursed and stormed against his father saying that he would never forgive him, that he thinks that when that man had drunk a few drams he was out of his mind, and he and his companions said so, which, he said, was all he knew; his testimony being read to him, he said it was the truth, persisted therein and did not ask for pay. Signed: "Raguet."

"JL Rabigou".

"Henry, clerk" (paraph).

Pierre Filhev, a soldier of Benoist's company, aged twenty-three years, professing the catholic, apostolic and Roman religion, after having sworn to speak the truth, declared that he was neither a relative, a connection, nor a servant of the parties and that he had been this day cited to testify the truth in response to a notice served on request of the Attorney General, which notice he presented to us.

Testifies on the facts mentioned in the complaint of the Attorney General of the King, which was read to him, that he was of the same mess as one Servinien, so-called La Rochelle, who killed himself yesterday morning with a gun, that the said La Rochelle went into fury and had outbursts of insanity always saying that he would kill and destroy himself and his father too, that he would never forgive him for what he had done him, that he often took a knife to plunge into his body, that he and his comrades had often prevented his doing so, and that as he was not a sociable man and that he was not in his right mind, he and they did not associate with him, that they always thought that he was out of his mind, which, he said, was all he knew, and his testimony

being read to him he said that it was the truth, persisted therein and declared that he did not know how to write nor sign, whereupon inquiry as per ordinance and he did request pay.

Signed: "Raguet".

"Henry, clerk" (paraph).

Andre Desjardins, a soldier of Benoist's company, garrisoned in this city, aged fifty-five years, professing the catholic, apostolic and Roman religion, after having sworn to speak the truth, declared that he was not a relative, nor a connection, nor a servant of the parties, and that he was cited on this day on request of the Attorney General to testify the truth, which notice he presented us.

Testifies on the facts mentioned in the complaint of the Attorney General, which was read to him, that one Servinien, so-called La Rochelle, a soldier of their company and of their mess, killed himself yesterday morning at eight or nine o'clock, by blowing out his brains with his gun; that an hour before he had tried to kill himself with a knife and threw it away, that it appeared to him and to his comrades that he was out of his mind, that at the canteen he went from table to table taking the bottles and drinking like a demented man, that he was prone to terrible angers, swearing that he would destroy himself and his father and that his bad conduct often caused him to be imprisoned, that he was so unsociable that neither the witness nor any of his comrades wished to keep company with him, which, he said, was all he knew; the present testimony having been read to him he said that it was the truth, persisted therein and declared that he did not know how to write nor sign, whereupon inquiry as per ordinance. Signed: "Raguet".

"Henry, clerk" (paraph).

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### 3. Removal of Suicide's Corpse.

#### *Proces Verbal of the Removal of the Corpse of Servinien Alias La Rochelle.*

April 19, 1752.

In the year one thousand seven hundred and fifty-two, on the nineteenth of April, before noon, before us, Jean Baptiste Raguet, Councillor of the King in the Superior Council of Louisiana, Commissary in this case, appeared M. the Attorney General of the King, who told us that he had just been informed that

the corpse of one Andre Servinien, so-called La Rochelle, which was deposited in a cabin of the King's hospital of this city, was carried away last night.

He is prosecuting a criminal suit against his memory to have him punished as homicide of himself to the full rigor of the King's ordinances.

Wherefore he requested us to go with him and the clerk of the Council to the said hospital, where we asked one Baptiste and two surgical students where the corpse in question had been deposited. They told us that the corpse had without doubt been removed during the night as it was there last evening in the cabin, in a box which they had laid on the ground two days ago; that they do not know nor have any knowledge whatever of who could have carried it away since they do not sleep at the hospital. We afterwards went to the yard of the said hospital where the said cabin stands, and after a thorough examination we found no break nor breach. Having likewise examined the fence which surrounds the said yard we saw nothing displaced, and at the same moment appeared two Ursuline nuns who are in charge of the said hospital and the sick, one of them named Magdelen and the other Saint Xavier; we asked them if they knew anything about the removal of the corpse and they said they knew nothing as they had gone back and retired to their beds in their monastery, that only this morning at four or five o'clock it was reported to them that the corpse was no longer there and that it had probably been carried away in the night during the bad weather whilst it rained and thundered, which was all that we could find out concerning the said removal, wherefore we have drawn up the present proces verbal to hold and serve as needs be, even the sick having told us that they had not perceived anything.

Done at the Hospital the above day, month and year.

Signed: "Raguet". "Fleuriau".

"Henry, clerk" (paraph)

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#### 4. Appointment of Curator.

*Appointment of a Curator to the Memory of One Servinien,  
Alias La Rochelle.*

April 19, 1752.

Before us, Councillor Commissary in this case, the complaint brought by M. the Attorney General of the King, against one

Andre Servinien, so-called La Rochelle, soldier, on date of the eighteenth instant, the order of M. Michel, Councillor of the King in his Councils, Commissary General of the Marine and Intendant (ordonnateur) of Louisiana, below the said complaint, of the said day, the conclusions of the Attorney General of the King, we the above mentioned Commissary considering that the said suicide Servinien has no relatives in this colony, have officially appointed one Pierre Cecille, inhabitant of this colony, who will be cited before us to accept the said charge and be sworn.

Given at New Orleans, this nineteenth of April, one thousand seven hundred and fifty-two, in the morning.

Signed: "Raguet".

"Henry (paraphe) clerk".

In the year one thousand seven hundred and fifty-two, on the nineteenth day of April, at two o'clock in the afternoon appeared before us, above named and undersigned commissary, one Pierre Cecille, farmer, residing in this city, officially appointed by us as curator to the corpse and memory of one Andre Servinien, so-called La Rochelle, soldier garrisoned in this city, on account of the criminal prosecution extraordinarily instituted by us, on request of the Attorney General of the King, said Cecille, here present, has voluntarily accepted the said charge of curator and has sworn to defend well and faithfully the memory of the said Servinien, of which act was passed and signed on the above mentioned day, month and year and have signed: "P. Cecille".

"Raguet"

"Henry (paraph) clerk".

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5. Re-Examination of Witnesses Heard Against Servinien.

April 20, 1752.

In the year one thousand seven hundred and fifty-two, on the twentieth day of April, in the afternoon, before us, Jean Baptiste Raguet, Councillor in the Superior Council of Louisiana, appeared the Attorney General of the King, who told us that, in execution of our order of the said day, in the forenoon, he had cited one Joseph Odo, Jean Louis Rabidou, Pierre Filhev and Andre Desjardins, soldiers of Benoist's company, detached troops of the marine maintained in this colony, and witnesses heard in the first inquiry conducted at his request, on the eighteenth of the present month against one Andre Servinien, so-called La Ro-

chelle, soldier of the said company, accused of having blown off his head with his gun, to be re-examined in their testimony through notice served on them by Le Norman, sheriff, on this day, which notice he presented to us and demanded that he be able to proceed to re-examination of witnesses.

Whereupon we gave a certificate to said Attorney General of his appearance and requisition and ordered that we immediately proceed to the re-examination of the witnesses and the said Attorney General of the King retired.

And on the moment appeared Joseph Odoy, soldier of Benoist's company, first witness testifying before us in the inquiry conducted by us on request of the said Attorney General. After he had taken an oath to speak the truth, we read to Odoy the testimony given by him at the said inquiry and after having heard it he said it was the truth and that he does not wish to add to nor take anything from it and persisted therein; the present re-examination being read to him he also persisted and declared that he did not know how to write nor sign, whereupon inquiry as per ordinance.

Signed: "Raguet".

"Henry (paraph) clerk".

Also appeared Jean Louis Rabidou, a soldier of Benoist's company garrisoned in this city, second witness testifying in the said inquiry, to whom, after he had sworn to speak the truth, we read the testimony given by him at the said inquiry, and after having heard it, he said that it is the truth and that he does not wish to add to nor take from it and that he persists therein. The present re-examination being read to him he also persisted and declared that he did not know how to read nor sign, whereupon inquiry as per ordinance and afterwards signed:

"J. L. Rabidou"

"Raguet"

"Henry (paraph) clerk".

Also appeared Pierre Filhev, a soldier of Benoist's company garrisoned in this city, third witness heard in the said inquiry, to whom, after he had sworn to speak the truth, we read the testimony given by him at the said inquiry, and after having heard it he said that it is wholly true, that he has nothing to add to nor to take from it and that he persists therein. The present re-examination being read to him he also persisted and declared that



he did not know how to write nor sign, whereupon inquiry as per ordinance. Signed: "Raguet".

"Henry, clerk" (paraph)

Also appeared Andre Desjardins, a soldier of Benoist's company garrisoned in this city, fourth witness heard in the said inquiry, to whom was read, after he had sworn to speak the truth, the testimony given by him at the said inquiry and after having heard it, he said that it is true throughout, that there is nothing to add to it nor to take from it and he persisted therein; the present re-examination being read to him he persisted in it and declared that he did not know how to write nor sign, whereupon inquiry as per ordinance.

Signed: "Raguet".

"Henry, clerk" (paraph)

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6. Interrogation of the Curator of Servinien.

April 20, 1752.

In the year one thousand seven hundred and fifty-two, on the twentieth day of April, before noon, before us, Jean Baptiste Raguet, Councillor of the King in his Superior Council of the Province of Louisiana, Commissary appointed on this case, being in the Registry of the Superior Council of the said province, appeared one Pierre Cecille, residing in this city, officially appointed by us as curator to the memory of one Andre Servinien, so-called La Rochelle, a soldier in one of the companies of detached troops of the marine maintained in this colony, who committed suicide and the said curator has told us that he is ready and offers to undergo interrogation on the facts shown by the inquiry conducted by us on demand of the Attorney General of the King against the memory of Andre Servinien, requesting that it please us to give him a certificate of his appearance and to proceed to his interrogation, and has signed: "Cecile". Whereupon we have given certificate to said Pierre Cecille in the said names of his appearance and above demand and have ordered that we immediately proceed to the interrogation of the said curator,

And on the moment the said Pierre Cecille was sworn to speak the truth on the facts on which it will please us to interrogate him,

This done, we interrogated him on his age, qualifications and domicile;

He said his name is Pierre Cecille, residing in this city, where he is usually domiciled, aged about forty-five years, professing the catholic, apostolic and Roman religion.

Interrogated if he knows for what cause he has been appointed curator in this occasion;

He answered that as one Andre Servinien, a soldier of a company of detached troops of the marine, was found in the place where the privies were formerly situated in one of the buildings of the barracks, who, it is thought, killed himself with his gun, has no relatives in this colony and he was appointed by judgment rendered yesterday official curator to the said Andre Servinien, who is no more, his body having been carried off during the night between the eighteenth and the nineteenth, as he heard through public rumor.

Interrogated if he knew for what cause for which the said soldier killed himself,

He answered that he knows nothing of it, but, that as the said soldier was of unsound mind, having spells of anger, fury and frenzied passion, it is not surprising that he took this occasion to kill himself.

Interrogated if he had sometimes seen him in his spells he answered that he had not but that he had heard his Comrades say that he was a lunatic and that they had often reprimanded him for this cause, but that he could not understand reason when his fury took possession of him.

Interrogated if he had not heard that he had had some disagreement with one of his comrades who might have taken this occasion to kill him,

He answered that he had not and that he does not think that any of his comrades killed him as they avoided him on account of his frenzies, that he often went out of his way for that purpose, and that it was particularly when he had drunk and even after his wine had finished working he was more of a lunatic than previously.

Interrogated if he had anything personal to say concerning the charge against or the discharge of Servinien's memory, he answered that he has nothing else to say unless it be that he was a lunatic and that his act was caused, in his opinion, more by insanity than by despair, all the more so since it appeared from the testimony that he spoke only of killing his father and him-

self afterwards and that he had even tried to stab himself in the stomach with a knife, which his comrades often prevented.

The present interrogation having been read to him he said that his answers are the truth, he persisted thereon and signed: "Cecile".

"Raguet".

Let it be communicated to the Attorney General of the King. At New Orleans, May 4, 1752.

Signed: "Raguet"

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7. Confrontation of Witnesses Heard Against Servinien.

April 21, 1752.

Confrontation conducted by us, Jean Baptiste Raguet, Councillor of the King, in his Superior Council of the province of Louisiana, Commissioner appointed on this case, on request of the Attorney General of the King, plaintiff and accuser against the memory of one Andre Servinien, so-called La Rochelle, a soldier of a company of detached troops of the Marine maintained in this colony, accused of having taken his life, of the witnesses who testified at the inquiry conducted by us on the eighteenth of the present month, and this in execution of our sentence of the nineteenth of the present month, in which confrontation we proceeded as follows:

On April twenty-first, one thousand seven hundred and fifty-two; at three o'clock in the afternoon, appeared before us Pierre Cecille, Curator appointed to the memory of Andre Servinien, so-called La Rochelle, a soldier of Benoist's company, a detached troop of the Marine maintained in this colony, at present garrisoned in this city, charged with having committed suicide, with whom we confronted Joseph Odo, a soldier of the said company, first witness at the inquiry, and after the curator as well as the witness had been sworn to speak the truth and challenged to say if they knew each other, said viz:

The said Curator that he does not know the said witness, and the said witness that he knows Pierre Cecille by sight as a resident of this city. After which we ordered the clerk of the said Council to read the first articles of the testimony of the witness stating his age, profession and residence and his declaration that he is not related to the said accused, nor to the said Curator. The Curator being challenged, as such, to state any

objection to the testimony of the said witness immediately, or that in default of so doing no exception will be considered after testimony and re-examination shall have been read to him as per ordinance which we made him understand;

To which the said Curator answered that he had no objection to make against the said witness no more than the said witness against the said Curator.

This done we had the testimony and re-examination read to the said witness in presence of the said Curator for the accused, the said witness said that his testimony was the truth and thus maintained to the said Curator, and that he meant to speak of the accused in his testimony and re-examination, and persisted therein, and the said Curator said that he did not take exception to the witness's testimony and believes it to be the truth.

The present confrontation being read to the said Cecille, Curator, and to the said witness, each persisted in what he had said and the said Curator signed, but not the said witness, who declared that he did not know how to write nor sign, whereupon inquiry as per ordinance.

Signed: "Cecile".

"Raguet".

Then appeared before us, in presence of the Curator, Jean Louis Rabideau, a soldier of Benoist's company, second witness testifying at the said inquiry and after the said Curator as well as the said witness had been sworn to speak the truth, and challenged to say if they knew each other, they said that they were not acquainted but that they both knew the said suicide, after which we ordered our clerk of Council to read the first articles of the testimony of the said witness stating his name, profession and residence and his declaration that he is neither a relative, a connection, attendant nor servant of said accused, and the Curator being challenged to state any objections to said witness immediately, otherwise, and in default of so doing, none would be accepted after the testimony and re-examination were read to him as per ordinance, which we gave him to understand.

To all of which the said Curator and the said witness answered that they had no objections to make to each other, in any way whatsoever.

This done we read the testimony and re-examination of the said witness, in presence of the said Curator, the witness saying that his testimony is the truth and thus maintained it to the said

Curator and that it was of the accused he meant to speak in his testimony and his re-examination and therein persisted.

To which the said Curator answered that he thinks that all that the said witness said is the truth as well as himself in his interrogation, knowing the said accused as a man often unsound of mind and a lunatic and the said witness said that he thought the same.

The present confrontation being read to the said Curator and to the said witness both persisted therein in what concerned each and the said Curator signed, but not the said witness, who declared that he did not know how to write nor sign, whereupon inquiry as per ordinance. Signed: "Cecile".

"Raguet".

Then appeared before us, in the presence of the said Curator, Andre Desjardins, a soldier of Benoist's company, the fourth witness testifying at the said inquiry and after the said Curator as well as the said witness had been sworn to speak the truth, challenged to say if they knew each other, they said they knew each other very well, namely that the Curator knew Desjardins to be a soldier of Benoist's company and the said soldier, knew the said Cecile, Curator, to be a resident of this city, and that they had both known the said Andre Servinien, so-called La Rochelle accused of having killed himself, to be a soldier of Benoist's said company, after which we ordered the clerk of the Council to read the first articles of the testimony of the said witness stating his name, profession and residence and his declaration that he is not a relative, a connection nor a servant of the said accused and we challenged the said Curator to state immediately any objection against the said witness, otherwise, and failing to do so at this moment none will be accepted after his testimony and re-examination shall have been read to him as per ordinance which we made him understand.

To which the said Curator and the said witness said that they had no objections to make to each other.

This done we had the testimony and the re-examination read to the said witness, in the presence of the said Curator; the said witness, said that his testimony and re-examination are the truth and thus maintained to the said Curator, and that it was really of the accused that he meant to speak in his testimony and re-examination and persisted therein.

To which the said Curator answered that he had naught to answer and that he thinks that the said testimony of the said witness is just.

The present confrontation and testimony being read to the said Curator and to the said witness, each persisted therein in what concerned him and the said Curator signed, but not the said Desjardins, witness, who declared that he did not know how to write nor sign, whereupon inquiry as per ordinance.

Signed: "Cecile"

"Raguet".

Next appeared before me, above mentioned Commissioner, in the presence of the said Cecille, Curator, one Pierre Filhev, third witness testifying at the said inquiry, and after the said Curator and witness had been sworn to speak the truth, challenged to say if they knew each other they said they knew each other very well, as they also knew the said Andre Servinien, so-called La Rochelle to be a soldier of Benoist's company.

After which we ordered the clerk of the Council to read the first articles of the testimony of said witness, containing his age, profession and residence and his declaration that he is neither a relative, a connection nor a servant of the said accused nor of the said Curator.

We challenged the said Curator, as such, to state immediately any objection he might wish to make, otherwise, and in default of so doing at this moment, none will be accepted after the testimony and the re-examination shall have been read to him as per ordinance which we made him understand.

To which the said Curator and the said witness said that they had no objections to offer each other in any way.

This done we read the testimony and the re-examination of the said witness in the presence of the said Curator, the witness said that his testimony and re-examination are true and thus maintained to the said Curator, and that it is really of the accused he meant to speak in his testimony and re-examination and therein persisted.

And the said Curator answered that he believed all that the said witness had said in his testimony and re-examination to be true.

The present confrontation being read to the said Curator and to the said witness, each persisted in what concerned him and the

said Curator signed, but not the said witness, who declared that he did not know how to write nor sign, whereupon inquiry as per ordinance

Signed: "Cecile".

"Raguet".

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8. Conclusion of the Attorney General.

May 5, 1752.

*The Attorney General of the King plaintiff and accuser  
against*

*The Memory of one Andre Servinien, accused of having  
suicided by shooting himself.*

Before us, Commissioner on this case, all the proceedings of this prosecution instituted by us, the whole examined, my opinion is, without prejudice to yours, Gentlemen, that the memory of the said Servinien, so-called La Rochelle, a soldier of this garrison, be discharged of the accusation, inasmuch as the testimony of the witnesses in this affair shows that the accused was often unsound of mind, getting into extraordinary furies, so far as wanting to kill himself and even threatening to kill his father, and that, during the whole morning of the day on which he shot himself, he had shown signs of his fury and insanity.

At New Orleans, this fifth of May, 1752.

Signed: "Raguet".

On reverse of document:

"To Mr

Mr Raguet, Councillor,

Police Judge

At New Orleans.

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9. Interrogation of Curator in Open Court.

*Criminal Session of the Superior Council,*

*May 6, 1752.*

Paraphed

MICHEL

May 6, 1752.

*Interrogation of Curator to Memory of Servinien, so-called  
La Rochelle.*

Where were assembled Messrs de Vaudreuil, Governor; Michel, Commissary General of the Marine, Intendant and First Judge; Sieur and Councillor de Membrede, Major of New Orleans;

Raguet, Councillor; Le Breton, de Lalande, Kernion and Lafreniere, Councillors assessors.

On information of the Attorney General of the King against the memory of Andre Servinien, so-called La Rochelle, a soldier of Benoist's company, accused of having committed suicide, and also Pierre Cecille, Curator appointed to the memory of the said accused.

Before us the criminal prosecution extraordinarily instituted against the said Servinien: The Council has ordered that the said Pierre Cecile, Curator, be cited to be interrogated. This done, after he had sworn to speak the truth, we interrogated him on his age, qualifications and residence.

He said that he was named Pierre Cecile, inhabitant of this city, aged forty-five years, professing the Catholic, Apostolic and Roman religion and that he has been appointed Curator to the memory of Andre Servinien.

Signed: "Michel".

*Michel.—First Judge Conducts the Examination:*

Interrogated if he knows anything besides what was asked in his interrogation, he said he had nothing else to say but what he had answered.

Interrogated if it is true that the accused said that he wished to kill his father, he answered: Yes, that he had truly heard him say in his folly that if he returned to France he would kill his father and that he had even tried to kill himself several times.

The present interrogation being read to him, he said that it is the truth, persisted therein and signed: "Cecile", "Vaudreuil", "Michel", "D'Auberville", "Delalande", "Huchet de Kernion", "Le Bretton".

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10. Final Judgment.

*Criminal Session, May 6, 1752.*

Paraphed  
MICHEL

*Judgment of Absolution of Memory of Servinien, so-called  
La Rochelle.*

Were present Messrs de Vaudreuil, Governor; Michel, Commissary General of the Marine, Intendant (Ordonnateur) and First Judge; Dauberville, Commissary of the Marine, second Councillor; de Membrede, Major of New Orleans; Raguet, Coun-



cillor ; Le Bretton, Delalande, Kernion, and Lafreniere, Councillors assessors.

On demand of the Attorney General of the King, plaintiff and accuser against

One Andre Servinien, so-called La Rochelle, a soldier of Benoit's company, deceased and accused of having blown off his head with his gun,

And Pierre Cecille, resident, appointed curator to the memory of said accused :

Before us the proces verbal of the inquest held at the place where he killed himself, by the Attorney General, accompanied by the clerk of the Council on the seventeenth of last April,

The petition presented by the said Attorney General of the King and the order below it granting permission to prosecute criminally the assassination or homicide before M. Raguet, Councillor,

Appointment of Curator to corpse, and inquiry, re-examination, interrogation and confrontation the whole on date of the eighteenth of the said month,

Inquiry of the said day of four witnesses who testified, the appointment of Pierre Cecille, a resident, as curator to the corpse on the nineteenth of the said month, the curator being sworn on that day,

Interrogation of Pierre Cecille, curator, on the twentieth of the said month,

Re-examination of the witnesses on the said day,

Confrontation of the said witnesses who testified at the said inquiry with Pierre Cecille, curator, on the twentieth of the said month,

The proces verbal of the removal of the corpse of the nineteenth of the said month,

The conclusions of the Attorney General of the King on this day, the whole seen and examined, the Council has rendered a decision, resulting from the inquiry that the said Andre Servinien, so-called La Rochelle, was not sound of mind, being a lunatic, and subject to fits of fury, has discharged his memory of the said charge.

Given in the Council Chamber, May sixth, one thousand seven hundred and fifty-two.

Signed: "Vaudreuil". "Michel". "D'auberville". "Delalande". "Huchet de Kernion". "Raguet". "Le Bretton".

## ORIGINAL TEXT.

Proces Verbal of Judicial Visit to Corpse of Suicide.

17<sup>e</sup> avril 1752.

## Original Text:

*Proces verbal of judicial inquest of Attorney General Fleuriau and Clerk Henry upon the suicide of Andre Servinien.*

Lan mil sept cent cinquante deux le dix septieme jour d'avril dix heures du matin nous Francois Fleuriau, Procureur General du Roy, au Conseil Superieur de la Province de la Louisianne sur lavis qui nous a été donné par le Sr. Francois Simare de Bellisle, garcon major des troupes en cette ville quil y avoit un soldat dans le quartier des cazernes du coté de lintendance qui s'etoit cassé la teste dun coup de fusil. Nous nous sommes transportés dans les quartier ou etant entré dans la première cour accompagné du Greffier du Conel Lon Nous a conduit dans une autre petite cour ou etoient les latrines avons vu un cadavre etandu sur le dos avec son fusil entre les jambes at un mauvais couteau a la gachette du dit fusil, lequel est soldat Lon Nous a dit sapeller Andre Servinien dit La Rochelle, soldat de la Compagnie de Benoist ayant tout le crane enlevé et la cervelle sautée plus d'a un pas de distance de sa teste et avons vu des marques de balles contre le mur du dit endroit, ce qui nous a fait juger que led, soldat sest cassé la teste etant debout le canon aparement appuyé contre le front et se Sera servy de son pied pour faire lacher la gachette du fusil ledt fusil encore etendu entre ses jambes, ensuite de quoy avons ordonné de le faire transporter dans Lhopital Royal de cette ville pour le faire soller et instruire le proces audt cadavre a notre requete et avons dresséle présent proces verbal pour servir et valloir a ce que de raison a la Nouvelle Orleans les susdits jour mois et an.

Fleuriau.

Henry Greff (paraphe).

No. 2.

N<sup>o</sup>. 1303.

Information.

*Information Sur le Suicide du Nommé André Servinien.*

Information faite par nous Jean Bte Raguet Conseiller du Roy au Conseil Superieur de la Province de la Louisianne a la

requete de Monsr Le Procureur General du Roy demandeur et accusateur contre la memoire du soldat nommé André Servinien did La Rochelle accusé de setre omicidé et détruit dun coup de fusil dans la teste, a laquelle information avons procédé ainsy quil ensuit tant des vies et moeurs du dit soldat que de son omicide.

Du dix huit Avril mil sept cent cinquante deux trois heures de relevée

Joseph Odoy soldat de la Compagnie de Benoist en garrison en citte ville agé de vingt six ans professant la religion Catholique apostolique et Romaine, lequel a pris serment par luy presté de dire verité a déclaré n-etre parent allié ny domestique des parties et quil a été assigné a ce jour pour déposer verité a la requete de M. Le Procureur Général du Roy suivan le exploit dassignation quil nous a representé

*Deux<sup>e</sup>*—Dépose sur les faits mentionnés en la plainte de M. Le Procureur General du Roy dont luy avons fait faire lecture que le nommé La Rochelle soldat de so Compagnie et de leur chambrée hier au matin sur les huit a neuf heures du matin se tua luy meme avec son fusil aux commodités, que luy meme déposa sur ee quoy lon luy did fut le voir en raison de chercher de leau au fleuve et le trouva mort, qu'une heure avant que ce coup arriva ce meme soldat avoit pris un couteau en disant quil vouloit se détruire luy meme que tous les jours sitost quil estoit un peu pris de boisson ou quil avoit bu in fillet il estoit dans des coleres terribles disant toujours quil se tueroit a coups de couteau que luy et ses camarades ont souvent empesché ses furies et ses transports et ses violences, que meme dans ses grandes furies il menacoit de tuer son pere, que par toutes ses violences et son mauvais caractere il ne la jamais voulu fréquenter et quil se peut que quelque fois son esprit fut ecarté quil ne la jamais assez connu pour en jüger au juste, qui est tout ce quil a dit scavoir lecture a luy faite de la présente déposition a dit icelle contenir verité y a persisté et déclaré ne scavoir écrire ny signer de ce enquis suivant lordce.

Raguet

Henry Greff.

*Trois<sup>e</sup>*—Jean Louis Rabigou soldat de la Compagnie de Benoist en garrison en citte ville, agé de vingt cinq ans, professant la religion Catholique, apostolique et Romaine lequel apres serment par luy presté de dire verité a déclaré n'etre parent, allié ny domestique des parties et quil a été assigné a ce jour déposer verité

a la requete de M. Le Procureur General du Roy suivant l'exploit d'assignation quil nous a representé et dépose sur les faits mentionnés en la plainte de M. Le Procureur General du Roy dont luy fait faire lecture quil a connoissance que le nommé Servinien dit La Rochelle soldat de la meme compagnie lequel sest tué hier au matin avec son fusil se mettoit fort souvent dans des coleres et des furies extraordinaires et prenant meme un couteau pour se le porter dans lestomac et jurant et reniant dieu jusqu'a faire sortir du sang avec son couteau de son estomac, ce qui a plusieurs fois fait frémir luy déposant quil lempeschoit de se détruire, que les camarades de la chambre lont aussy empesché de se détruire que souvent il juroit et tempestoit contre son pere disant quil ne luy pardonneroit jamais quil croit que quand cet homme avoit bu quelques fillets il avoit l'esprit égaré et que luy et ses camarades le disoient qui est tout ce quil a dit scavoir lecture a luy faite de sa déposition adit quelle contient veérité y a persisté a signé et na requis salaire.

W Rabigou

Raguet

Henry Greff

Pierre Filhev soldat de la Compagnie de Benoist agé de vingt trois ans professant la religion Catholique, apostolique et Romaine lequel apres serment par luy presté de dire verité a déclaré n'etre parent allié ny domestique des parties et quil a et assigné a ce jour pour déposer vérité a la requete de M. Le Procureur General du Roy suivant l'exploit d'assignation quil nous a représenté.

*Cinq<sup>e</sup>*—Dépose sur les faits mentionnés en la plainte de M. Le Procureur General du Roy dont luy avons fait faire lecture quetant de la chambre du nommé Servinien dit La Rochelle soldat qui sest tué hier au matin dun coup de fusil le dit La Rochelle se mettoit dans des furies et transports de folie en disant toujours quil se perdrait et détruiroit luy meme et son pere aussy, quil ne luy pardonneroit jamais ce quil luy avoit fait, que souvent il prenoit un couteau pour se le porter dans le corps que souvent luy et ses camarades len ont empesché et que comme ce n'toit pas un homme sociable et quil navoit point de bonnes raisons luy et ses camarades ne le frequentoient point, quils ont toujours cru quil avoit quelque chose dans l'sprit qui l'egarait, qui est tout ce quil a dit scavoir lecture a luy faite de la présente déposition a did icelle

contenir vérité y a persisté et a déclaré ne scavoir écrire ny signer de ce enquis suivant lordonnance et n'a requis salaire.

Raguet  
Henry Greff

Andre Desjardins soldat de la Compagnie de Benoist en garrison en cette ville agé de quarante cinq ans professant la religion Catholique, apostolique et Romaine lequal apres serment par luy presté de dire vérité a déclaré netre parent allié ny domestique des parties et quil a été assigné a ce jour pour déposer vérité a La requete de M. Le Procureur General du Roy suivant l'exploit d'assignation quil nous a representé.

*Six<sup>e</sup>*—Dépose sur les faits mentionnés en la plainte de M. Le Procureur General du Roy suivant l'exploit d'assignation quil et dont luy avont fait lecture que le nomme Servinien dit La Rochelle soldat de leur compagnie et de leur chambrée se tua hier au matin sur les huit a neuf heures avec son fusil en se cassant la teste, qu'une heure avant cela il avait voulu se tuer avec un couteau et le jetta, que plusieurs fois il avait voulu se tuer et se détruire a coups de couteau, qu'il luy a apparu a luy et a ses camarades que cet homme la avoit l'esprit egaré, que meme etant a la cantine avec ses camarades il alloit de table en table prendre les bouteilles et buvant comme un fou, qu'il se mettoit en colere en jurant qu'il se detruiroit luy et son pere, et toute so mauvaise conduite le faisoit souvent mettre en prison, qu'il étoit sy peu sociable que luy déposant ny aucuns camarades ne vouloient point faire société ensemble avec luy, qui est tout ce quil a dit scavoir.

Raguet (paraphe)

*Sept<sup>e</sup>*—Lecture a luy faite de la présente déposition a dit icelle contenir vérité y a persisté et déclaré ne scavoir ecrire ny signer de ce enquis suivant lordce.

Raguet (paraphe)  
Henry Greff (paraphe)

No. 3.

No. 1304. Original Text:

*Proces Verbal d'Enlevement du Cadavre de Servinien dit  
La Rochelle.*

19 Avril 1752.

L'an mil (1) sept cent cinquante deux le dixneuvieme (1) avant midy pardevant nous Jean Baptiste Raguet, Conr du Roy au

Conseil Supérieur de la Louisiane Commissaire en cette partie est comparu M. Le Procureur General du Roy lequel nous a dit quil vient d'aprendre que la nuit derniere ont avoit enlevé le corps du nomme André Servinien dit La Rochelle soldat de cette garnison qui estoit déposé dans une cabanne de Lhopital du Roy de citte ville—et contre la mémoire duquel il poursuivoit le proces criminel pour le faire punir comme homicide de luy meme suivant la rigueur des 'ordonnances du Roy—pourquoy il requiert de nous transporter avec luy et le Greffier aud hopital pour nous informer du fait et en dresser proces verbal surquoy et a l'instant nous etant transportés aud. Hopital ou y etant nous aurions demandé au nommé Baptiste et a deux Jeunes Gens aprentis churugiens dun nommé chastang et lautre dupon de nous montrer la cabanne ou estoit déposé le cadavre en question lesquels nous auroient dit que ce cadavre auroit été enlevé sans doute la nuit derniere puisqu'il estoit hier au soir dans la de Cabanne dans une caisse ou ils lavoient sollé depuis deux jours (quils) (1) ne scavent ny nont aucune connoissance qui a pu faire cet enlevement puisqueux ne couchent point a (Lhopital) (1) ensuite nous (1) nous sommes transportés a la cour (1) dudt hopital ou est construit lade cabanne et apres avoir visité partout nous ny avons trouvé aucune fracture ny rupture ayant pareillement visité la cloture qui entoure lade cour nous ny avons rien vu de dérangé, et dans linstant sont intervenues deux Religieuses Ursulines les quelles ont soin dudt hopital et des malades dont lune nommée Magdelaine et lautre Saint Xavier qux quelles avons demandé sy elles avoient connoissance de l'enlevement du corps en question, elles nous ont dit nen avoir aucune attendu quelles etoint rentrées et couchées dans leur monastere, que seulement ce matin sur les quatre a cinq heureson leur raporta que ce corps ny estoit plus et que lon lavoit sans doute enlevé la nuit pendant le mauvais temps quil a fait par la pluye et tonnerre qui est tout ce que nous avons pu decouvrir au sujet du dit enlevement, de tout quoy avons dressé le présent process verbal pour servic et valoir ce que de raison, le malades nous ayant meme did quils navoient rien apercu, fait a Lhopital le susdt jour mois et an.

Raguet

Fleuriau

Henry Greff (paraphe)

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(1) missing in text and supplied: neufi (ème) Lh(opital) (ensuite nous) (a la cour).

No. 4. Original Text:

No. 1305.

*Nomination d'un Curateur à la Mémoire du Nommé Servinien dit La Rochelle.*

19 Avril 1752

Vu par Nous Conseiller Commissaire en Cette Partie La Plainte portée par Mr Le Procureur Général du Foy Contre le Nommé andré Servinien dt La Rochelle soldat En datte du dix huit du présent, Lordonnance de Monsieur Michel Conr du Roy en ses Conseils Commissaire Général de la Marine Ordonnateur à la Louisianne au bas de la ditte Plainte, dudit Jour, Les Conclusions de Mr Le Procureur Général du Roy Nous Commississaire susdt attendu que ledt Servinien homicide Na aucuns parents En Cette Colonie, avons Nommé doffice pour Curateur a sa mémoire Le Momme Pierre Cecille habitant de cette Colonie Lequel sera assigné Pardevant Nous pour acppter la dte Charge et prester serment Donné a La Nouvelle Orleans Le dix neuf avril mil sept cent Cinquante deux du matin.

“Raguet”

“Henry, Greff” (paraphe).

Lan Mil Sept Cent Cinquante deux Le dixneuvieme Jour d'avril deux heures de Revelevée Est Comparu Pardevant Nous Commissaire susdit Et soussigné Le Nommé Pierre Cecille habitant Demeurant En cette Ville de la Nlle Orleans Curateur par Nous Nommé doffice au Cadavre et a La Memoire du nommé André Servinien, dit La Rochelle soldat En garnison En Cette Ville a Effet du proces Criminel qui sera Extraordinairement instrut par Nous a la Requete de Mr Le Procureur General du Roy Lequel Cecille Cy présent a Volontairement accepté lade Charge de Curateur Et a fait ser ment De Bien Ed fidellement defendre La mémoir dudit Servinien dont acte Et a signé Les susds Jour, mois Et an p. cecile

Raguet

Henry, Greffier (paraphe)

No. 5.

No. 1306

Original Text:

20 avril 1752

Recolement

*Recollement de temoins entendu Contre Servinien*

Lan Mil Sept Cent Cinquante deux Le Vingtieme Jour du mois d'avril de Relevée Pardevant Nous Jean Baptiste Raguet

Conr au Conel Superieur de la Louisianne Est Comparu Mr Le procureur général du Roy Lequel Nous a dit quen Execution de notre ordonnance dud jour au matin Il a fait assigner Le Nommé Joseph Odoÿ, Jean Louis Rabidou, Pierre filhev et Andre Desjardins soldats de la Compagnie de Benoist troupes détachées de la marine Entretienue en cette Colonie, et Témoins ouÿ en Linformation premiere faitte a San Requete Le dixhuit du présent mois Contre Le Nommé André Servinien dt La Rochelle, soldat de lade Compagne accusé de Sestre Cassé La tete avec son fusil pour estre Recolles en Leur depositions par Exploit de Le Norman huisier audiancier de ce jour Lequel Il nous a représenté et requis quil put procéder au Recollement des Temoins,

Surquoy avons donnée acte a mond Sr. procr General du Roy de sa Comparution due et requisition et ordonné quil sera par nous présentement procédé au Recollement des Témoins et Sest mond Sieur procr Général du Roy retiré,

Et a Linstant Est Comparu Joseph Odoÿ soldat de la Compagnie de Benoist premier témoin ouÿ en Linformation par nous faite a la requetede mondt Sieur Le procr General, auquel Odoÿ apres serment par luy fait de dire vérité avons fait faire Lecture de la déposition par luy faite en la dte Information et apres Lavoir ouÿ a dit quelle est Véritable my veut agumenter ny diminuer et quel y persisté Lecture a luy faite du présent Recollement y a aussy persisté et déclaré ne Scavoir Ecrire ny signer dece Enquis suivant Lordce

Raguet

Henry, Greffier (paraphe)

Est aussy Comparu Jean Louis Rabidou Soldat de la Compagnie de Benoist en garnison en cette Ville deuxieme témoin ouÿ a la dte Information Auquel apres le serment par luy fait de dire vérité avons fait faire Lecture de la déposition par luy faite en ladte Information et apres Lavoir ouÿ a dit quelle est véritable ny veut augmenter ny diminuer et quil y persisté Lecture a luy faite du présent Récollement y a aussy persisté et déclare ne Scavoir Ecrire ny signer dece Enquis suivant Lordonnance, et a signé Ensuite

Raguet

J. L. Rabigou  
Henry Greff. (paraphe).

Est aussy Compary Pierre filhev soldat de la Compagnie de Benoist en garnison en' cette Ville troisieme temoin ouÿ en ladte Information apres serment par luy fait de dire Vérité avont fait



fre Lecture de la déposition par luy faite en ladte Information et apres Lavoir ouy a dit quelle est veritable dans tout son contenu et quil na rien a y augmenter ny diminuer et quil y peristé Lecture a luy faite du présent Récollement y a aussy persisté et déclaré ne scavoir Ecrire ny signer dece Enquis suitv Lordce.

Raguet

Henry Greff. (paraphe).

Est aussy Comparu Andre Desjardins soldat de la Compagnie de Benoist en garnison en cette Ville Quatrieme temoin ouy en ladte Information auquel apres serment par luy fait d dire Verite avons fait fre Lecture de la deposition par luy faite en ladte Information et apres Lavoir ouy a dit quelle est veritable dans tout son contenu et quil na rien a y augmenter ny diminuer et il y persiste Lecture a luy faite du present Recollement y a aussy persiste et declare ne scavoir Ecrire ny signer dece Enquis suitv Lordonnance.

Raguet

Henry Greff. (paraphe).

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No. 6.

20 avril 1752

No. 1307.

Original Text:

*Interrogatoire du Curateur de Servinien.*

6<sup>e</sup> pag

Lan Mil Sept Cent Cinquante deux Le Vingtieme Jour du mois dAvril—Pardevant Nous Jean Baptiste Raguet Contr du Roy en son Conseil Supérieur de la Province de la Louisianne Commissaire Nommé en cette partie Etant au Greffe du Conseil Superieur de la dite province Est Comparu le Nommé Pierre Cecille habitant en cette ville Curateur par nous Nommé doffice a la Mémoire du Nommé Andre Servinien dt La Rochelle soldat dune des Compagnies de troupes détachées de la Marine Entretenue en cette Colonie Lequel Sest homicidé et le dt Curateur nous adit quil est pret et offre de subir LInterrogatoire sur les faits résultant des Informations par nous faite a la requete du procr général du Roy contre la mémoire dud Andre Servinien Requerant quil nous plaise luy donner acte de sa Comparution et procéder a son Interrogation et a signé avant midy

Cecile

Surquoy nous avons donné acte aud Pierre Cecille aud Noms de sa Comparution et Requisition cydessus et ordonné ql sera par nous procédé tout présentement a LInterrogatoire dud Curateur,

Et a l'instant les Pierre Cecille a preté serment de repondre vérité sur les faits sur lesquels Il nous plaira LInterroger

Ce fait Lavons interrogé de son age qualité et demeure A dit que son nom est Pierre Cecille habitant en cette Ville y demeurant ordinairement agé de quarante cinq ans Environ professant la Religion Catholique apostolique et Romaine

Interroge si Scait . . . . par lequel il a ete Nomme Curateur en cette occasion ;

a Répondu que comme le Nommé Andre Servinien soldat dune Compagnie de troupes détachées de la marine a ete trouvé dans Lendroit ou il y avoit autrefois des Latrines et dans Lun des corps de la caserne Lequel on Croit quil sest tué Luy mesme avec son fusil, Na aucun parent En cette colonie Il a été nommé par sentence du jour dhier Curateur doffice a la mémoire du d Andre Servinien Lequel Nest plus Estant son cadavre ayant été Enlevé le nuit du dixhuit au dix Neuf suivant quil a appris par le bruit public

Interrogé sil scait Le sujet pour lequel ledt soldat se détruit,

a Répondu will nen scait rien mais que Comme led soldat Etoit frappé dSsprit et ayant souvent des Vertiges de Colere de furie Et transport Il nest point Etonnant quil se soit servy de ce moment pour se détruire

#### Ragt

Interrogé sil la vu quelquefois dans ses vertiges a Répondu que non mais quil a oüy dire a ses Camarades de Chambree quil y étoit fou sujet et mesme souvent ils lont réprimé a cet effet mais quil nétoit pas capable dentendre raison quand ses fureurs le prenoit, Interrogé sil na point ouy dire quil eut quelques mesintelligences (2) avec quelqun de ses Camarades qui auroit pu se servir de ce moment pour Lavoir tué a Repondu que non et quil ne Croit pas quaucun de ses Camarades Lay fait parcequils Le fuyoient a Cause de ses frénézies qui luy prenoient souvent et surtout quand il avoïd bu et mesme apres avoir Cuvé son vin ou son Esprit etoit plus aléné quauparavant

Interrogé sil na rien a dire de luymesme tant a la Charge que ala décharge de la Mémoire dud Andre Servinien, a Répondu navoir rien autre Chose a dire sinon qu'il avoit LESprit dun aliéné

et que de desespoir, que depuis quil a vu par la déposition de Te-  
moins quil ne parloit que de tuer son pere et de se tuer nsuite que  
mesme il avoit essaye de se donner Luy mesme des Coups de Cou-  
teau dans LEstomac Ce que ses Camaradesont souvent Empesché.  
Lecture a luy faite du présent Interrogatoire dit que ses Réponses  
Contiennent vérité et quil y persiste et a signé cecile

Raguet

Soit Communiqué a Mr Le procureur gñal du Roy a la Nou-  
velle Orleans 4 de May 1752

Raguet

21<sup>e</sup> avril 1752

No. 1308

No. 7.

Pre pag

Original Text:

Confrontation des Témoins ouis Contre Servinien.

Confrontation faite par Nous Jean Baptiste Raguet Conr  
du Roy en son Conel Supérieur de la province de la Louisianne  
Commissaire Nommé en cette partie a la Requete du procureur  
général du Roy demandeur et accusateur Contre du Nommé Andre  
Servinien dt La Rochelle soldat dune Compagnie de troupe détaché  
de La Marine Entretienue en cette Colonie accusé de sestre détruit  
des témoins ouys en Linformation par nous faite le dixhuit du  
présent mois et en Exécution de notre sentence du dixneuf de ce  
présent mois alaquelle confrontation nous avons proédé ainsy quil  
Ensuit

du Vingtun Avril Mil Sept Cent Cinquinte deux  
trois heures de Relevée

*Ceprouvé un mot Interligné (paraph de Raguet).*

Est Comparu pardevant ous Pierre Cecille Curateur ommé  
a la mémoire de Andre Servinien dt L Rochelle Soldat de la Com-  
pagnie de Benoist troupe détaché de la Marine Entretienue en  
cette Colonie de présent en garnison en cette ville accusé de  
sestre homicidé Auquel avons Confronté Joseph Odoy soldat de  
lad Compagnie premier témoin de LInformation et apres serment  
fait Tant par led Curateur que par les Témoins de dire Vérité et  
Interpellé de dire sils se Connoissoient, Ont dit Scavoir led Cura-  
teur quil ne Connoit pas led Temoin et led Temoin quil Connoit  
de vue Pierre Cecille pour habitant en cette Ville

Après quoy avons fait faire Lecture par le Greffier dudt Conel des premiers articles de la déposition du Témoin contenant son age qualité et demeure et sa déclaration Comme il nest point parent dud accuse non plus que dud Curateur, et Interpellé led Curateur en saqualité de fournir Tout présentement reproche contre led Temoin sinon et a faute de le faire quil ny sera plus recu apres que Lecture luy aura ete faite de sa déposition et recollement suivant Lordonnance que Luy avons donné a entendre, A quoy led Curateur a Repondu navoir aucun reproche a fournir Contre led Témoin non plus que led Témoin aud Curateur.

Ce fait Nous avons fait fre Lecture de la déposition et Recollement desd Témoin en présence dud Curateur accusé Lequel Témoin a dit que la déposition est véritable et La ainsq Soutenu aud Curateur et que cest bien Laccusé quil a Entendu parler par sa déposition et Recollement et y a persisté ci par led Curateur a été dit quil narien a disputer aud Témoin et quil Croit sa déposition véritable,

Lecture faite aud Cecille Curateur et aud Temoin de la présente Confrontation Lesquels y ont persisté chacun a leur Egard et a led Curateur signé non led Témoin Lequel a déclaré ne Scavoir Ecrire ny signer dece Enquis suivant Lordce. Cecile  
Raguet

Est Ensuite Comparu en notre présence Le Curateur présent Jean Louis Rabideau soldat de la Compagnie de Benoist deuxieme temoin ouy en la dte Information et apres serment fait tant par led Curateur que par led témoin de dire vérité Interpellé de nous dire sils se Connoissoient ont dit ne se point Connoitre mais quils Connoissoient bien tous deux led accusé dhomicide apres quoy avons fait faire Lecture par notre Greffier du Conel des premiers articles de la déposition dudt Temoin Conteneant son Nom age qualité et demeure et sa déclaration commil nest point parent allié serviteur ny domestique dud accusé Et Interpellé Led Curateur de fournir tout présentement reproche Contre led Témoin sinon et a faute de la faire il ny sera plus recu apres que Lecture luy aura ete faite de sa déposition et Recollement suivant Lordonnance que nous luy avons donné a entendre,

A tout quoy led Curateur non plus que led Témoin ont dit Navoir aucun Reproche a ses faire Lun et Lautre en aucune facon

Ce fait avons fait faire Lecture de la déposition et Recollement Témoin en présence dud Curateur Lequel Témoin a dit que sa déposition est véritable La ainsy soutenue aud Curateur et que Cest delacusé quil a Entendu parler par sa déposition ainsy que par so Recollement et y a persisté,

Aquoy led Curateur a répondu quil pense que tout Ce que led Témoin a dit est véritable ainsy que Luy par son Interrogation quand Il a Connu Led accusé pour homme qui sortoit souvent de son bonsens Lequel avoit Lesprit tres aliéné et par led Témoin a été dit quil le pense aussy de mesme

Lecture faite aud Curateur et aud Temoin de la présente Confrontation et y ont persisté chacun En Ce qui les Concerne et a led Curateur signé non led Témoin Lequel a déclaré Ny Scavoir Ecrire ny signer de ce Enquis suivant Lordce. Cecile et a signe J L Rabigou

Raguet

Est Ensuite Comparu en présence du Curateur et Pardevant Nous Andre Desjardins soldat de la Compagnie de Benoist troisieme Témoin ouy en Ladte Information et apres serment fait Tant par led Curateur que par led Temoin de dire Vérité Interpellé de nous dire sils se Connoissoient ont dit se Connoitre tres bien Scavoir led Curateur Connoitre led Desjardins pour estre soldat de ladte Compe de Benoist et led soldat connoitre led Cecile Curateur Nommé pour estre habitant en cette Ville et quils ont tous deux Connu Led Andre Servinien dt La Rochelle accusé de sestre détruit pour estre soldat de lad Compagnie de Benoist, apres quoy avons fait faire Lecture par le greffier du conseil des premiers articles de la déposition du Témoin Contenant Son nomage et qualité et demeure et sa déclaration Commil nest parent allié ny serviteur dud accusé, et avons Interpellé led Curateur de fournir Tout présentement reproche Contre Led Témoin sinon et a faute de ce faire quil ny sera plus recu des que Lecture luy aura ete faite de sa déposition et Recollement Suivant Lordonnance que nous Luy avons donné a Entendre,

A quoy Led Curateur et led Temoin ont dit navoir aucun repoche a se faire Lun a l'autre

Ce fait avons fait faire Lecture de la déposition et Recollement dud Témoin en présence dud Curateur Lequel Témoin a dit que Sa déposition et Recollement sont véritables et La ainsy

soutenu aud Curateur et que Cest bien de laccusé quil a entendu parler par Sa déposition et Recollement et y a persisté

A quoy led Curateur a Répondu navoir rien ay Répondre et quil pensse que Lad déposition dud Témoin Juste, Lecture faite aud Curateur et aud Témoin de la présente Confrontation y ont persisté chacun en Ce qui Le Concerne et a led Curateur signé Non led Desjardins Témoin Lequel a déclaré Ne Scavoir Ecrire ny signer dece Enquis suivt Lordce.           cecile

Raguet

Est ensuite Comparu Pardevant Nous Commissaire susd en présence dud Cecille Curateur Le Nommé Pierre fuhev troisieme Témoin ouy en ladte Information et apres serment fait par led Curateur et Témoin de dire vérité, Interpellé de nous dire sils se Coïnoissent ont dit se tres bien Connoitre Comme aussy quil ont Connu led Andre Servinien d La Rochelle pour estre soldat de la Compagnie de Benoist;

Après quoy avons fait faire Lecture par le Greffier du Conseil des premiers articles de la déposition dud Témoins Contenant son nom age qualité et demeure et sa déclaration Commil nest parent allié ny domestique dud accusé non plus que dud Curateur Avons Interpellé led Curateur de fournir Tout présentement Reproche silen a faire en sa qualité sinon et a faute de ce faire quil ny Sera plus lorsque Lecture luy aura ete faite de sa déposition et Recollement suivant Lordonnance que nous Luy avons donné a entendre,

A quoy led Curateur et Témoin ont dit de navoir aucuns Reproches a se faire en aucune facon,

Ce fait avons fait faire Lecture de la déposition et Recollement dud Témoir En présence dud Curateur Lequel Témoin a dit que Sa déposition et Recollement Sont Véritables et La ainsy Soutenu aud Curateur et que cest bien de laccusé quil a entendu parler par sa déposition et et Récollement et y a persisté,

Et a ete Repondu par led Curateur quil Croit Veritable Tout Ce qua did led Témoin dans sa déposition et Recollement.

Lecture faite aud Curateur et aud Témoin de la présente Confrontation y ont persisté chacun en ce qui Le Concerne et a led Curateur signé mais non led Témoin Lequel a déclaré Ne Scavoir Ecrire ny signer, dece Enquis Suivant Lordce.   cecile

Raguet

No. 8.

Original Text:

Opinion of the Attorney General.

*Le Procureur Général du Roy demandr Et accusateur  
Contre*

*La Mémoire du Nomme Andre Servinien accusé de sestre  
homicidé dun Coup de fusil.*

Vu par Nous Commissaire En cette partye toutes les peces du  
proces En question par Nous Instruit le tout Examiné

Mon avis Est sauf celui de Messieurs, que la mémoire dud  
Servinien, dit La Rochelle soldat de cette garnison Soit déchargé  
de Laccusation attendu quil paroît par la déposition des témoins  
Entendus En cette affaire que laccuse Etoit Souvent En démence  
d'Esprit; Se mettant dans des furies Extraordinaires jusqu'a  
Vouloir Se tuer Et meme menacant de tuer son pere; et que lors  
qu'il Sest donné Un Coup de fusil toute la matinée du meme jour, il  
avoit donné des marques de sa furie et de ses folies.

A la Nouvelle Orleans ce cinque may 1752.

Raguet.

Sur le reverse:

"A Monsieur

"Monsieur Raguet Conseiller

Juge de Police

a la Nlle Orleans"

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No. 9.

Paraphé

MICHEL

6 Mai 1752

1311

Original Text:

Interrogatoire du Curateur ala Memoire du nomme Servinien dit

La Rochelle.

*Audce Criminelle 6 Mai 1752*

Ou étoient assemblé Messieurs de Vaudreuil Gouverneur Mi-  
chel Commissaire General de la marine Ordonnateur et premier  
Juge Dauberville Commissre de la marine Sieur et Conr demem-  
brede Major de la Nlle Orleans Raguet Conr Le Breton delalande  
Kxnion et lafreniere Cons assesseurs

A la Requetè du proc général du Roy Contre la mémoire  
d'Andre Servinien dt La Rochelle soldat de la Compagnie de

Benoist accusé de sestre homicidæ, en Encore Pierre Cecille Curateur Nomme a la mémoire dudit accusé

Vu la procédure Criminelle Extraordinairement Intenté Contre led Servignien,

Le Conseil a ordonné que ledt Pierre Cecille Curateur seroit mandé pour estre Interrogé Ce fait luy avon apres le serment par luy preté de dire vérité

Interrogé de son age et qualité et demeure,

A dit se nommer pierre Cecile habitant en cette ville agé de quarante Cing années professant La Religion Catholique apostolique et Romaine et quil a esté Nommé Curateur a la mémoire d Andre Servinien

MICHEL

MICHEL—Interrogé sil sé quelque chose de plus que son Interrogatoire

A dit navoir rien de plus a dire que ce quil a déjà Répondu

Interrogé sil est vray quil ait dit quil avoit Envie de tuer son pere

A repondu que ouy, quil luy a bien ouy dire dans Ces folies que sil retournait en france quil tueroit son pere et quil avoit mesme voulu se tuer plusieurs fois

Lecture a luy faite de presente Interrogation a dit quelle Contient verité y a perssté et signé

Vaudreuil

cecile

MICHEL

D'auberville

delalande

Raguet

huchet de Kernion

Le Bretton

No. 10.

Paraphé

No. 1312.

Jugement d'absolution de la memoire de Servinien dit La Rochelle.

MICHEL *Audience Criminelle du 6 May 1752*

6 mai 1752

Ou Etoient Messieurs de Vaudreuil Gouverneur Michel Commsaire General de la Marine Ordonnateur et pr Juge Dauberville Comre de la marine second coner, de Membrede maor de la Nlle Orleans, Raguet Coner, Le Breton, delalande Kernion et Lafreniere Conss assessors.



A la requete du procr général du Roy demandeur et accusateur Contre

Le Nommé Andre Servinien dt Rochelle, soldat de la Compagnie de Benoist troupes détachées de la Marine Entretenu en cette Colone deffunt et accusé de sestre homicidé Sestant cassé la tete avec son fusil

Et Pierre Cecille habitant Nommé Curateur a la mémoire dud accusé :

Vu le proces verbal de la descente sur les lieux ou il sestre tué pour le procureur général du Roy accompagné du Greffier en date du dixsept avril dernier

La Requete presentée par mon dit Sr Procureur general du Roy et lordonnance au bas portant permission de poursuivre criminellement Lassassinat ou homicide pardevant Mr Raguét Conr Nominaton dun Curateur au Cadavre et Information Recollement Interrogatoire et Confrontation Le tout en date du dixhuit dud mois

Iinformation dud our de quatre témoins ouy

La Nomination de Pierre Cecille habitant Curateur au Cadavre en datte du dixneuf dudt mois prestation de serment aud Curateur de ce jour,

Linterrogatoire de Pierre cecille Curateur en datte du Vingtieme dud mois,

Le Recollement des Témoins dud jour

Confrontation des d Témoins ouy En lad Information aud Pierre Cecille Curateur du Vingtieme dud mois, Le proces verbal dEnlevement dud Cadavre du dixneuf dud mois

Les Conclusions du procr général du Roy de ce jour

Le tout Vu et Considéré Le Conseil a Rendu La preuve Résultante de LInformaton que led Andre Servinien dt La Rochelle soldat de la Compagnie de Benoist nétoit pas dans son bon sens ayant Lesprit aliéné et attaqué de furie, a déchargé sa Memoire de Laccusation en question

Donné en la Chambre du Consel Le sixieme May mil sept cent cinquante deux

Vaudreuil

MICHEL

Dauberville

delalande

huchet de Kernion

Raguét

Le Bretton

## RECORDS OF THE SUPERIOR COUNCIL OF LOUISIANA

No. XI (Continued from April Number)

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*Petition For Extension of Time.* Dec. 10, 1728. Antoine Bonvilain by no means evades his debt to Mr. Kolly; only he is himself hampered on every side by outstanding accounts, and he begs a respite of six weeks. No note by Court.

*Petition of Recovery.* Dec. 11, 1728. Pierre Dreux claims 131 francs for beer that he furnished to the late Mr. Decour. Original account is given as 200 francs, on which 81 francs were paid. If so, net account should be 119 francs?

Notice served to Mr. Rossard, attorney.

Duplicated.

*Petition Over a Misappropriated House.* Dec. 11, 1728. Pierre Dreux smothers himself through a featherbed of wordy effort, in order to bring action against Mr. Rossard, attorney of vacant estates, on account of a certain house accredited to Clairfontaine (deceased), but really belonging to petitioner's former partner Cohendo, who returned to France leaving Clairfontaine in virtual possession, but subject to some provisos which the latter failed to fulfil. Let the house be adjudged as Cohendo's property.

Notice served to Mr. Rossard.

*Decisions in Sundry Suits.*

Dec. 11, 1728.

1. Mondreloy *vs.* De Manadé and wife. Seizure valid, and claim to be discharged.
2. Pieron, alias Vendome, *vs.* Baldic. Claim allowed.
3. Daniel Kolly *vs.* Pontvillain (Teutonism for Bonvillain). Claim allowed.
4. Aville *vs.* Jean Cariton. Jean in default. judgment for A.

1728-1737—Account of Labbe, farmer with the Company of the Indies for negroes and advances of money amounting

to \$7,520, verified by vouchers; calculations made in New Orleans, Nov. 19, 1737.

*Petition of Recovery.* Dec. 14, 1728. Arnaud Bonnaud moves for the citation of Mr. Kolli, to pay the sum of 1800 francs, due on his note of Nov. 15, 1727. Action allowed.

*Petition to Recover Damages.* Dec. 14, 1728. Charles de Morand claims what damages the Court will allow, from Coupard, carpenter for breach of contract, in the matter of finishing a certain house by the time agreed.

Notice served to Coupard.

*Petition of Recovery.* Dec. 18, 1728. Jacques Ozanne (signed: J. Ozanne) cooper of the Company, lent 3 Spanish dollars and 143 francs to the late Morel de Clairfontaine, as shown by notes adduced. The deceased left word in pressence of Mr. Tesson, that these debts were to be paid with a coat which is now in the hands of Langlois, tailor. Let the coat be delivered to J. O.

No note by Court.

*Petition in Remonstrance.* Dec. 18, 1728. George Tesson shows that he lent the late Mr. Morel de Clairfontaine 600 francs to build a house on lot No. 54; property duly mortgaged to G. T. but now claimed by Mr. Rossard, attorney for vacant estates. G. T. claims a further sum of 207 francs from Clairfontaine estate, on ground herein adduced. Let Mr. R. be nonsuited, and let G. T. have preferred credit.

*Petition of Recovery.* January 4, 1729. Sansfaçon claims a flour account of 271 francs from Durivage, and a further item of 55 francs due on a transferred note.

Action allowed, and word left with Madame D.

*Petition in Remonstrance.* January 7, 1729. René Boyer was partner with the late Mr. Clairfontaine in a tract of 12 acres (frontage) on the Mississippi. Mr. Rossard now seeks to appropriate two slaves therefrom to vacant estate. This would ruin R. B., and prevent him from settling his debts to the Company. Let R. B.

be secured in possession of land and the two slaves.  
Action allowed.

*Decisions in Sundry Suits.*

January 8, 1729.

1. D'Auseville *vs.* Joffre. Arbitration report confirmed and its terms to be carried out. Otherwise, the case is further pending.  
Costs reserved.
2. Meynard *vs.* Rossard. Goods to be sold in satisfaction of claim.  
Costs divided.
3. Prevost *vs.* Rossard. Dismissed until adjustment of deceased LaSalle's accounts.
4. Sansfaçon *vs.* Durivage.  
Deferred.

(*Unsigned*) *Extract From Report on Morillet Estate in Account with Mr. and Madame Dreux.* January 8, 1729. The "report" was charged by Mr. de Rochemore to make an amicable division of said estate's property. Failing to satisfy the contesting parties (Mr. and Madame Dreux in particular), he submits the points at issue to the Superior Council for adjudication. He also notes his own opinion for the said issues.

*Composition of Creditors.* January 9, 1729. Arrangements between Nicolas Bion; former employe of the Company, and his creditors. List of credits followed by remarks on the situation. Mr. Bion cannot meet his obligations in this country, where he is actually dependent on charity; but he is authorized to return to France where he hopes to recuperate. Further list, showing whom he promises to pay, and how much.

Array of signatures and marks.

*Receipt.* January 10, 1729. Lagarde has received of Port Captain Genet the sum of 1500 francs on account of the hire of negroes of DeChaumont grant. Reference to an agreement "between us and Monsieur de Chavanne."

*Petition of Recovery.* January 12, 1729. Pierre François De-joux, surgeon claims 165 francs from Bourbeau.

Action allowed.

*Memorandum of Supplies.* Jan. 12, 1729. "Statement of the goods embarked, and omitted in my account, but entered on the books of the grant, in Paris, item for item. Mr. Kolly has refused to accredit me for the same until Mr. Dumanoir has rendered his accounts; although certain that I had furnished the goods." Total bill, 3890 francs, 13 sous. There follows a petition for the citation of Messrs. Drouet, attorney, and Kolly, partner in the grant, to pay the sum of 6000 francs to the writer, Faucon Dumanoir, both for capital and for his living expenses.

Action allowed.

*Petition to Recover Sale Proceeds.* Jan. 13, 1729. Mr. Rossard moves for the citation of Sieur Roger, employé, to pay 93 francs due on sale of some goods.

Action allowed.

*Decisions in Two Suits*

Jan. 15, 1729.

1. Dumainoir vs. Kolly.

Deferred.

Costs reserved.

2. René Boyer vs. Rossard. R. B. to retain the negroes. Costs divided.

*Petition of Recovery.* Jan. 18, 1729. Mr. Kolly seeks to collect an aggregate amount of 1460 francs and 13 sous from Sieur Massy, based on claims duly described. Action allowed.

*Summons to Attend Hearing.* Jan. 19, 1729. Sheriff Dargaray notifies Mr. Droy (Drouet) to appear on Saturday next in the suit between Mr. Dumanoir and Mr. Droy.

*Petition of Recovery.* Jan. 21, 1729. Jacques Esnoul De Livaudais moves to collect 1500 francs, or net avails thereof, due by Mr. Kolly for salary arrears of the late Mr. Céard; five years, 1720 (May 12) to 1725 (June), at

3000 francs a year. Mr. De Livaudais acts as attorney for Demoiselles de La Lande, nieces of Mr. C.

Action allowed.

*Decisions Between Dumanoir and Kolly.* Jan. 22, 1729. Defendant to pay provisional amount of 4000 francs.

Costs reserved.

*Petition For Passage to France.* Jan. 25, 1729. Bion shows that all his creditors are willing to see him return to France except Mr. Duval and Mr. Herpin, on behalf of Mr. Perault. Let Messrs. D. and H. be cited and petitioner's transit allowed, by ship Diane.

Notice served to D. and H.

*Decision in Civil Suits.*

Jan. 29, 1729.

1. Bion *vs.* Duval and Herpin. Council confirms agreement to Jan. 9. Execution ordered.

Costs divided.

2. De la Livaudais *vs.* Kolly. Respite of four months allowed for adjustment of Céard estate's accounts.

3. Kolly *vs.* Massy. M. in default, and subject to costs.

Judgment for K.

*Petition to Recover Sale Proceeds.* Feb. 1, 1729. Mr. Rossard claims an aggregate amount of 247 francs from Cariton, tailor, due on bills of sale.

Action allowed.

*Petition of Recovery.* Feb. 1, 1729. Claude Trennaunnay Chanfret claims 200 francs from Pierre de Manadé, due on sale of a horse, valuation made by Mr. de Noyan, Sr.

Action allowed.

*Decisions in Two Suits.*

Feb. 5, 1729.

1. Rossard *vs.* Roger.

Judgment for plaintiff.

Roger in default and subject to costs.

2. Dumanoir *vs.* Bourbault, and Kolly, parties distrainted.

Further procedure outlined.

*Petition of Recovery.* Feb. 17, 1729. Langlois, tailor claims 39 francs from one Bonne Estofe, German, and asks that Bonne Estofe be cited. Meanwhile, let seizure be allowed.

Approved, and L. may distrain at his own risk.

*Decisions in Civil Suits.*

Feb. 26, 1729.

1. Rossard *vs.* Bourbault.  
B. in default; must pay, plus costs.
2. Charles Droy *vs.* Noel Buisson.  
Dismissed.  
Costs divided.
3. Langlois *vs.* Bonne Etoffe.  
Claim allowed.  
(Antoine Lowe, alias Langlois).

*Petition For Sanction of Sale.* March 9, 1729. Corporal Beauséjour, who has recently married the widow Cardon, has sold his former house to one Langlois, locksmith, and acquired a house from Company's employé Michel. Council will please to ratify sale.

Agreed; Perier, Delachaise, Bruslé.

*Letter From Terrisse De Ternan to Rossard. Aux Cascanias.* March 15, 1729. Hoping that Madame R. has arrived safely in "your Capital." Walnut wood could not be obtained; nobody sawing, but all being busy with seeding. R.'s debtor Leonard puts off paying, but writer will get what he can.

He sends 25 hams.

*Receipt.* March 19, 1729. Senet certifies that he has been paid in full by Monsieur Bapache for the rent of a house.

*Lemesle Alias Bellegarde vs. Pascal.* March 26, 1729. Out of Court. Costs divided.

*Petition to Attend Hearing.* March 28, 1729. Guillaume Bousrand alias Sansfacon claims 90 francs from Blanpain. Action allowed.

*Petition of Recovery.* March 29, 1729. Jean Baptiste Faucon Dumanoir seeks to collect 4000 francs, or net residue

thereof, from "flush" Mr. Kolly, who eludes payment.  
Action allowed.

*Petition of Recovery.* March 29, 1729. Councillor Prat seeks to collect 500 francs from Malon, tailor. Debt was to be paid in rice and corn.  
Action allowed.

*Petition of Recovery By Sale.* April 2, 1729. Lucien Poiré, gunsmith, claims 200 francs from estate of late Blanvilain, and asks to sell the latter's lot in Royal Street.  
Seeing that Poiré has paid B.'s debts, Attorney General Fleuriau permits the said sale.  
Council agrees. Proceeds to cancel P.'s claim.

*Petition of Recovery.* April 2, 1729. De Morand claims 12 barrels of rice from Sieur Bimond.  
Action allowed.

*Decisions in Sundry Suits.*

April 2, 1729.

1. Dumanoir *vs.* Kolly and Droy. K. and D. to pay 4000 francs and costs.
2. Trennay Chanfret *vs.* Pierre de Manadé. P. de M. to pay, plus costs.
3. Guillaume Bouserand (Sansfacon) *vs.* Blanpain.  
Blanpain to pay plus costs.
4. SCRAWL shall be released on condition that his security pay 400 francs for damage.  
Partly torn.

*Petition to Recover Wages.* April 5, 1729. Jacques Guillotot, alias DuSablou claims 133 francs residue wage account, from Sieur Chassin, former officer of the Company in Illinois, but now domiciled at N. O.  
Action allowed.

*Decisions in Two Suits.*

April 9, 1729.

1. Guillotot alias DuSablou *vs.* Chassin.  
C. to pay given claim; he may recover elsewhere.
2. Prat *vs.* Malon.  
Malon in default; must pay, plus costs.



*Petition For Abatement of Account.* April 25, 1729. Bourbeau pleads that he never refused to pay Mr. Dejoux, save that D. should allow for the 10 days while he stayed with B., and was nourished and laundried. Let the account be reduced by 90 francs, or whatever sum the Council may approve.

*Petition of Recovery.* April 25, 1729. Corporal Robert claims 79 francs, 6 sous from Malon, tailor.  
Action allowed.

*Decisions in Sundry Suits.* April 27, 1729.

1. St. Martin *vs.* Massy. Within a fortnight, parties are to name arpitators (arpitres, Teutonism), or else the Court will do so.
2. Estienne Benson *vs.* Graslin.  
Default.
3. Nicolas Rousseau *vs.* Bergison.  
B. to pay.
4. Millon *vs.* DeVerteuil.  
DeV. in default; must pay.

*Petition of Recovery.* April 28, 1729. Antoine Rivierre complains that his wife was overcharged by her employer Voysin, who drew 200 francs from the Company on her accounts when she came from France, and furnished her some supplies not equivalent of that amount. Let valuation be made and the deficit refunded.  
Action allowed.

*Remonstrance.* April 20, 1729. Arnaud Bonnaud objects to being summoned to pay 1678 francs claimed by Mr. Kolly, and supposed to be owing to Ste. Reine grant. First, Mr. K. failed to show his warrant proceeding against A. B.; next, A. B. is merely the agent of Messrs. Perier and De la Chaise; Action, if warranted at all, should be brought against them. Either nonsuit Mr. K., or let him wait till some pending accounting is finished, when the balance bids fair to favor the side of A. B.'s principals.

*Decisions in Sundry Suits.*

April 30, 1729.

1. Kolly *vs.* Bonnaud.  
Four months allowed for proper accounting.  
Costs reserved.
2. Canceled.
3. Pierre Francois Dejoux *vs.* René Boyer. R. B.  
in default and plaintiff nonsuited.  
Rest of passage torn.

*Complaint in Assault Case.* May 2, 1729. When Surgeon Pierre Francois Dejoux, usually resident on the Dasfeld grant aux Chaouachas, asked his fees of one Chaperon, the latter answered with insults and abuse, and also violently attacked the surgeon, leaving him bruised and wounded. Prosecution desired.

No note by the Court.

*Decisions in Sundry Suits.*

May 7, 1729.

1. Antoine Maguire and his wife *vs.* Voisin.  
Plaintiffs nonsuited.
2. Robert *vs.* Malon.  
M. in default; judgment for R.
3. Dejoux *vs.* Bourbeau.  
Further pending.

*Petition in Slave Suit.* May 4, 1729. Pierre Lantaud, tailor, moves for the citation of Francois Carriere, to prove that L. paid for a certain negress consigned to him by Mr. Durand, and belonging to the late Mr. Remond, whose widow is now Madame L., petitioner's wife. Otherwise, let negress and her increase be returned.

Action allowed.

*Petition of Recovery.* May 9, 1729. Nicolas Noiset claims a residue wage account of 160 francs from Mr. Moran.  
Action allowed.

*Surgeons' Report.* May 13, 1729. Alexandre and P. de Manadé find some obscurity in the terms of agreement between Messrs. Dejoux and Chaperon; but all things considered, they would fix the damages at 50 francs.

*Petition to Prosecute.* May 18, 1729. Phillippe Francois Vellart, carpenter, complains that he falsely accused of robbery by one Le Page. Let Le Page be summoned to prove his charges, and fined if he cannot sustain them.

Notice served to Le Page.

But Attorney General Fleuriau turns the case against Vellart, for known disorderly actions, and orders him committed to prison with a view to trial.

Partly torn.

*Petition of Recovery.* May 21, 1729. Nicolas Henry agreed to sell a lot of his to Mr. D'Auseville for 500 francs. Council for technical reasons, disallowed the sale, but nevertheless the transfer was tacitly effected and Mr. D'A. is in actual possession. Mr. D'A. now takes advantage of technicalities to "economize" 500 francs at the expense of N. H. Let Mr. D'A. be cited to pay 500 francs in question.

Action approved by Baron.

Noticed served.

*Petition of Recovery.* May 23, 1729. Surgeon Pierre de Manadé and his wife complain that Baschemin and his wife refuse payment of 15,000 francs agreed on sale of land, as by contract of Nov. 12, 1727. Complex excuses are urged by Baschemin, but the debt remains valid and should be paid. Either let settlement be effected, or else release petitioners from furnishing the wood which had been promised to B. from plaintiffs' property.

Action allowed.

*Petition For Second Copy of Marriage Contract.* May 24, 1729. Joseph Carriere (Signed: Joseph Carrier) has lost the first copy of his marriage contract, and would have Mr. Rossard supply another copy.

Mr. R. is enjoined to do so. Delaichaise.

*Petition of Recovery.* May 25, 1729. Charles Droy, on behalf of the late Mr. de Mandeville and parties interested in

Ste. Catherine grant, claims 1068 francs and 14 sous from Mr. Tixerand.

Notice served, and word left with "Martin his savage."

*Sale of Slave. Natchitoches.* May 28, 1729. Londain has bought of St. Julien a negress named Combasla, for 1300 francs payable in goods at store price at N. O. L. has also paid on account an Indian slave rated at 540 francs, and 20 laying hens. Provisos in case of illness.

Witnessed by Duplessis and P. Tostain.

*Remonstrance.* May 28, 1729. Raymond Amysault Esquire D'Auseville, regardless of his position as one of the Superior Councillors, has been cited like a nondescript commoner, under signature of Mr. Baron, a fellow councillor. Mr. B. should have meditated against such an ignoble slur on one of the constituted dispensers of justice in the Colony. Councillor D'A. makes no claim to the property in question, and is not a partner to any transactions of others involved. Let Nicolas Henry be nonsuited.

Approved, and notice served.

*Decisions in Sundry Suits.*

May 28, 1729.

1. Nicolas Henry *vs.* D'Auseville.  
Adjourned.
2. Canceled.
3. De Manadé and wife *vs.* Baschemin.  
Defendant in default.  
Judgment for plaintiffs.

*Petition to Recover Property.* May 31, 1729. Nicolas Henry, settler below Pointe St. Antoine, complains that while undergoing medical treatment at N. O., he has been deprived of his property by the misrepresentations of one Dupre de Tarbonne, pleading spurious title of possession. Let D. de T. prove his "rights," or else be evicted and held for damages.

Action allowed.

*Petition For Indemnity For Improvements.* May 31, 1729. Nicolas Henry had cleared some land which was found on surveying, to belong to Mr. Dosville (D'Auseville). Let Mr. D. be cited and ordered to clear equivalent land for N. H.

Action allowed: Bruslé.

Duplicated.

*Petition to Recover Hire of Slaves.* May 31, 1729. Morisset, employé, seeks to collect from one Adrien Gilbert, three months and 25 days of hire, at 600 francs a year, of two negroes. Reference to corroborating contract.

Action allowed.

*Criminal Procedure. New Trial Ordered.* June 11, 1729. Owing to some irregularities in the proceedings, Council annuls the former trial of one Joseph Eraff, charged with fatally wounding his partner La Biche, settler at Fort Condé, Mobile. It is now ordered that the Attorney General shall go to Mobile, where a new trial will be instituted before Councillor Bru. The culprit shall be transferred to prison at N. O. (Graff, in 29<sup>78</sup>)

Signed: Perier, Delachaise, Bruslé, Prat, Baron, D'Auseville.

*Remonstrance.* June 11, 1729. Raymond Amyault D'Auseville, after noting that Nicolas Henry died yesterday in the Hospital reviews in tangled detail the deceased's erroneous litigation, and urges that none of it applied pertinently to Councillor D'Auseville. The recent clearing contention (a matter of burnt cane at best) should have been directed against the true proprietor, Terebonne. Madame Henry is merely driven by other parties: let her be nonsuited and answerable for costs.

No note by Court.

*Petition of Recovery.* June 9 and 18. Pierre Schmitt, German, seeks to recover from Rodolph Guiland, 74 francs in equivalent for some rice and a cash collection.

Action allowed.

*Petition to Sell A Lot.* June 20, 1729. Jean Baptiste Bourbeau complains that Henry Bucoy had made him give up a lot of ground in this town, in restitution for an ox of J. B. B.'s that was hamstringed. Let Bourbeau sell the lot and pay the ox from proceeds.

Permitted, July 1, 1729.

*Extract From Marriage Contract.* June 22, 1729. Parties: late Joseph Moreau, widower of late Jeanne Damourette, and Marie Thérèse Le Grand, widow of late Pierre Drilland, employé. Clauses showing what the groom received from bride.

*Petition To Appoint Guardian.* July 1, 1729. Elizabeth Thomas, widow of late Nicholas Henry moves for appointment of a Guardian for her minor daughters, Catherine and Louise.

Approved: Prat:  
Torn.

*Guardian Appointed.* In sequel to the formalities of the case, Elizabeth Thomas is herself named, and confirmed by the Court, as guardian of her two minor daughters. See 29<sup>60</sup>, 29<sup>67</sup>.

Partly torn.

*Decisions in Sundry Suits.*

July 2, 1729.

1. Pierre Schmitt *vs.* Rodolph (Guilland).  
Defendant in default. He shall pay rice and costs.
2. Durivage *vs.* Morisset, Contingent on further procedure.
3. Morisset *vs.* Adrien Gilbert. Net settlement ordered.
4. Canceled.
5. Pierre Lartault *vs.* Carriere.  
Adjourned.  
Charred.

*Petition of Recovery.* July 4, 1729. Francois Alix alias La Roze holds a note of Pierre St. Julien, settler at Cannes

Bruslées, for 300 francs, dated D. 11, 1728; value received in beer. Let St. Julien be cited.

Action allowed.

*Letter of Terrisse De Ternan to Rossard.* July 5, 1729. Acknowledging letter transmitted by Mr. Dutisné. Would fain be near R. since "the glass in hand is a great bond to maintain friendship." Some brandy received, but this is too plentiful for medium of exchange in fur trade. Better commodities in this trade are powder, vermilion, Limbourg (dry goods article), cutlery and large brassware. Sorry to hear of heavy mortality in your capital." Reference to writer's wrecked boat at Ouabache (Wabash).

Sundry matters of interest in this letter.

*Port Captain Senet's Account Book.* July 5, 1729. Including Mobile, Balise, and New Orleans. Writer apparently of German source: birougue for pirogue; pileist for billet. One section shows Company's marine payroll from Jan. 1, 1729. For the handwriting (unsigned), compare 28<sup>93</sup>, 29<sup>23</sup>; also, spelling pileist in 27<sup>136</sup>, 137, 138; ditto, sequante. Transactions range from 1725 to 1729. Many canceled entries, and the entire document is wanting in orderly arrangement. Possibly its erratic spelling is the most interesting detail now.

*Petition to Recover Salt.* July 9, 1729. Parties interested in the shop move for the citation of Mr. Grace to pay them 1000 lbs. of salt, for which he has failed to account to them according to invoices with storekeeper Pellerin. Bill called for 7600 lbs.; Mr. Grace received only 6600. Action allowed.

*Judgment in Land Suit.* July 9, 1729. One Terrebonne, having falsely obtained title to the plantation of the late Henry. T. shall vacate and Henry's widow and children recover possession.

Signed: Baron who acts for absent Attorney General.

*Petition of Recovery.* July 12, 1729. Cervé seeks to collect 100 francs of Pierre de St. Julien, due on a note.

(Possibly the plaintiff is Senet, so written, and also Serné, on 29<sup>tes</sup>)

Action allowed.

*Petition of Recovery.* July 12, 1729. Surgeon Sanson, of Cannes Bruslées, holds notes against Pierre de St. Julien for amount of 605 francs. Let St. J. be cited.

Action allowed.

*Decisions in Two Suits.* July 16, 1729

1. "Parties interested in the shop" *vs.* Grace.  
Defendant discharged from claim of salt.  
Costs divided.
2. Pierre Lartaut *vs.* Francois Carriere.  
Inquiry ordered at Mobile.  
Question of ownership of a negress.

*Acknowledgment of Draft.* July 18, 1729. Massy has received original duplicate and triplicate draft dated past October 10, drawn by one Thomassin Junior, at 6 weeks' sight, on his father, dealer in vinegar at Paris. M. promises to pay given sum, 1100 francs, on advice from his correspondent that the draft has been honored. Draft was tendered to M. by Babaz.

*Memorandum.* July 18, 1729. "A coat, jacket and breeches with old silver buttons; a wooden trunk without lock. Francoeur has declared that the late Babaz sold his large boiler to Mr. Carriere."

(The two papers were found pinned together).

*Petition of Recovery.* July 19, 1729. Pierre Dreux advanced 1700 lbs. of flour to Kolly grant in 1721 and 1722, when flour was worth one franc a pound; but was willing to settle for 15 sous a pound. Mr. K. would pay only 6 sous a pound; let him be cited to pay 15 sous, or else agree to arbitration.

Action allowed.

*Petition to Dissolve Partnership.* July 23, 1729. Pierre Paul Caussy and Laurent Boissier had agreed with the



Company to conduct a pottery concern in partnership. But owing to personal incompatibility, the partners beg to be separated, on terms described. Council accedes, and Mr. Bruslé shall take sole charge of the manufacturing establishment. Provisos on manner of settlement.

Signed: Perier Delachaise, Bruslé.

*Decision in Suit of Recovery.* July 23, 1729. St. Julien shall pay Francois Alix 300 francs, as due on given note.

Notice served to St. J., August 13, 1729.

*Decisions in Sundry Suits.*

July 23, 1729.

1. Pierre Dreux *vs.* Kolli.  
Adjourned for proving claim.
2. Charles Droy *vs.* Tisserand.  
Judgment for C. D.
3. Canceled.
4. Francois Alix *vs.* St. Julien. For F. A.
5. Senet *vs.* St. Julien. For Senet.
6. Sanson *vs.* St. Julien. For. St. Sanson.
7. Certain surgeons of the Company tender oath in pledge of faithful service.

*Petition of Recovery.* July 26, 1729. Councillor Antoine Bruslé holds a note for 721 francs, endorsed by Mr. de la Frenière in favor of Mr. B. Mr. Francois Carrière, who issued the note, keeps putting off payment; let him be cited.

Action allowed.

*Petition For Voiding of Will.* July 30, 1729. Mr. Rossard, attorney for vacant estates, discredits a "pretended will" of one La Biche, in favor of his former partner Joseph Graff, condemned to be hanged for fatally stabbing LaBiche. The latter's creditors are not to be ignored, and the untenable will should be annulled, and the goods of LaBiche sold.

Approved and so ordered by Attorney General Fleuriiau.

*Petition to Sell Real Estate.* July 30, 1729. Mr. Rossard moves for the sale of half lot and house belonging to one

Durand, formerly Company storekeeper, and fugitive since Jan. 1725. Proceeds to satisfy rightful claims.

Approved: Perier, Delachaise, Fleuriau, Bruslé, Prat, D'Auseville.

*Sale of Real Estate Ordered.* July 30, 1729. Auction of a halt lot in Royal Street, and house with shingle roof, together with appurtenances, to be held on August 8. Property belonged to former storekeeper Durand, now fugitive. Proceedings moved by Mr. Rossard, attorney for vacant estates.

Blurred and stained.

*Sale of Real Estate. Formal Order.* July 30, 1729. Official ruling to same intent as in agridged counterpart No. 29<sup>so</sup>.

Signed: Perier, Delachaise, Bruslé, D'Auseville, Prat.

*Annulment of Will.* July 30, 1729. Council accedes to petition of Mr. Rossard, annuls the said will, and orders appropriation of deceased's estate. From the proceeds, a requiem service shall be allowed on behalf of La Biche.

*Decisions in Two Suits.* July 30, 1729.

1. Dreux vs. Kolly. Referred to Messrs. Coustillas and Roquet.
  2. Attorney General vs. Roger, formerly storekeeper of Company.
- Adjourned.

*Agreement to Abide by Arbitration.* August 1, 1729.

Undersigned Caussy (Pierre Paul) and Bossier (Laurens) have agreed to defer to arbitration by Messrs. Mathurin Dreux and Jacques Larche, in regard to grain, sweet potatoes and work on plantation; and in case of dispute, a third arbitrator shall decide.

*Arbitration Report. Pottery Tract. "La Fayencerie."* Aug. 1, 1729. Messrs. Jacques Larche and Mathurin Dreux submit their estimate as follows: corn crop,

45 barrels in ear. Sweet potato crop, 60 barrels. Fuel, 7 cords, at 5 francs, 35 francs. Ditching, 40 francs, Poultry, 67 1-2 francs. Items of fencing, 100 and 40 and 60 francs.

*Petition to Recover Heifer.* August 3, 1729. Jacques de Coustilhas, officer of this garrison, shows that a dark brown heifer of his, with some gray hair on her forehead and white markings between fore legs, first strayed among the cattle of Madame Chamily, and is now in the herd of Madame Bruslé, who claims ownership and refuses to relinquish. Let Madame B. be cited to surrender heifer on proof supplied by J. de C.

Heifer's present age, about 21 months.  
Action allowed.

*Petition to Stay Judgment.* August 3, 1729. Tixeran, who was cited on motion of Mr. Droy, was prevented by bad weather from attending Court, with reference to a protested draft. Compensation besought, and let the ruling which was rendered against the petitioner stay short of execution.

Action allowed, and notice served to Mr. Droy.

*Arbitration Report.* August 4, 1729. *Dreux vs. Kolly.* August 4, 1729. Messrs. Coustilhas and Raquet, in view of the notorious high price of flour at the time concerned (years 1721, 1722 and 1723), when bread sold as high as 30 sous a pound, recommend that the present claim be settled on basis of 15 sous a pound for bread, as represented by given amount of flour.

*Inventory Boissier-Caussy.* August 4, 1729. Remnant of goods entered on book for 180 francs, 6 sous.

Goods not entered, 122 francs, 5 sous.

Detailed miscellany follows; to total footing at 1261 francs, 19 sous. Signed: Boissier, Caussy.

*Petition of Recovery.* August 6, 1729. Francois Carrière claims 1000 francs of Mr. Tixerand, due on his note of July 14, 1725.

Action allowed.

*Heifer Suit Adjourned.* August 6, 1729. Louis, by the grace of God King of France and Navarre, greets all who may read these presents; whereas his delegated Court of the Superior Council, finds plaintiff and defendant alike insistent on owning the disputed heifer; and so orders the parties, Officer Coustilhas and Madame Bruslé, to produce their respective proofs before Councillor Prat a week hence.

*Remonstrance.* August 6, 1729. Charles Roger, formerly storekeeper and bookkeeper for Mr. Crozat, has been accused of dishonest accounting. He repudiates the charges, and complains of their vague laxity. Even official Mr. Rossard brings general accusations void of specific support. C. R. admits the chances of unguarded error; wilful dishonesty he will not admit, and he challenges alleged proof of it. He kept his books in condensed form for practical convenience; but has written data wherever needed.

*Petition in Remonstrance.* August 6, 1729. Charles Roger files opposition to a certain reversal of attachment proceedings, obtained by Messrs. Massy and Quenot. C. R. did not seek to rob the King, nor to collect factitious debts. There may be *novelty* in C. R.'s accounting; fraud there is none. Let this opposition be allowed, and full proof demanded of those who charge C. R. with false dealing.

Action allowed, and notice served to Massy.

*Decisions in Sundry Suits.*

August 6, 1729.

1. Bruslé *vs.* Francois Carrière.  
Claim to be paid.  
See 29<sup>77</sup>.
2. De Caustilhas *vs.* Madame Bruslé.  
Adjourned.
3. Droy *vs.* Tixerant. Settlement on net basis.  
Costs divided.
4. Attorney General *vs.* Charles Roger.  
Further in process.  
Costs reserved.  
Blurred and slurred.

*Petition of Recovery.* August 8, 1729. Claude Trenaunay Chanfret moves for the citation of Mr. Rossard, Attorney, to pay 25 francs and 7 sous, French money, which petitioner once paid to an innkeeper Daure at Port Louis, on behalf of the late Pouyadon de La Tour.

Action allowed.

Duplicated.

*Petition For Execution of Arbitration Award.* August 9, 1729.

Mr. Dreux begs the Council to cite Mr. Kolly with a view to execution of the arbitration sentence rendered on August 4, 1729.

Notice served.

*Sale of Real Estate Advertised.* August 10, 1729. Auction of half lot and house in Royal Street. Property of fugitive storekeeper Durand, to be resumed on August 22. Highest bid thus far is only 150 francs, by wig-maker, La Pierre.

Stained.

*Summons to Testify.* August 11, 1729. Sheriff Dargaray notifies Madame Chamily and several other parties to appear today at 9 A. M. before Councillor Prat, in regard to the disputed heifer. Word also given to Madame Bruslé.

*Testimony on Disputed Heifer.* August 11, 1729. Six witnesses examined. Only indirect and hearsay evidence returned. Heifer supposed to belong to Madame Bruslé.

*Summons to Testify.* August 12, 1729. Sheriff Dargaray notifies Mr. and Madame Manadé, Madame Morisset, Madame Le Moine, Madame Boissier and Mr. Balcour to appear today at 8 A. M. before Councillor Prat, and give testimony in regard to disputed heifer. Word also left for Mr. de Chevalier de Lauboey, where Mr. de C. is domiciled.

*Testimony on Disputed Heifer.* August 12, 1729. Witnesses merely saw the heifer with Madame Bruslé's cattle;

nothing conclusive is brought out on the point of ownership.

*Decisions Between Trenaunnay Chanfret and Rossard.* August 13, 1729. R. to pay claim.

Item, between Dreux and Kolly.

K. in default. Arbitration sentence to be carried out.

*Petition of Recovery.* August 16, 1729. René Galbée, schoolmaster with Mr. Renaud D'Hauterive, lived in that capacity with Madame Rivard, settler at Bayou St. Jean, to teach her children. Madame gave her note for 376 francs and 15 sous, but instead of paying, she answers petitioner with "insults atrocious." Let Madame be cited to pay this note, and also to return certain goods or money which R. G. had lent her; to wit, toilet paper, and cobbler's item of 25 sous in specie.

Action allowed.

Edges worn.

*Petition of Recovery.* August 16, 1729. Valeran claims a residue account of 45 francs from Cariton, and a further item of 7 francs, or 52 francs total.

Action allowed.

*Petition to Recover Medical Fee.* August 17, 1729. Baldit, surgeon, was summoned to treat the late Mr. Artus at Biloxi, and went thither with Mr. Tixerant. Fee was agreed at 100 francs; but now the deceased's widow is married again to one Bonne, who answers only with abuse, and calls the surgeon a rogue. Let Bonne be cited to pay the bill, and also to make amends for said abuse.

Action allowed, and notice served to Sieur Bonne, then domiciled with Sheriff.

August 23, 1729.

*Notice to Challenge Witnesses.* August 19, 1729. Sheriff Dar-garay submits list of Madame Bruslé's witnesses to Mr. de Coustillhas, who shall present his objections, if any.

*Decisions in Sundry Suits.*

August 20, 1729.

1. Coustilhas *vs.* Madame Bruslé. Adjourned for further investigation.
2. Francois Carrière *vs.* Tixerant. Judgment for C.
3. René Galbée *vs.* Widow Rivard. Adjourned.
4. Vallerand *vs.* Cariton. For V.

*Summons to Testify.* August 20, 1729. Sheriff Dargaray, at the instance of Jacques Coustilhas, notifies sundry parties to appear today at 1 P. M. before Councillor Prat, in regard to the disputed heifer.

*Testimony on Disputed Heifer.* August 22, 1729. Vague and contradictory evidence on color of heifer; nothing to the purpose on ownership.

(The case appears to stand: no evidence whatever to prove that the heifer belonged to Mr. de Coustilhas; whereas popular opinion, report and impression favor Madame Bruslé.)

*Sale of Real Estate Advertised.* Aug. 23, 1729. Auction of property in Royal Street to be resumed on September 5. Present highest bid, of La Pierre, is 250 francs. See 29<sup>o</sup>.

*Receipt to Louis Roy, signed Allemand.* Aug. 25, 1729. Certified by Clerk of Council. Signed: Dargaray, Rosard, clerk.

*Petition For Discharge From Suit.* Aug. 26, 1729. Jean Baptiste Massy was surprised to be cited on motion of former storekeeper Roger. Mr. M. has nothing to do with accounts in question, having wound up his affairs with heirs of late Guenot frères Mr. M. was in France when contested supplies were furnished. Let M. be discharged. Mr. Roger should refer his case to said heirs. Communicated to Mr. Roger.

*Decisions in Sundry Suits.*

Aug. 28, 1729.

1. De Coustilhas *vs.* Madame Bruslé.  
Ownership decided for Madame B. Plaintiff nonsuited. See 29<sup>108</sup>.

2. *Roger vs. Massy.*  
Further in process.  
Costs reserved.
3. *Baldit vs. DeBaune.*  
For Baldit.  
Costs on defendant.  
Slurred and partly torn.

*Petition to Stay Judgment.* Aug. 29, 1729. Tixerant objects that he was unable to be present when suit was decided against him and in favor of Carrière. Let C. be cited for further pleading.

Approved, and notice served.

*Argument in Suit of Claims.* Sept 1, 1729. Durivage aims to establish the point that Tixerant owes him 388 francs outstanding since February 1725. D. is willing to consider accommodations, but insists on this original claim of his own.

No note by Court.

X 26\* (Oct. 3, 1726.)

*Memorandum of Account.* Sept. 1, 1729. "Monsieur Tixerant, his account current with Durivage." Feb. 1725. Dr. Items include, pigeon house, 43 days work at 5 francs a day, 215 francs; 18 rafters, 54f; fireplace, 150 f.; coating of three cabinets, 20 f.; 300 oysters, 9 f.; residue for cow, 50 f. Total debit, 498 f.

Credit items, 2 pigs rated by experts at 40 f. each, 80 f.; 2 axes, 20 f.; cash, 10 f.

Total credit 110 f.

Net debit, 388 f.

*Report on Search For Illicit Traffic.* Sept 2, 1729. It being rumored that the officers of ship St. Michel had sold some brandy to Mr. de Coustilhas, contravening the Commander General's orders: Mr. Delachaise and Mr. Droy make inspection, but find no evidence of the alleged breach of law.

Partly torn, as by gnawing.

*Report on Search For Illicit Traffic.* Sept 2, 1729. Mr. Delachaise and Recorder Rossard inspect the premises of



Mr. Dumanoir, where they seize some brandy and dry goods and premises of Mr. Vosin, where they seize some goods known as "cloth (or linen) of Brittany." Articles from ship St. Michel.

Partly torn, blurred and slurred.

*Attachment of Funds in Contraband Trade.* Sep. 3, 1729. First Councillor Delachaise and Recorder Rossard seize the sums of 1500 francs and 1087 francs against Macmahon, an officer of the ship St. Michel; these sums proceeding from illicit sale of goods. The law in question dates back to August, 1717. (Name also appears as Marc Mahon).

*Decisions in Two Suits.*

Sep. 3, 1729.

1. Tixerand *vs.* Francois Carrière. Court allows plaintiff's opposition, and orders defendant to refund 1000 francs.
2. De Manadé *vs.* Baschemin. Adjourned.

*Prosecution For Contraband Trade.* Sep. 5, 1729. Attorney General Fleuriau reviews the recent proceeding of confiscation, and orders hearing of retailer Marc Mahon and La Follette Descazeaux, mate of the St. Michel, together with parties Berthelon, Dumanoir and Voisin. Other measures advised: Delachaise.

*Seizure of Ship St. Michel.* Sept 5, 1729. Councillor Prat and his clerk Gabriel Gontier formally seize the St. Michel, then anchored at La Balize. Captain Lobry protests that he was not plying trade, but only exchanging a few goods for transient "refreshments." He disclaims the Council's jurisdiction, and will appeal in France. Captain Lobry is left custodian of the ship, Sept. 19, 1729. Seals are withdrawn, and keys returned to Captain Lobry, discharged from custody of seized ship.

*Prosecution For Killing Cattle.* Sept. 5, 1729. Attorney General Fleuriau moves for the trial of some negroes accused of robbing and killing heifers for fresh meat.

Approved: Delachaise.

Torn.

*Criminal Procedure, Cattle Killing.* Sept. 5, 1729. Examination of negro Changereau, Bambara by nation, aged about 20 years, belonging to Adrien Gilbert. Ran away because underfed. Had three accomplices (fellow slaves). It was Manadé's negro who killed heifer in question, but Changereau ate of the meat.

*Criminal Procedure, Cattle Killing.* Sept. 5, 1729. Examination of negro Francois, unbaptized, a slave of St. Julien's. Aged about 25 years. Had no part in robbing and killing cattle, but stole some bacon and sold it to another negro for tobacco.

*Criminal Procedure, Cattle Killing.* Sept. 5, 1729. Examination of negro Pierot, Bambara by nation, aged apparently 27 or 28. Slave of Mr. Dalby's ran away because too sick to work and afraid of punishment. Admits complicity in killing a "young beast." Stole some corn, but no hens. (Corn from "desert of the Jesuit Fathers.")

*Criminal Procedure, Cattle Killing.* Sept. 5, 1729. Examination of negro Sabany, Bambara, Bambara by nation, aged apparently 30 years, a slave of officer Villamille. Some comrades gave him fresh meat in a cabin of Mr. de Bienville's. They were marooning, but Sabany was not.

*Defense in Collection Suit.* Sep. 9, 1729. Mr. Roquet submits a reasonable plea for extension of time to Mr. Baschemin, now pushed by "fickle" Mr. Manadé for cash payments which B. cannot meet at short notice. He has already paid back some flour, and a third of the price of a certain plantation. Mr. B. is a new settler and merits leniency. Perhaps he is just as good a debtor as Manadé in the matter of the Company's accounts.

No note by court.

*Recusation on Ground of Kinship.* Sep. 10, 1729. Councillor Antoine Bruslé files legal exemption from taking part in the confiscation proceeding against ship St. Michel;

his wife (Demoiselle Cecile LeBlanc) and the wife of Captain Lobry of St. Malo, being second cousins.

Council assents: Delachaise, Prat, D'Auseville, Baron.

Reference to a statute of year 1667.

*Exception Moved, But Disallowed.* Sep. 10, 1729. Attorney General Francois Fleuriau was not aware of the "senseless" proceedings of confiscation against ship St. Michel. He too, pleads exemption on ground of kinship; his wife Pelage de Morieres and the wife of Captain Lobry are second cousins.

Council rejects his plea for the reason that his office is not judicial, but only participant with both sides in the formalities.

Perier, Delachaise, D'Auseville.

*Decisions in Two Suits.*

Sep. 10, 1729.

1. De Manadé and wife *vs.* Baschemin. B. to pay 300 francs on term matured, plus interest. Further proviso concerning revoked attachment.
2. Attorney General *vs.* Dumanoir and Voisin. Captain Lobry shall be heard in the case.

*Investigation Moved.* Sep. 13, 1729. Attorney General Fleuriau calls for sifting of the charge that the officers of St. Michel landed and sold goods along the River, contrary to law of 1717.

Action approved: Delachaise.

*Petition of Recovery.* Sep. 13, 1729. Jean Bte. Meynard moves for the citation of Mr. Dubreuil to pay a note transferred by R. P. Theodore.

Action allowed.

*Request For Suspense of Seizure.* Sep. 14, 1729. Du Breuil answers that he does not refuse to pay the note in question; only, first let the distraint be waived which was imposed by R. P. Raphael at Chapitoulas.

*Summons to Testify.* Sep. 15, 1729. Sheriff Dargaray notifies Messrs. de La Loire Flaucourd, storekeeper at La Be-

lize, and "Captain of Arms" Douaze, to appear today at 3 P. M. to give evidence in St. Michel affair.

*Testimony in St. Michel Affair.* Sep. 15, 1729. (Scrawled) Witness Claude Doizet (Douazé), volunteer on board St. Michel, has no knowledge of illicit sales in question. There were some casks in the longboat; what was in them, he knows not.

Pierre Louis August de Loire de Flaucourt, chief clerk at La Blaise, also saw some liquor in the longboat, and something was landed at the plantation of Mr. de Coustilhas; uncertain whether it was brandy or wine.

Sep. 20, 1729. Joseph Le Houx, first pilot of the St. Michel knows of three or four casks in the longboat, intended for barter in the way of grain and poultry. Whether goods were landed, he is not aware.

*Attachment of Funds.* Sep. 17, 1729. Sheriff Dargaray seizes 500 francs plus interest and costs, against one Bunel; this representing B.'s debt to Malon. Seizure moved by Mr. Prat.

Notice served to B. and M. to attend subsequent hearing.

*Petition of Recovery.* Sep. 17, 1729. René Boyer claims of Tixerant a cash debt of 181 francs, and he would also have T. make equivalent return for some clearing operations which R. B. completed on a part of his land which by Mr. Broutin's surveying has been ceded to T. Said operations included ditching. Action allowed.

*Decision Between Meynard and Dubreuil.* Sep. 17, 1729. D. to pay note in question, irrespectively of said seizure.

*Petition of Recovery.* Sep. 19, 1729. Claude Trenaunay Chanfret, director of DuBuisson grant, seeks to collect a protested draft for 373 francs and 15 sous, plus interest and costs, from Mr. Kolly. Draft was drawn by Mr. Dumanoir in favor of C. T. C., in December 1720; protested in May 1721.

Action allowed.

*Certificate on Rafters.* Sep. 20, 1729. Mr. Broutin certifies that the rafters of Mr. Tixerant's plantation house are too far apart, being spaced at about three feet.

*Summons to Testify.* Sep. 20, 1729. Sheriff Dargaray notifies Le Houx, pilot of the St. Michel to appear before First Councillor Delachaise today at 3 P. M. for hearing in St. Michel affair.

*Summons to Attend Hearing.* Sep. 20, 1729. Sheriff Dargaray notifies Captain Lobry and retailer Mahon of the St. Michel; also, Messrs. Berthelon, Voisin, and Dumanoir, to appear on Saturday next, when seizure of the said ship is to be declared correct.

*Summons to Attend Hearing.* Sep. 20, 1729. Sheriff Dargaray notifies Messrs. Marc Mahon, Foliette, Berthelon, Dumanoir, and Voisin to appear "on Saturday next," with reference to proceedings of seizure and confiscation in St. Michel affair. Torn and faded.

*Decision Between Manadé and Baschemin.* Sep. 20, 1729. Defendants, B. and wife, to pay M. and wife 3000 francs with interest. Concurrent seizure to be revoked. Communicated to B. and wife.

*Petition to Recover Rent.* Sept. 24, 1729. Raymond Amyault D'Auseville leased a house to Madame de Ste. Hermine for 20 francs a month to continue one year. Madame has removed her furniture and sent back the keys, except dove-cote key; the key being handed by Surgeon Major Reytet to a raw "savagess," ignorant of French. Let Madame be cited to take back the keys and to pay rent as agreed.

*Release From Official Action.* Sep. 24, 1729. Councillor de Perrier, owing to his long intimacy with Mr. Marc Mahon, cannot conscientiously take part in the pending proceedings against ship St. Michel, and is accordingly released therefrom.

Signed: Delachaise, Prat, D'Auseville; Baron.

*Inquiry Ordered.* Sep. 24, 1729. Attorney General Fleuriau moves for a formal report on the condition of the ship

St. Michel; thereby to ascertain whether an alleged leak is real, or was produced purposely, or is merely feigned.

*Decisions in Sundry Suits.*

Sep. 24, 1729.

1. Claude Trenaunnay Chanfret *vs.* Kolly.  
K. to pay note. C 29138.
2. René Boyer *vs.* Tixerand.  
T. will make desired improvements within a year. Meanwhile R. B. shall have the benefit of ground which he cleared. T. to pay cash claim.
3. Prat *vs.* Bunel and Malon. Seizure correct. Malon to deliver cow and heifer in question, and then refund what is due.
4. Attorney General *vs.* Lobry, Mac Mahon, Berthelot, Voisin, Coustilhas, Dumanoir. Confiscation sustained.

Accessory provisos on behalf of Dumanoir and Voisin. Costs on Lobry and Mac Mahon.

*Business Agreement.* Sept. 25, 1729. Burbeau will receipt to Mr. Senet for 1800 francs after the departure of the Durance. Some further provisos bearing on transactions of pertinence to themselves then; profitless to this generation.

*Remonstrance in Rent Suit.* Sep. 26, 1729. Madame de Ste. Hermine did not understand a binding force in contract of rent for one year, but understood herself free to vacate at will on paying to time of retirement. Mr. D'Auseville refused 80 francs, the rent for four months, when she offered it and had it ready; she spent it afterwards on her own account, and cannot immediately pay the same sum just now. Let Mr. D'A. be nonsuited, and Madame will pay for the given four months when the Council so orders, but at a future date. No note by Court.

*Criminal Procedure.* Sept. 27, 1729. Attorney General Fleuriau moves for the trial of a Bambara negro belonging to Mr. Tredeau, and accused of persistent violent threats.  
Approved: Delachaise.

*Petition to Maintain Exchange of Slaves.* Sep. 28, 1729. Antoine Lowe exchanged a negro boy with Mr. Alexandre for a negress. Negro boy was in good condition then, but is now in a decline and liable to die. Mr. A. would give back the impaired slave and cancel the bargain. Let him be held to his word.

Action allowed.

*Memorandum of Account.* Oct. 1, 1729. Items chiefly of bleeding. Total 5 francs.

*Petition of Recovery.* Oct 1, 1729. Louis Viger claims 45 francs of Mr. Bimond, plus interest and costs.

Action allowed.

*Promissory note.* Oct. 6, 1729. Quidort will pay Mr. La Frénière the sum of 297 francs and 7 sous, or order value received, at the close of November next.

*Memorandum of Account.* Oct. 8, 1729. Bimont presents a counterclaim in answer to Viger's claim of 45 francs. Total of detailed items, 61 francs.

No note by Court.

*Motion For Appointment of Guardians.* Oct. 8, 1729. Attorney General Fleuriau reports the drowning of Louis Senet, while on the way to his plantation by dugout, on Sep. 27, 1729. There being a widow (in France) and surviving minor children, a guardian and surrogate guardian should be appointed.

Approved (after customary forms) : Bruslé.

Stained.

*Decision in Rent Suit.* Oct. 8, 1729. Madame de Ste. Hermine is ordered to abide by terms of a full year's lease. She shall take back the keys and furnish the house in security.

Costs on Madame.

Notice served, and Madame protests. She will pay four month's rent, but refuses the keys and further obligations.

*Decisions in Sundry Suits.*

Oct. 8, 1729.

1. See 29-155.

2. Antoine Lowre *vs.* Alexandre. A. L. shall take his negro, A. his negress.  
Fine on both parties in favor of Hospital.  
Costs divided.
3. Viger *vs.* Bimont. Out of Court. Costs divided.  
Proviso against V.'s practice of surgery.

*Petition For Account Rendered.* Oct. 11, 1729. Jean Rebout calls for citation of Mr. Bonnaud, inspector of Le Blanc grant, to render his account to J. R. and pay what is due.

Action allowed.

*Letter of Terisse De Ternan to Mr. Rossard.* Oct. 13, 1729. Acknowledging "your long and agreeable letter of past June 15." Reference to disorders in the "capital." Writer sends a fresh lot of onions. Discussions of trade situation; items of personal gossip. Remarks on a ruling against S. J. (supposed unfriendly to T. de T.) Mr. Pradel made fair promises which he does not keep. Turn dugout over to the Company and remove six bearskins for blankets. R.'s debtor has paid 200 lbs. of flour. Flour quoted at 15 francs a cwt.

*Decisions in Two Suits.* Oct. 15, 1729.

1. Rebout *vs.* Bonnaud. B. to comply within a fortnight. Costs on B.
2. Francois . . . . . *vs.* Jacques Datalon.  
Adjourned.

*Acknowledgment of Debt.* Oct. 21, 1729. Bayou St. Jean. Jean LeBrasse owes 100 francs to La Croix for victuals, and cedes to him a third of site beginning with two trees (kind not known) and extending to a certain oak.

Witnessed by Clermont and Forestier.

*Petition to Prosecute.* Oct. 21, 1729. Bonnaud reports that his negro Crusquet died from poisoning, as indicated by postmortem examination. Petit, another negro of B.'s is suspected of the crime, and should be brought to trial.

No note by Court.



*Agreement For Hire of Free Negroes.* Oct. 21, 1729. DeChavannes agrees to hire free negro Mingo, who came from Carolina, and his wife Thérère, whom M. bought of Mr. Dalby, for three years. M. to work and also to oversee slaves in cultivation of tobacco, cotton, and other crops; Thérère to engage in women's work. Hire for M. shall be 300 francs a year in current funds, together with a jug of brandy each month when in store; equivalent money else; besides 8 per cent of plantation produce except increase of negroes and cattle. This 8 per cent to be realized promptly after each harvest; provided service continue to close of term. Hire for Thérère, 200 francs a year payable to Dalby until Mingo's contract with him be discharged.

(Soiled as though by contact with a dusty floor.)

*Petition For Emancipation of Indian Slave.* Oct. 22, 1729. Duplessis, settler at Natchitoches, holds "a kind of will" devised by late Francois Viard, who freed an Osage woman slave and reserved 100 pistoles in behalf of her Catholic instruction. Let these terms (and their accessory clauses) be carried out.

Attorney General approves emancipation in question, but the Black Code forbids cash legacy to a slave. Money shall go to the Hospital, and said Osage will be trained by the Ursuline ladies, who are to take quarters in Hospital.

*Motion to Try For Poisoning.* Oct. 25, 1729. Attorney General Fleuriau reviews the case of Mr. Bonnaud's negro, Crusquet. Among the plantation negroes, witchcraft is supposed to be the weapon of Crusquet's poisoner's tribe; the law followed by Council does not admit witchery, but it does punish poisoners. Institute formal trial of Petit.

Approved: Delachaise.

Surgeon Manadé and witnesses shall be cited before Councillor Prat.

Partly perforated as by gnawing.

*Agreement on Hire of Slaves.* Oct. 27, 1729. Pierre de Manadé hires two slaves, Cézard and Jupiter, to Adrien Gil-

bert, carpenter, for one year. Terms, 240 francs for each, or total 480 francs; 240 paid cash; the residue payable at expiration of contract. Provisos on death and marooning.

Contract attested by J. B. Facuon Dumanoir, 4 F. 1731, and by Vincent. 7 Sept. 1731.

*Receipt.* Nov. 2, 1729. Pellerin has received of Mr. St. Julien, six Spanish dollars in discharge of a note of Mr. Boquet's. Said note to be destroyed if it be found.

Endorsed memorandum; six piastres paid for Boquet to Sieur Pelerin. Naquitoche.

*Petition of Recovery.* Nov. 8, 1729. Renaut D'Auterive moves for the citation of Surgeon Alexandre to pay 252 francs, and a further item of 100 francs.

Action allowed.

*Petition of Recovery.* Nov. 8, 1729. Rebout claims 240 francs from Mr. Delery, for 8 months' hired service; less 40 francs for four barrels of rice, and 2 francs for a pair of galoshes.

Action allowed.

*Petition of Recovery.* Nov. 8, 1729. Rebout claims 170 francs from Sieur de la Frénière, for five months and twenty days of hired service; less 30 francs received for six items of cheese.

Action allowed.

*Petition to Recover Value of Slave.* Nov. 8, 1729. St. Amand moves for the citation of Surgeon Darclon Desche, to pay for a negro who died, as here contended, by reason of the Surgeon's neglect. Case of injured feet, and culpable abandonment of duty.

Notice to said Surgeon aux Allemands, ten leagues away. Nov. 12, 1729.

*Decisions in Two Suits.*

Nov. 12, 1729.

1. Renaud Dauterive vs. Alexandre.

Further in process.

2. Rebout vs. La Frénière.

Settlement provided.

Costs on defendant.

*Petition to Evict.* Nov. 14, 1729. Rivet sold a house to one Duprier, who returned to France and left the transaction in charge of one Sautier, joiner. Let S. be cited to vacate the said house, for failing to satisfy terms of sale. He shall also pay rent as due.

Action allowed.

*Petition For Execution of Judgment.* Nov. 14, 1729. Raymond Amyault D'Auseville requests the Council to confirm the ruling passed against Madame Ste. Hermine. The vacant premises daily suffer wanton depredations, as by removal of stakes from fences and poultry house. If Madame will not move back, let other tenants be installed, and Madame be held responsible for damages. Notice served.

*Runaway Slave Case.* Nov. 16, 1729. Examination of a Bambara negro David, who admits running away (from his master de Manadé) and complicity in killing a heifer. Ran away because his master broke a finger for him (not the master's).

*Letter of Terrisse De Ternan to Rossard.* Fort Chartres, Nov. 20. Takes advantage to write by coincidence of dug-out carriers. Hams will be sent later, and as opportunity best serves. Writer has broached some native wine, still raw, but will endeavor to keep the full cask thereof till spring. Epiphany and Shrove Tuesday (which he spells marty cras) may tempt him to the contrary, but he thinks of absenting himself so as to keep his word until Easter. R. will please to bear in mind such trifles as sugar and coffee, suitable reliefs in ascetic remoteness.

*Petition of Recovery.* Nov. 22, 1729. Surgeon Major Jean de Reytet claims an account of 200 francs and a further item of 50 francs from Mr. Bimond.

Action allowed.

Faded almost extinct.

*Petition of Recovery.* Nov. 22, 1729. Mr. Marian claims 88 francs and 19 sous from one Malon, due on a note.

Action allowed.

*Memorandum of Account.* Nov. 24, 1729. Monsieur de St. Julien's account with Rossard. List of miscellaneous items and transactions. Total 3862 francs.

Entries also occur for April 3 and May 15, 1739.  
Ragged edges.

*Decisions in Sundry Suits.* Nov. 26, 1729.

1. D'Auseville vs. Madame Ste. Hermine. Modified ruling for plaintiff. Last portion effaced.
2. St. Amant vs. Darclon Desche.  
St. A. nonsuited.
3. Marin vs. Malon. Claim to be paid, plus costs.
4. Rivet vs. Sautier. Adjourned.

*Petition of Recovery.* Dec. 2, 1729. Jean Baptiste Beaupre seeks to collect the sum of 200 francs from Mr. Rossard, attorney, for certain supplies furnished on behalf of the late Senet, and also for petitioner's time as plantation steward.

Action allowed.  
Duplicated.

*Copy of Perier's (First Card) Instructions to Sieur Dusable: Natchez Affairs.* Dec. 9, 1729. He shall get first-hand information of what is going on aux Natchez, and how the French fare on all the grants of the White land (Terre Blanche) and Ste. Catherine, whither the French have fled, it would seem. When he learns of anything noteworthy, let him write, or send a messenger, or even come down in person if the news were not to be trusted to a second party. Assure the French and the friendly Indians that war supplies will be found along the River. He shall accurately observe Indians of the small tribes along the River, so as to ascertain their sentiments and to learn whether they have been approached by the other Indian tribes.  
(See next card).

*(Second Card).* *Petition of Dusablé.* On the basis of the foregoing commission, which he followed out at risk of his life, Mr. Dusablé, now of Natchitoches, but in transit at N. O., asks the Council to defray at least his ex-

penses on yonder expedition; which also included the reconnoitering of a road discovered by Officer St. Julien, and purporting to be the work of the Chaquetas.

Application approved: Salmon.

Notice served by Sheriff Louis Hugault to Mr. Bruslé, representing Company of the Indies.

*Petition to Recover Bequests.* Dec. 12, 1729. R. P. Raphael enumerates various "pious legacies" devised to the Capuchin Community; to wit, 150 francs and also 50 francs, for the poor, by will of late Desarbois; 500 francs, and a debt of 330 francs, by will of late Sieur de La Salle; house and lot in Bourbon Street, by will of late Babas. Execution besought.

Notice served to Mr. Rossard.

*Petition of Recovery.* Dec. 20, 1729. De Moran claims 150 francs from one Augustin Gouy de Nidal, due on a note dated May 24, 1729.

Action allowed.

*Petition of Recovery.* Dec. 24, 1729. Guillaume Bousquet alias Sansfacon moves for the citation of Jean Coupard to pay the sum of 246 francs and 15 sous, still due for value received in merchandise; as appears by note of Nov. 15, 1728.

Action allowed.

*Petition to Recover Value of Slave.* Dec. 24, 1729. La Boullaye was allotted a certain slave who proved incorrigibly lazy, or obstinate, when set to work. The said slave has died, and petitioner seeks to obtain a slave in compensation, from estate of the late Latour Poulladon, owner of deceased slave.

Action of inquiry allowed.

*Motion For Inquiry. Slave Suit.* Dec. 29, 1729. Attorney General Fleuriau relates the case of an unprofitable slave, supposed to have been wittingly palmed off on Mr. La Boullaye through the late Surgeon De La Tour's easy knowledge of slaves' fitness or unfitness. Let execu-

tor of the deceased surgeon's estate be cited, together with all persons likely to have knowledge of the facts at issue.

No note by Court.

Faded.

*Petition to Seize Assets.* Dec. 30, 1729. Messrs. DePerier and Delachaise advanced 5000 francs to the late Mr. Kolly, for which he gave them his note dated March 29, 1728. Mr. K. now "finds himself included in the Natchez massacre," and the petitioners move to secure their loan by seizing a certain consignment which has arrived for Mr. K. by the ship L'Alexandre. Let Mr. Rossard, attorney for vacant estates, be cited.

Approved, and meanwhile the said consignment may be seized.

Bruslé.

*Attachment of Goods.* Dec. 30, 1729. In consequence of proceedings moved by Messrs. Perrier and Delachaise, Sheriff Dargaray seizes the consignment for late Mr. Kolly; comprising three casks of wine, six quarters of flour, six "anchors" (about 96 gallons) of brandy, and a box of groceries. Mr. Pellerin, Company storekeeper, is notified to appear with reference to sale and award.

*Summons to Pay claim.* Dec. 30, 1729. Mr. Rossard, attorney for vacant estates, is notified to appear on January 7, 1730, to pay the claim of Messrs. Perier and Delachaise against Kolly estate.

Duplicated.

*Decisions in Sundry Suits.*

Dec. 31, 1729.

1. Guillaume Bousquet *vs.* Jean Coupart. Claim allowed.
2. Morand *vs.* Augustin Gouy de Bidal. Claim allowed.
3. R. P. Raphael *vs.* Rossard. Adjustments by SCRAWL.
4. R. P. Raphael *vs.* Rossard. Further in process.

## CABILDO ARCHIVES—FRENCH PERIOD.

Edited by Henry P. Dart.

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### THE FIRST CHARITY HOSPITAL FOR THE POOR OF NEW ORLEANS.

(Supplement to No. VII, Vol. 3, No. 4.)

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#### Transfer of Site of Hospital to Sr. Raguet by Joseph Villars Dubreuil and Appraisalment of Building Material.

May 10, 1736. Joseph Villars Dubreuil Retrocession to Raguet:

Before us, acting as notary at New Orleans and the hereafter named and undersigned witnesses, appeared Sieur Joseph Villars Dubreuil, Contractor for His Majesty's works, residing in this city, who has acknowledged and admitted having sold, ceded, transferred, retroceded and relinquished, and by these presents does sell, cede, abandon, transfer, retrocede and relinquish from this moment and forever, without any other guarantee than the facts and promises only to Sr. Raguet, Councillor in the Superior Council of Louisiana, in the name of and as testamentary executor of deceased Jean Louis, whilst living a resident of this city and first founder and benefactor of the establishment of a hospital for the poor and sick of this city, said Raguet being present accepting for himself as well as for those who will succeed him in the inspection and administration of the hospital in question, and this in conformity with the deliberations held relative to a site situated in this city, measuring twenty fathoms frontage by forty in depth; on which there is a house of about fifty feet in length by twenty-two in width, built on the ground, of timber and surrounded by planks, (weather boarded?), with a kitchen of twenty feet encased in the same manner, with a chicken house and other commodities, circumstances and dependences of the said lot, which he purchased from the Ste. Reine Concession, by judicial adjudication made to him on the twenty second of last October, for the sum of twelve hundred and fifty livres with costs of court therein included, which he paid cash at the time to Sr. Raguet, attorney for the Widow Kolly proprietress of the said Concession Ste. Reine, which said sum has presently been remitted and paid to him by said Sr. Raguet, for which he acquits and discharges him. He has also paid to him a sum of two

thousand one hundred and eighty livres for all furnishings, labor and repairs which he made on the said house and its dependences, according to the estimate and memoir on the other part and transferred here as per agreement between the said purchaser and the said vendor and the R. F. Philipe, Vicar General and Cure of this city, by means of which payments of the principal as well as of the repairs heretofore mentioned and of the said lots, houses, circumstances and dependences which are hereafter to serve as a hospital for the poor and sick inhabitants of Louisiana, which shall be for and belong to the said hospital in full ownership, the vendor making full cession and transfer in the best possible form, without he or his successors being able to claim nor pretend to anything thereof, as he has presently remitted into the hands of the said purchaser all the titles to the property which were remitted to him, of all of which he is satisfied, for thus has it been agreed and settled between the said appearers, promising, obligating, renouncing in good faith and done and passed at New Orleans, on the tenth of May, one thousand seven hundred and thirty-six, in the presence of Srs. Pierre Dreux and Alexandre Portier, hereafter mentioned witnesses, the said parties and me, notary here residing.

Signed: 'Raguet,' "Du Breuil," "Portier," (paraph) "Dreux," (paraph of ) "Henry Clerk", (paraph) "R. P. Philipe."

Statement of appraisement of the necessary work to be done on the Charity Hospital of this City, agreed on with M. Dubreuil, contractor for His Majesty's work, according to price and agreement with M. Raguet, inspector and administrator of the said hospital.

Firstly, for rafters of new wood throughout the building, length and width;

To change thirty posts to new ones of cypress in good condition; 300L.

To make foundations of bricks, two and a half feet in height by two feet in breadth, length and width; at 300L. for pavement in brick squares and to repair the chimneys, at 50L.

For roof of new shingles, work, furnishings, nails and lathes, at 300 L.

For the same repairs to be made to the kitchen with a new chimney and oven, the whole in good condition; at 300L.



To fence in the lot with new stakes, ten feet high, when set and lathes in place, furnishing the necessary nails for the lathes; at 250 L.

For furnishing the nails to be used for the fence and to repair the main house, the kitchen and its roof, one hundred livres; 100 L.

For all the joiner's work, viz.: repairing the doors and shutters, making six new doors, with two sides, including those of the garden, of the yard and the stairway with planks and nails therefor; at 1700L.

Further, for locks for said doors and two iron supports to the yard and garden doors, three locks and three latches; at 120L.

Further, for repairing the chicken house and to partly cover it with bark and to surround it with planks, and all necessary furnishings; at 100 L.

To mend and clear the garden, to dig it up and to plant vegetables and level the yard;; at 80 L.

Further, to make a brick way the whole length of the lot, five feet in width and to make the drainage around the lot; at 60 L.

Total, two thousand one hundred and eighty livre (2,180 L.)

Done and agreed at New Orleans, on the fifth of May, one thousand seven hundred and thirty-six.

The original signed: "Dubreuil and Raguet."

#### VILLARS DUBREUIL RETROCESSION A RAGUET.

Pardevant Nous faisant fonction de Notaire ala Nouvelle Orleans et les témoins cy apres Nommés sous fut présent Sieur Joseph Villars Dubreuil Entrepreneur des travaux de Sa Majeste demt en Cette Ville, Lequel a Recennu et Confessé avoïd Vendu cédé transporté, Retrocédé et délaissé, et par ces présentes Vend, cede, quitte, transporte, Rétrocede et délaisse des maintenant pour toujours et a jamais sans aucune guarantye que de ses faits et promesses seulement au Sr. Raguet Conr au Con Supérieur de la oLuisianne au Nom et Comme Executeur testare de deffunt Jean Louis habt de cette Ville et premier fondateur et bienfaiteur des pauvres et malades de cette colonie, pour l'Établissement D'un hopital Led Sr. aRguet demt en cette ville et cy

present et acceptant tant pour Luy que pour ceux qui Luy succederont Dans Linspection et Ladministration de Lhopital en question et ce conforme a la deliberation passée au sujet d'un Emplacement Située en Cette Ville de Vingt toises de front sur quarante de profondeur, et sur leq<sup>1</sup> il y a une Maison batie dessus d'Environ Cinqte pieds de long sur Vingt deux de Large, Batie sur solle En Bois de charpante Et Entouree de planches, Ensemble Une Cuisine de Vingt pieds en quasse de meme facon avec poulailler et autres Commodites Circonstances et dependances dudt terrain, leq<sup>1</sup> il a acquis de la Concession Ste Reine suivant Ladjudication Judiciaire qui Luy en a Este faite le Vingt Deux Oct.... dernier, pour la somme de Douze Cent Cinqte Livres en Ce y Compris les frais de Justice quil paya Comptant alors au Sr. Raguét procureur de Made. la Vve. Kelly propriétaire de lad. Concession Ste Reine Laquelle ditte somme luy a presentemt Este Remise et payé en Especies par led Sr. Raguét dont il len quitte et dessarge Comme aussy il luy a payé la somme de deux mil cent quatre vingts livres pour toutes les fournitures, travaux et Reparations quil a fait a lade Maison et ses dependances suivant le devis et Memoire De lautre part et transporte cy dessus ainsi que ledt acquereur en Estant Convenu avec led Sr. Vendeur et le R. P. philipe Vicaire gñal et Cure de Cette Ville, au moyen desquels paymts tant du fond principal que des reparations cy devant Expliques et Lesd terrains maisons circonstances et dependances qui doivent servir dorenavant d'hopital pour les paubres et habitans malades de la Louisianne seront et appartiendront en toute propriete aud hopital le vendeur en faisant toute cession et transport en meilleure forme qui se puisse estre, sans que luy ny ses successeurs en puisse rien Réclamar Ny pretendre Comme aussi il a presmt Remis qui Luy auroient Estes Remis, dont il se tient pour Content, car ainsy a Este Convenu Et arrete Entre les foy Et a fait Et passé a la Nouvelle Orleans le Dixe may mil sept Cent trente six en presence des Srs. Pierre Dreux Et Alexandre portier temoins souds demt les d partyes et Nous Notaire.

Raguét Du Breuil Portier Dreux,

Henry (paraphe) gffr Nre.

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1 Soussignés—Word omitted in text and supplied.

Devis Estimatif des ouvrages quil est necessaire de faire a lhospital de la Charite de cette ville Convenues avec Mr. Du Breuil Entrepreneur des travaux du Roy suivant le prix ez apres areste avec Mr. aRguet Inspecteur et odministrateur dud hopital.

Premierement pour solaivé en bois neuf le Batiment d'un bout a lautre longueur et largeur.

Et changer de trente poteau neuf tout de bois de sipre bien conditionnes cy 300 lv.

Pour faire les fondemens de briques de deux pieds et demi de haut sur deux depresseur longueur et largeur cy 300 lv.

Pour le pavé en Careau de brique et racomodé les Cheminées cy 50 lv.

Pour la Couverture en Bardeaux tout neuf facon fourniture Cloud et lattes, 300 lv.

Pour les meme reparations a faire a la Cuisine avec une Cheminee neuve et un four le tout bien Conditions cy 300 lv.

Pour entourer le terrain de pieux neuf de dix Pieds de hauteur poses et lattes en place avec fourniture des Clouds necessaire pour les lattes, 250 lv.

Pour fourniture des Clouds qui doivent entrer a lentourage et a raccomoder la grand maison la Cuisine et Couverture d'icele Cent Livres cy Pour toute la menuiserie Scavoir Raccamoder les porteset les Contrevents faire six Portes neufs a deux Battants cy compris Celles du jardin de la Cour et de Lescalier avec planches et Clouds cy, 120 lv.

Plus pour la ferrure desd Portes avec deux vallets de fer au porte de Cour et Jardin, trois serrures et trois Locquets cy 120 lv.

Plus pour Raccomoder le poulailler le recouvrir d'Ecosse en partie et l'entourer de planche fourniture de totut ce quil faut cy 100 lv.

Plus pour Raccomoder et defricher le jardin le piocher et le faire planter de Legume et aplanir la Cour cy 80 lv.

Plus pour faire un Chemin pave de Brique la longueur du terrain Cinq Pieds de Large Et faire les Ecoulemens alentour du terrain cy 60lv.

Total deu mil cent quatre Vingts Livres 2189 lv.

Fait et areste a la Nouvelle Orleans le Cinquieme May mil sept Cent trent six signé a lorginal, Dubreuil, Et Raguët.

## EMANCIPATION OF MARIE ARAM, A SLAVE.

(Supplement to No. VI, Vol. 3, No. 4, p. 551.)

July 15, 1737. Fo. 7 (2102)

*Contract of Tiocou with Director of Hospital.*

## Translation.

Before the Notary Royal of Louisiana and the hereafter named and undersigned witnesses, appeared Francois Tiocou, a free negro of the Senegal nation, residing in New Orleans, who, wishing to procure liberty for Marie Aram, his wife, a negress slave, has voluntarily acknowledged and admitted that he has engaged himself, and in fact engages himself, by these presents, with M. Raguet, Director of the charity hospital called the St. John, situated in this city, and with Rev. F. Philippped, Capuchin priest and Cure of the said place, Assistant Vicar General of His Grace of Kebecq (Quebec), here present, accepting for the said hospital that the said Tiocou work and exert himself for it and do all that he may be ordered and commanded to do at the said hospital for the service of the poor and sick who are now there and who may be there in the future, during the six coming and consecutive years, beginning on the first of January of the coming year, besides the remainder of the present year, during which time he will work at the said hospital without any remuneration whatever, being fed with provisions of the country and supported as the Inspector wills, at the completion of which time, as a reward for his work, the said Sr. Raguet and R. F. Philipe shall give and remit liberty to one Marie Aram, negress slave of the said hospital, wife of the said Tiocou, who shall be and shall remain a free subject of His Majesty, to have and to hold now and forever, without any one whomsoever being able to disturb her, and said Marie Aram will be considered as the other legitimate wives married to the subjects of the King. It has also been agreed that if the said Tiocou should leave before the six years have expired, he could claim nothing whatever as salary, for it has thus been agreed between the parties, each in good faith, promising, obligating, etc., renouncing all that is contrary to this. Done and passed in New Orleans, July 12th, before noon, in notary's office,

in the year one thousand seven hundred and thirty-seven, in the presence of Louis Hugault and Pierre Piquery, witnesses residing at said place, and as to said Tiocou, he has declared that he does not know how to write nor sign, whereon inquiries as per ordinance.

Signed: "Fr philippe, Cap. priest, Missy". "Raguet".

"Piquery". "Hugault" (paraph).

"Henry ntry" (paraph).

Pierre Piquery was the King's baker.

Hugault, was for a time clerk of the Superior Council.

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Original Text:

Pardevant Le Notaire Royal ala Louisianne Et Les temoins cy bas Nommés et sousignés fut présent francois tiocou Negre Libre de Nation Senegal demt ala Nouvelle Orleans Lequel voulant procurer la Liberté de Marie Aram so femme Negresse Esclave, a Volontairement Reconnu Et Confessé a Estre Engagé, Comme de fait il sEngage; par lesd présentes, avec Mr Raguet Con<sup>r</sup> au Con<sup>e</sup>l Supr d ela Louisianne, au Nom et Comme Inspecteur de Lhopital de la charité apellé le St Jean scitué en cette Ville, et avec le R. Philiped prestre Capucin Cure dud Lieu, et provicaire general de Mngr de Kebecq a ce present et acceptant pour led hopital pour par Led tiocou, travailler Et agir et faire tout ce qui Luy Sera ordonné et Commande pour ledt et le service des pauvres et malades qui y sont et Seront a Lavenir et cependant Lespace de six annees prochaines et Consecutives sans discontinuation a commencer du premier Janvier de Lann'e prochaine outre Le Restant de la presente, quil travaillera audt hopital, Sans aucune Retribution pendant Leql temps Il sera Nourry aux Vivres du pays et Entretenu ala Volonte dud Sr Inspecteur, au bout Duquel temps, et pour Recompense desd travaux dud tiocou Led Sr Raguet et R P philipe aud nom Luy donneront et Remettront La Nommée marie aram Negresse Esclave dud hopital, et femme dud tiocou, Laquelle sera et demeurera Libre, et sujet de sa majeste pour Lavoir et garder a toujours et a Jamais sans que qui que sait puisse Liquieter, Laquelle marie aram sera Regardée Comme les autres femmes Legitimes mariées aux sujets du Roy,

a Este aussy Convenu que si led tiocou Vouloit quitter avant lesd six annees Expirées Il ne pourroit Rien Exiger d'aucune facon pour ses salaires, car ainsy a Este Convenu Entre les parties promettant chacun En foy, obligent, &c, Renoncant a toutes choses a ce Contraire fait et passe ala Nouvelle Orleans, Le douze Juillet avant midy Etude du Notaire, Lan mil sept cent trente sept, en presence de Louis hugault et pierre piquery temoins demt aud Lieu pour et alegard dud tiocou, a déclaré Ne scavoir Ecrire Ny signer de ce Enquis Suivant Lord<sup>ce</sup>

Fr philippe pre Cap Misse

Raguet

PIQUERY

Hugault (paraph)

Henry ntry (paraphe)



## LOUISIANA CONFEDERATE MILITARY RECORDS

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*By A. B. Booth, Commissioner Military Records.*

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It is reasonably certain, that there is not extant a complete and perfect record of the Individual Members of any Louisiana Confederate States Army Command.

The nearest approach to such a Record is to be found in the Records in the office of the Commissioner of Louisiana Military Records of such organizations, as served in the Army of Northern Virginia, where the discipline was perchance, best and where the muster rolls and reports were more promptly and regularly made.

These records do, however, furnish many thousand proofs of Individual Soldiers, complete and perfect, in establishing their devoted service to their country to the end of the strife.

Patriotic men who were either *killed* in battle, *died* in camp, or in hospital, *languished* in Northern prisons, until after the fall of the Confederacy, or were duly present and *paroled*, at the final surrender of the Confederate States armies.

It is a lamentable fact, however, that a very large number, many of whom had served with honorable records, to within a short time of the close of the war, *were absent without leave*, at the final surrender of their respective commands, and, therefore, *were not included* in the rolls of those actually surrendered and paroled: their orderly sergeants very properly not reporting them for parole.

They are themselves to blame, not the Parole Records, for their not being in the Parole Lists, with their former comrades in arms.

And the plight of such as these, as were in the Trans-Mississippi Department is aggravated by the fact, that at the surrender of General E. Kirby Smith, May 26th, 1865, it is said the Confederate Records, including the Muster Rolls, were *burned* at Shreveport, La., so that there were no Records left to even show their service up to near the time of final surrender.

Thus the whole burden of proof is thrown upon these absentees. This condition of absenteeism is fully established by many Official Records and papers, not only for the Louisiana Soldiers in the West, but also for those in other sections of the South.

Papers such as those which I will quote will show this deplorable state of affairs, a condition, which gives additional lustre to the devoted service of those noble men, whose devotion to duty and to country, nerved them to stand the final test of soldierly honors, and while their comrades were deserting from duty, and from them could yet stand firm and not lay down their arms, until they could do so honorably and deserving the parole, which is their certificate of loyalty, faithfulness, devotion to country, and to their enlistment oath.

These conditions are described by officers in command, some of whom I quote below, especially to show conditions in the Trans-Mississippi Department as follows :

Headquarters Trans-Mississippi Dept.

Shreveport, La., April 21st, 1865.

Soldiers of the Trans-Mississippi Army :

The crisis of our revolution is at hand. Great disasters have overtaken us. The Army of Northern Virginia and our Commander-in-Chief are prisoners of war. With you rests the hopes of our Nation, and upon your action depends the fate of our people. I appeal to you in the name of the cause you have so heroically maintained—in the name of your firesides and families so dear to you—in the name of your bleeding country, whose future is in your hands. Show that you are worthy of your position in history. Prove to the world that your hearts have not failed in the hour of disaster, and that at the last moment you will sustain the holy cause, which has been so gloriously battled for by your brethren east of the Mississippi.

You possess the means of long resisting invasion. You have hopes of succor from abroad—protract the struggle and you will surely receive the aid of nations, who already deeply sympathize with you.

Stand by your colors—maintain your discipline. The great resources of this Department—its vast extent, the numbers—the discipline, and the efficiency of this army will secure to our country terms, that a proud people can with honor accept, and may



under the Providence of God, be the means of checking the triumph of our enemy and securing the final success of our cause.

E. KIRBY SMITH,  
General.

Houston, April 29th, 1865.

Brig. Gen. W. R. Boggs,  
Chief of Staff, Shreveport.

I must have some reliable Cavalry; the little I have is scattered all over the state. Walker ought to be under my command. We must have unity. The men are deserting by tens and twenties a night.

J. B. MAGRUDER,  
Major General Commanding.

Headquarters Forces Front Lines,  
May 11, 1865.

Col. R. L. Capers,  
Commanding Fifth Louisiana Cavalry:

Colonel: You will express my commendation and approval to the men of your regiment who have remained true to their colors, notwithstanding the force of example and temptation. The circumstances that surround us are peculiar, and we should act with that patriotism that has ever distinguished the soldier. The interest of the private and the officer is identical, for the power that is vested in the one arises only from the representation and obedience of the other. What particular object those unfortunate men, who secretly left their companions on the night of the 9th instant may have expected to accomplish is difficult to imagine. By this one step they lose the results of their long endurance and sacrifice, the reputation that they have won. I have no desire to force men against their wishes to struggle for their own freedom, and under no circumstances would I wish to lead into battle any body of men who desire to abandon the cause for which we have taken up arms. There is a time for all things, and men should not unduly precipitate their action. I have no doubt but that opportunities will be frankly offered for men to select their own course; and that no unreasonable violence will be exhibited by our superior officers, who have attested by the common perils that they have freely shared with us their devotion to the common weal. But the present is not the time for men to act. Intrusted with the

duty of the front, sacred responsibilities toward our comrades in arms require us to be vigilant and faithful; and even those who have or may determine to abandon the contest and go home will, if they desire to do so, have ample opportunities to execute their purposes, when, even if we had the desire, we would not have the power to retain them. How sad would be the spectacle of Louisianians turning upon each other those arms which they took up against a common foe, whose triumph this fraternal contest would consecrate. We have stood together in many trying scenes, and if we must part let us not part as enemies, but as brothers, dealing openly and frankly with each other, not going away from each other in the night as if we knew some wrong was being committed towards those who remain. Then while we remain together let us cherish toward each other the same confidence that has ever existed; and I trust that it is not necessary for me to say that the men will find in me one who sympathizes with their many sufferings and who has no disposition to exercise his authority for the purpose of oppression. In the short period your men have been attached to my command I have been pleased with them and gratified at their bearing; and I am confident if those men who left us the other night had come and conversed frankly with me they would now have remained, cheerful and contented with those now present with the regiment who have thus preserved their honor untarnished to the end.

I am, Colonel, yours respectfully,

J. L. BRENT,

Brigadier-General Commanding.

Headquarters Forces Front Lines,  
Alexandria, La., May 13th, 1865.

Colonel R. L. Capers,  
(Through Col. W. G. Vincent,  
Commanding Brigade, etc.)

Colonel: I regret to learn the sad *demoralization of your command*, but I take pleasure in expressing to you my conviction, that you have done all in your power to check it. I wish you to proceed with the debris of your Regiment to Mansfield to report to Brigadier-General Bagby. If you can cross Cane River at Monett's Ferry, you will proceed via Natchitoches. If not, you can turn off to the right and go by Beasley's, Bellwood, Fort Jessup

and Pleasant Hill. If on reaching Beasley's, you deem it advisable for supplies to march via Natchitoches you can do so, but this will be near fifteen miles out of your way. You can get meal early tomorrow morning at Boyce's Mill, and this evening you may move your Regiment to that vicinity, sending an officer to Monett's Ferry to meet you on your march tomorrow with the information relative to the crossing. I wish you to move with what you can carry, as rapidly as possible. Express my admiration to the officers and men of Company E at their *conduct*.

Respectfully,

J. L. BRENT,  
Brigadier-General Commanding.

Houston, May 16th, 1865.

General E. Kirby Smith,

Commanding Trans-Mississippi Dept., Shreveport, La.

General: Major-General Walker refuses to give up the command for the present to Brigadier-General Bee, though he was informed that the order came from Department Headquarters. I wish De Bray's Regt. ordered to Harrisburg. A portion of the garrison at Galveston mutinied on Sunday. This arrangement will probably prevent another mutiny and save Houston. It is a burning injustice to me to deprive me of the command of the cavalry under these trying circumstances.

J. B. MAGRUDER,  
Major General Commanding.

Houston, May 16th, 1865.

General E. Kirby Smith,

Commanding Trans-Mississippi Dept., Shreveport, La.

General: On the night of the 14th inst. from most reliable information, that can be obtained some 400 of the troops attempted to desert the post of Galveston. Colonel Smith by prompt action supported by Colonel Timmons' and Colonel Hobby's Regiments arrested their advance and restored quiet. I learn from Major-General Maxey, that, notwithstanding all his efforts, he cannot produce such a state of feeling in his division, as will justify him in depending upon their resisting. I have seen letters from intelligent officers in Walker's Infantry Division, who state that those troops will fight no longer. I have sent for Gen. Walker, and he will be here today; will add what he may say after I see

him. The officers and men insist upon dividing the property before the surrender, and I think it ought to be done, as I have telegraphed you. I have exerted myself more than I ever did to instill a spirit of resistance into the men, but in vain. I but make myself antagonistic to the Army and an object of their displeasure. Nothing more can be done except to satisfy the soldiers, to induce them to preserve their organization, and to send them in Regiments, etc. to their homes with as little damage to the community as possible. For God's sake act or let me act.

J. B. MAGRUDER,  
Major General Commanding.

P. S.—I entirely concur in the foregoing. I will say in addition that my observation convinces me, that the troops of this district cannot be relied upon. They consider the contest a hopeless one, and will lay down their arms at the first appearance of the enemy. This is the unanimous opinion of the Brigade and Regimental Commanders of Forney's Division, whom I have this day consulted. The Cavalry are still firm and quiet, but only waiting for what they consider the inevitable result, viz, Surrender.

Respectfully, Etc.,

J. G. WALKER,  
Major-General Commanding Div. of Cavalry.

Headquarters Forces Front Lines,  
Alexandria, May 13th, 1865.

Colonel L. A. Bringier,  
Commanding Seventh Louisiana Cavalry.

Colonel:

General Brent has directed me in his temporary absence to open all communications to him marked "personal" or "private," and if they related to official matters requiring immediate attention to refer them to Col. Vincent, commanding the front.

In accordance with those instructions your communication of the 16th instant was referred to Colonel Vincent, who would respectfully direct you to use your own discretion in granting leaves of absence to your men for such time and purpose, as you think best consistent with preserving Regimental organization. Indeed, with the whole country *filled with deserters with arms in their hands*, the question would naturally arise whether many of those, who have thus far remained true and fast to their colors

should not be allowed to go home to defend their families. The fact can no longer be concealed, that the whole Army and people, with scarce an individual exception, are resolved to *fight no more*, and to break up the Army at all hazards. All is confusion and demoralization here, nothing like order and discipline remains. Heavy desertions and plundering of Government property of every kind is the order of the day. There are but eighty-six enlisted men at the forts. All the commands of every arm of the service at and near Alexandria are destroyed, viz: Yoist's and McMahan's Batteries; the Heavy Artillery and Infantry at the forts, the Third and Fifth Louisiana Cavalry. The Second Cavalry still *retains* its organization,, but there have been *heavy desertions*, the men are thoroughly demoralized and all may leave at any moment; in a word, Colonel, the army is destroyed and we must look the matter square in the face and shape our actions (personally and officially) accordingly. The Colonel Commanding commends you highly for your success in preserving thus long your organization and so many men. He thinks that all that can be expected of you is to use every mild and conciliatory means to preserve your Regimental organization, but any violent measures to restrain desertions now is believed both by him and General Brent to be conducive of no good results, and would only tend to exasperate the soldiery and cause them to commit depredations on citizens, besides endangering the lives of *officers uselessly*. The Colonel Commanding hopes the tenor of this communication will be properly understood; it is designed to be merely advisory, and you are left free to act as you think best. and at the same time to *preserve* regimental organization.

Respectfully,

D. F. BOYD,  
Asst. Adj. Gen.

Headquarters Forces Front Lines,  
Alexandria, May 20th, 1865.

Colonel L. A. Bringier,

Commanding Seventh Louisiana Cavalry.

Colonel: The Colonel Commanding congratulates you on your safe arrival at Tanner's with your train. He directs that you remain at or near Tanner's till further orders, and if you find yourself unable to preserve your train, you will distribute your

wagons and teams to responsible planters in the neighborhood of your camp, taking a receipt, "to be returned on your order." It would be worse than useless to attempt to bring your train here. Every wagon and mule would be *stolen* in less than four hours after your arrival. There is corn at Tanner's, at your own depot, it is said, and also Government beeves in the swamps near by. Col. Vincent believes, therefore, that you will have no difficulty in subsisting your command. He furthermore impresses upon you the necessity of preserving your regimental organization intact, and for that reason, and the fact that General Brent expressly ordered that your leave of absence be withheld till further orders. Colonel Vincent, in the absence of any order from General Brent on the subject, does not feel authorized to send you your leave of absence. He regrets, that he feels it his duty to contravene your wishes in that regard, but your presence is so necessary at all times to your command, and especially at this juncture, that he feels confident, that you will cheerfully acquiesce in his decision. General Brent is now on the Mississippi River attempting to negotiate a surrender of General Hays' command, District of West Louisiana. The Louisiana Generals are acting independently of General Smith and General Buckner, who are determined in no event to surrender, have now no hope of success, and would bring ruin on Louisiana and Texas merely to enable them to escape with a Corporal's Guard into Mexico. For these reasons Louisiana must look out for herself, and there is but little doubt, that in a few days the district will be surrendered on the terms granted General Taylor. Inclosed please find copy of General Order from Headquarters. Should you have any difficulty to subsist, let it be known; an effort (but in vain we fear) will be made to relieve you.

Respectfully,

D. F. BOYD,  
Assistant Adjutant-General.

This shows the trying and unsatisfactory condition of affairs just before the final surrender of General E. Kirby Smith's Army on May 26th, 1865.

It was indeed a situation to test the loyalty and soldierly qualities of the Confederate troops in the Trans-Mississippi Army, both officers and men.

It is indeed an honor to such officers as our creole fellow citizen (long since deceased) Col. L. A. Bringier and the men

who remained steadfast in the performance of duty until honorably surrendered and paroled.

It is also a credit to the Cavalry branch of the service that they showed up as well as they did under these very trying conditions; when so many of their comrades in arms, especially in other branches of the service, had weakened, and left, unmindful of their duty, to remain subject to orders, to the end. The federal parole list here became a roll of honor, certifying to the loyalty of every Confederate soldier, surrendered, and paroled in the Trans-Mississippi Department; and in fact all over the south.

This does not mean, however, that there are not some who served to the end of the war, and who were really entitled to and deserving of paroles—who will *not* show on our parole lists, or have record in our publication, showing service to the end of the war.

But the number is comparatively small, and it would appear that they themselves were at fault, through some neglect of duty.

There were some, however, who were absent on short furlough which extended beyond the date of surrender. Others were on detail service in the Commissary, Quartermaster, or Ordnance departments, away from their commands, and who may have failed to come in and get paroled, at the time of surrender. Some others were absent, wounded or on sick furlough, or in hospitals at a distance, and may not have been accounted for by the orderly sergeant, or officer who turned in the eligibles for parole.

These are of course unfortunate cases, unfortunate alike to the soldier, and to his posterity, but fortunately there are not very many of these.

I hold however that where *all the record* the Government has of a soldier is *good* and no faltering or neglect of duty, is found recorded against him, and his service is shown to the end of 1864; great charity should be exercised toward him, and he should be given the benefit of the doubt in honoring his record if living, or memory if dead, or in extending the pension benefits to him or his widow if such survive him.

The rather chaotic condition prevailing everywhere at the front in 1865, would appear to give some justification to such extension of charitable consideration to those whose good record previously, would somewhat extenuate their fault of absence at the last moment, of the most crucial test.

Such charitable consideration for those who are unfortunate could in no way detract from the honor and glory due to every soldier, who died on the battle field or in camp, or who languished in Northern prisons to the end, or was honorably discharged for sickness, or wounds, or who was paroled at the end of the war.

Our publication will perpetuate the certificate of honor which these have earned and they can afford to be charitable to their comrades of good record, otherwise, but who were unfortunate at the end.

Fortunately at the close of the war between the States the muster rolls and Confederate papers captured by the Union Army from the Confederates, were sent to the War Department, and were there saved, collated and compiled for reference papers.

But the people of the States both North and South were refused access to them for forty-five years after the war.

The State of Louisiana was the first state to make the fight to get access to these records, and was the first state to succeed in getting access to them for historical purposes, although many states North and South had applied and had been refused by department ruling.

And it was nearly four years after the attempt to collate and compile records of the Louisiana Confederate soldiers was begun by Commissioner Thomas W. Castleman, that through the aid of our members of Congress, he finally got access to the vaults containing these Louisiana records.

He then commenced the photographing of the records—which work had to be done under supervision of a Government official who counted and controlled each piece, and watched that no changes could be made in the rolls. (See postcard and photo accompanying this.)

All of these photographs of war rolls, of Louisiana Confederate troops, are now in the office of the Commissioner of Military Records.

They exhibit over 450,000 photographs of individual card records of service of Louisiana soldiers.

There are 24,199 photographed record sheets of which 413 are photographs of copies made in the War Department, Washington D. C., of rolls borrowed from Memorial Hall, New Orleans, La., in 1903 for the purpose of copying them.



We have also 39,249 envelope card records of paroled soldiers, prison records, death lists, etc.

We estimate the enlistment from Louisiana in the Confederate Army at about 56,000 and with re-enlistments other than twelve months regiments, which re-enlisted as commands, would go to 65,000 names. When we complete our publication, the number will be more accurately established.

The appropriation for the ensuing two(2) years ending June 20th, 1920, may enable the completion of the compilation and the publication of the individual record of each soldier in alphabetical form A to Z for future reference, and also a brief history of the 980 companies and the various commands from Louisiana, which will add interest and usefulness to the work for all time; then the office of Commissioner of Louisiana Military Records, can be abolished without injury to the Confederate soldier, as far as he is concerned.

The manifold demands of public duties, as well as official work, has prevented my having time to make this paper as comprehensive, as the subject justifies.

But perchance I may have tried your patience already, and therefore out of consideration for this audience, I will close by inviting their attention to an addenda to this paper, showing local designation of 980 companies, which organized in Louisiana.

And also showing the dates of six hundred engagements—great and small in Louisiana during the four (4) years of the Confederate war; most of these were of course skirmishes.

The publication of both of these tabulations like our other publications when completed, would, I am sure, interest many thousand descendants of Louisiana Confederate soldiers; and be a just and lasting tribute and monument to the soldier himself.

The compilation alphabetically of the individual soldier's record is a work, which requires the most painstaking integrity, that only facts be published, and that no omissions are permitted, which could detract from, or mar the good name of any soldier that served.

#### ADDENDA.

Alphabetical list and local designations of Louisiana organizations in the Confederate Army comprising Infantry, Artillery, Cavalry and Militia—980 military companies organized in Louisiana:

Alexander Rifles (Company 24, Regt. La. Infy, Co. K. Cres. Regt.)

Alexandria Independent Guards, La. Militia.

Alfred Davis Guards, Company G, Miles Legion, Louisiana.

Algiers Guards, Company A, 30th La. Infy. Served also as Algiers Battn. La. Militia.

Algiers Artillery, Baker's Co. Algiers Battn. La. Militia.

Algiers Co., La. Militia, Ind.

Allen Rifles, Company 1, 26th La. Infy.

Allen Guards, Company I, 23rd La. Infy.

Alligator Rangers, Co. F, 2nd La. Cavalry.

American Rifles, Co. G, 7th La. Infy., Co. F, Sumpter Rifles.

American Rifles, Co. B, Co. C, 30th La. Regt. Infy.

American Rifles, subsequently became 8th Co. F, Sumpter 30th La. Mil. Regt.

Amite City Rifles, La. Militia, Ind.

Anacoco Rangers, Co. K, 19th La. Infy.

Arcadia Guards, Co. F, 18th La. Infy.

Arcadia Invincibles, Co. B, 12th La. Infy.

Armstrong Guards, Co. K, 14th La. Infy, Sulakowski's Regt.

Ascension Guards, La. Militia, Ind.

Asenheimers 1st, Co. B, Co. B 20th La. Infy.

Askew Guards Co. C, 14th La. Infy, Sulakowski's Regt.

Askew Greys, Co. F, Kennedy's 21st La. Infy.

Assumption Creoles, Co. C, 26th La. Volunteers.

Atchafalaya Guards, Co. H, 2nd La. Infy.

Atchafalaya Mounted Scouts, Battn. La. Cavalry.

Attakapas Guards, Co. C, 8th La. Infantry.

Attakapas Rangers, La. Mil., Ind.

Austrian Guards Co., 4th Regt., European Brig. La. Mil. Vol.

Avenco Rifles, Co. I, 13th, afterwards Co. G., 14th La. Infy.

Avoyelles Fencibles, La. Militia, Co. A., Johnson's Spec. Battn.

Avoyelles Rifles, La. Militia, Ind.

Baker Guards, Capt. F. Lang's Co., Continental Regt., La. Mil. Vols., also Co. F, H. Lew's Battn., Regt. La. Mil.

Barlow's Battery, Capt. Wm. P. Barlow, Ind.

Baton Rouge Fencibles, Co. B, 7th La. Infy.

Baton Rouge Guards, served in E. Baton Rouge Regt., Ind.

Baton Rouge Invincibles, Co. B, 9th, 17th Battn. La. Inf.

Baton Rouge National Guards, La. Mil., served in E. Baton Rouge Regt., Ind.

Baton Rouge Rangers, Co. B, 1st La. Cavalry.

Battalion La., Cazadores Espanoles, Louisiana Legion.

Bayliss Battn., Par. Rangers, Capt. W. H. Bayliss, Ind.

Bayou Boeuf Cavalry Guards, La. Mil., Ind.

Bayou Boeuf Home Guards, La. Mil., Ind.

Bayou Goula Co., La. Mil., served in Iberville Regt., Ind.

Beauregard Battn. Battery La. Mil.

Beauregard Cadets, 2nd Brig. 1st Div. La. Mil., Ind.

Beauregard Fencibles, Co. K, afterwards I, 12th La. Inf.

Beauregard Guards, La. Mil. Co. C, La. Irish Regt. La. Mil.

Beauregard Invincibles, Co. K, afterwards I. 12th La. Inf.

Beauregard Mounted Lt. Grds., La. Mil., Ind.

Beauregard Rangers, Co. D, Cres. Regiment La. Inf., 24th Regt., La. Inf.

Beauregard Rangers, La. Mil., Ind.

Beauregard Rebels, La. Mil., Ind.

Beauregard Regiment, Col. F. A. Bartlett's La. Regt., La. Mil.

Beauregard Rifles, Co. —, 30th La. Inf., Co. K Sumpter Regt.

Co. A Beauregard Battn., La. Mil.

Beauregard Siege Art., La. Mil., Ind.

Beauregard Siege Battery, Capt. Theo. Morano's Co., La.

Arty.

Beauregard Tigers, La. Mil. Co. F, Jeff Davis Battn. & Regt.

Beauregard Creek Rifles, Co. G, 4th La. Inf., also Co. E. 9th Battn., La. Cav., Cav. (P. R.) after Wingfield's 3rd La. Cav.

Belgian Legion, La. Mil., Ind.

Belgium Infantry, Louisiana Legion.

Bell Battery, Capt. T. O. Benton's Co., La. Arty.

Belmont Guards, La. Mil., served in Beauregard Regt., Ind.

Ben McCullough Rangers, Ind.

Ben McCullough Rangers, Capt. Wm. F. McLean's Ind. Co. 2nd La. Inf.

Benton's Battery, Bell Batty., 4th La. Batty., 3d La. Batty., served as Co. C 3rd Battn., Fld. Batty., Ind.

Bienvenu Guards, Capt. A. Lartigue's Co., La. Vols.

Benjamin's Co., La. Cav., Independent Co.

Bienville Rifles, Co. B, 8th La. Inf.

Bienville Rifles, La. Mil., disbanded at Camp Moore declining to serve for the war, Ind.

- Bienville Blues, Co. C, 9th La. Infy.  
 Bienville Guards, Co. C, 5th La. Infy.  
 Bienville Guards, Lartigue's Co., King's Spec. Battn., La. Infy.  
 Big Bend, Co —, Capt. W. J. Rusk, Ind.  
 Big Cane Rifles, Co. K, 16th La. Infy.  
 Black River Mtd. Rifles, served in Concordia Regt., Ind.  
 Black Yagers, Co. B., 22nd, afterwards 21st La. Infy.  
 Black's Rifle Guards Co., Jackson's Regt., La. Infy., 5th Battn.  
 Blakesley Guards, La. Mil. Co., 4th Regt., French Brig.  
 Blucher Guards, La. Mil., Capt. Hy. Miester, Ind.  
 Boeuf River Rebels, Co. B, 27th La. Infy.  
 Bogart Guards, Co. C, 3rd La. Battn., afterwards Co. H. 15th La. Infy.  
 Bonford Guards, Co. A, Kennedy's 21st Regt., La. Infy.  
 Bonnabel Guards, La. Militia, Co. 4th Regt., French Brig.  
 Boon's Battery, 2nd Field Batty., attached to Miles Legion.  
 Bossier Cavalry, Capt. Thos. W. Fuller's Ind. Co., La. Co. C 6th La. Cav., attached to an Ala. Cav. Regt., also Co. B, Wimberley's Squadron, La. Cavalry.  
 Bossier Volunteers, Co. D, 9th La. Infy.  
 Bossier Rangers Vols., Co. A, 1st Battn., State Grds. Cav., also called 13th Battn.  
 Boyles, Com B, 30th Regt., La. Infy.  
 Bragg Cadets, Co. D, 26th La. Infy.  
 Bragg's Escort, Guy Dreux's Ind. Co., La. Cavalry.  
 Bragg's Guards, La. Mil., Capt. Frank Dalfers, Ind.  
 Briarfield Rebels, Capt. A. J. McNeils Co., La. Cavalry.  
 Brice Guards, La. Militia, Capt. Ewell Eastman, Ind.  
 Bridges Battery, Capt. Wm. M. Bridges, attached as Co. D to 18th S. C. Battn. Arty., Ind.  
 Briarfield Rebels, La. Cavalry, Capt. A. J. McNiel, as Co. D, 6th or 61st. Battn. Ark. Cavalry, later Co. C. 24th Ark. Cav., Ind.  
 Brown's Battery, Hannibal, Lt. Arty. Co. B, Consolidated with Guiber's Mo. Battery, Ind.  
 Brown's Co., La. Mil., Capt. A. F. Brown, Ind.  
 Brush Valley Guards, Co. H, 9th La. Infy.  
 Burnside Guards, La. Militia, Capt. Edward Conery, Ind.  
 Burton's Co., in LaFourche Regt., La. Militia.  
 Butler's Revengers, Co. A, Miles Legion, La. Cav.

- Caddo Confederates, Co. I, 27th La. Infty.
- Caddo Co., La. Militia, Capt. Wm. H. Bayliss.
- Caddo Fencibles, Co. C, 16th La. Cav.
- Caddo Lake Boys, Co. F, 17th La. Inf.
- Caddo Light Horse, Co. A, 6th Regt. La. Cav.
- Caddo Militia, Capt. B. R. Bickham's Co., 4th. Regt. French Brig., La. Mil. Vols.
- Caddo Pioneers, Co. —, 27th La. Inf.
- Caddo Rifles, Co. A. 1st La. Inf.
- Caddo 10th and 19th La. Inf.
- Cage's Battn., La. Cav., with Miss. Cav. and 14th Battn., Confed. Cav.
- Calcasieu Rangers, Capt. W. E. Ivey's Co., La. Cav.
- Calcasieu Volunteers, Co. A, King's Spec. Battn. La. Inf.
- Calcasieu Tigers, Co. B, King's Spec. Battn., La. Inf.
- Calcasieu Invincibles, Co. C, King's Spec. Battn., La. Inf.
- Calcasieu Guards, Co. D. King's Spec. Battn., La. Inf.
- Caldwell Avengers, Co. B, 31st Regt., La. Inf.
- Caldwell Guards, Co. I, 3rd La. Inf., Jeff Davis Battn. Regt., La. Mil.
- Caldwell Invincibles, Co. A, after G. 12th La. Inf.
- Caldwell Rangers, Caldwell Regt., La. Mil.
- Calhoun Guards, Co. B, 6th La. Inf., also Continental Regt., La. Mil. Vols., Independent Co.
- Calhoun Guards, Co. C, Co. G. Irish Regt., La. Mil.
- Campbell Guards, Co. A, 5th Battn., La. Inf.
- Cameron's Battery (Art.) attached to 15th Battn., Cav. and afterwards to Harrison 3rd La. Regt., Cav. 4th La. Fld. Art.
- Campaigners La. Vols., 26th Co., La. Mil.
- Canfield's Co., Mtd., Rangers, La. Mil., Ind.
- Cannon Guards, Co. D, 11th La. Inf.
- Cannon Guards, Co. — Jackson Regt., La. Inf., formerly Kennedy's 5th Battn. Inf.
- Capitol Guards, La. Mil., (served in E. Baton Rouge Regt. La. Mil., Ind.)
- Capt. Volunteers, La. Mil (served in E. Baton Rouge Regt., La. Mil., Ind.
- Camouche's Co. of Cavalry, attached to Brent's Cavalry Brigade.
- Carondelet Invincibles, Co. I, 5th La. Inf.

- Carondelet Lt. Inf., La. Mil., served as Co. —, in Beaugard Regt.
- Carroll Dragoons, Capt. Lott's Co., La. Cav., Ind. Co.
- Carroll Guards, Co. L. 11th La. Inf., after Co. E, 20th La. Inf.
- Carroll Rebels, Co. D, 29th (4th Battn.), La. Inf.
- Carrollton Reserve Grds., La. Mil. Co. D, Jeff Davis Battn. and Regt. La. Mil. Vols.
- Carter Minute Men, La. Militia (Independent).
- Carter Rangers, La. Militia (Independent).
- Caruthers Sharp Shooters, also called Copland Caruthers Shp. Shooters, Co. D, 9th Battn., La. Infantry.
- Castor Guards, Co. I, 16th La. Infty.
- Catahoula Avengers, Co. E, 31st Regt., La. Infantry.
- Catahoula Battalion, Co. D, 31st La. Infty.
- Catahoula Fensibles, Co. D, 31st La. Infty.
- Catahoula Greys, Co. G. 11th La. Infty.
- Catahoula Guerillas, Co. D, Wheat's Battn., La. Infty., afterwards Co. I, 15th La. Regt. Infty. (2nd Polish Brigade.)
- Catahoula Rebels, Co. C, 17th La. Infty.
- Cazadores Espanoles, Col. Nevil Soule's Regt., La. Militia.
- Cazadores Espanoles, 1st Co. Co. A, Cazadores Regt., La. Mil. Espanoles.
- Cazadores Espanoles, 2nd Company B, Cazadores Regt., La. Mil, Espanoles.
- Cazadores Espanoles, 3rd Co. C, Cazadores Regt., La. Mil., Espanoles.
- Cazadores Espanoles, 4th Co. D, Cazadores Regt., La. Mil. Espanoles.
- Cazadores of St. Bernard, Co. G, Cazadores Regt., Es. La. Mil.
- Cazadores Espanoles Regt., Family Caz. Esp., Battn. La. Mil.
- Chalmette Rifle Guards, Co. B, 5th La. Infty.
- Chalmette Guards, La. Militia, Co. B. Fire Battn. and Regt., La. Militia.
- Chalmette Battalion, La. Volunteers.
- Chasseurs a Pied, alias Foot Rifles, also called St. Paul's Foot Rifles, 7th Battn., La. Infty.
- Chasseurs a Pied, La. Militia, Company B, Johnson's Spl. Battn.
- Chasseurs D'Orleans, Foreign Brigade, La. Legion 1st Regt. Chas. a Pied, Co. D, Cassd., Regt. Espan. La. Mil., also Jackson Rifle Battn., also Ind. Co.

- Chasseurs St. Jacques, Co. E, 18th La. Infy.  
Chasseurs of Jefferson Co., A. Cav. La. Mil., served in 9th  
Regt., 1st Brigade, La. Militia.  
Chasseurs de la Fayette, La. Mil. Capt. Hy. H. Michelet, Ind.  
Chasseurs de la Fourche, La. Militia, Capt. Chas. Lesseps,  
Ind.  
Chasseurs de la Gard, La. Mil., served 5th, Co. 6th. Regt. Eu-  
ropean Brig.  
Chasseurs St. Michel, La. Mil., served in St. James Regt., Ind.  
Chasseurs du Teche (Cav.) La. Mil. Capt. Chas. Tertron, La.  
Mil.  
Cheyneville Blues, Co. H, 8th La. Infy. (Sometimes Rifles.)  
City Defenders, Co. D., Jackson Rifle Battn. La. Mil.  
City Fire Guards, La. Mil., Co. D, Orleans Fire Battn. Regt.  
La. Mil.  
City Guards La. Mil. attached to National Gd. Regt., Capt.  
Wm. T. Dean, Ind.  
Citizen Guards, Co. B. La. Mil. Continental Regt. La. Mil.  
Vols.  
Citizen Guards, Co. A, Continental Regt., La. Mil. Vols.  
Claiborne Greys, Co. D. 19th La. Infy.  
Claiborne Guards, Co. F. 2nd La. Infy.  
Claiborne Invincibles, Co. D. 28th La. Infy.  
Claiborne Invincibles, Co. K. 17th La. Infy.  
Claiborne Rangers, Capt. T. M. Scott's Co. 12th La. Infy.  
Claiborne Rebels La. Mil., Capt. Allen C. Hill, Ind.  
Claiborne Volunteers, Co. C. 19th La. Infy.  
Clay Guards Co. B. Beauregard Battn. & Regt. La. Mil.  
Clinton Guards La. Mil. Capt. J. J. Smith, Ind.  
Clinton Rebels La. Mil. Capt. A. S. Norwood, Ind.  
Clouett Guards Co. K. Chalmette Regt. La. Mil. Vols.  
Coach Makers Guards Co. in Bragg's Battn. La. Militia.  
Cochran's Co. Cavalry-Macon Cav. La. Mil.  
Cole's Rangers, See Mounted Rangers, La.  
Columbia Fire Guards Co. H. Orleans Fire Battn. Regt. La.  
Militia.  
Colyell Guards Co. G. 9th La. Infy.  
Compagne, due Voliguere, Co. 2nd Regt. French Vols. 2nd  
Regt. Europ. Brig. La. Mil.  
Concordia Rifles, Co. F. 13th La. Infy. Sulakowski's after-  
wards 14th La.

- Confidence Fire Guards La. Mil. Co. F. Orleans Fire Battn. Regt. La. Mil.
- Confederate Defenders, Harrison's Battn. Cavalry La.
- Confederate Defenders, Co. A. 31st La. Infty.
- Confederate Guards, (Response Battn.) also called Confed. Grd. Battn, 12th Battn. La. Infty. Consolidated with Cres. Regt.
- Confederate Guards, Co. H. 18th La. Infty.
- Confederate Guards, Artillery Capt. C. C. Lewis' Co. La. Mil.
- Confederate Guards Regt. La. Mil. Vols.
- Confederate Guards Reserve La. Mil. Ind. Co. Capt. Jas. J. Hanna.
- Confederate Guards Response Battn. also called Confed. Grd. Batt. La. Vols.
- Confederate States Rangers, Co. K. 10th La. Infty.
- Confederate States Zouaves, Maj. St. Leon Dupeir's La. Infty. Battn.
- Continental Guards Co. A. 7th La. Infty.
- Continental Cadets, La. Mil. A company in Cont. Regt. La. Mil. Vol.
- Continental Guards, Co. F. 11th La. Inf.
- Continental Guards, Co. B. Continental Regt. La. Mil. Vols.
- Continental Regiment, Col. George Clark's Regt. La. Mil.
- Cooper's Guards La. Mil. Capt. Jno. C. Weaver.
- Coppen's 1st Battn., C. S. Zouaves La. (La. Zouaves).
- Corner Co. of Avoyelles La. Mil. 1st. Lt. V. Gremillion, Ind.
- Cornil Guards La. Mil. Capt. David Pearson.
- Cotton Plant Guards La. Mil. Co. E. La. Irish Regt. La. Mil.
- Cotton Plant Guards, Co. B. La. Mil. Co. E. Irish Regt. La. Mil.
- Cotton Guards La. Mil. Co. E. Jeff Davis Battn. & Regt.
- Court Glee Grds. La. Mil. (also C. G. Minute Men) Capt. Dupre Guidry, Ind.
- Coushatta Rifles La. Mil. R. H. Simmons Cart. Ind.
- Creole Rebels La. Mil. Capt. J. J. Ducoye Co. C. Johnson's Spl. Battn.
- Creole Chargers, Co. G, 1st La. Cav.
- Creole Guards, Co. A. 8th La. Inf. served also E. Baton Rouge, Regt. La. Mil. Ind.
- Creole Rebels La. Mil. Vols. Capt. E. P. Doremus Ind.
- Crescent Artillery, Capt. T. H. Hutton's Co. A. La. Arty.
- Crescent Artillery La. Mil. Capt. H. F. Wade, Ind.



Crescent Blues, Capt. John Knight's Co. Crescent Regt. La. Vols. Co. E, Beauregard Battn. Regt. 24th Regt. La. Inf. also Co. G, Sumpter Regt.

Crescent Cadets, Co. I. Sumpter Regt. La. Mil.

Crescent City Blues, Co. B, or C, La. Foot Rifles of Battn. Co. K, 15th La. Regt. Inf.

Crescent Blues Co. A. La. Mil. Capt. Bartlett, 3rd Co. H, Cres. Regt.

Crescent City Guards, Co. A, 5th La. Inf.

Crescent City Guards, Co. B, after A. Crescent Regt. La. Vols.

Crescent City Guards, Co. C. after F. Cres. Regt. La. Vols.

Crescent City Native Guards, Co. in 1st Regt. Native Grds. La. Mill.

Crescent City Rifles, Co. B, 1st Battn., La. Inf., also Co. B, 24th La. Regt. Inf., Crescent Regt.

Crescent Rifles, Co. B. 1st Battn. La. Inf.

Crescent Rifles, (Co. B.) Co. E, 7th La. Inf.

Crescent Rifles, (Co. C.) Co. H, 7th La. Inf.

Crescent Rifles, (Co. D.) after B. Crescent Regt. La. Vols.

Crescent Regiment, also called 24th & Cons. Cres. Regt. La. Inf. orig. Mil.

Crescent Reserve La. Mil. Capt. J. A. Halls Co. Orleans Fire Battn. La. Mil.

Crescent Zouaves, Capt. W. F. Fry, Ind.

Crockett Southrons, Capt. E. Currie's unattached Co. La. Vols.

Cronan Rebels La. Militia Capt. C. Evans.

Crosgrove Guards La. Mil. Co. B. Lewis Battn. Regt. La. Mil.

Cuban Rifles Co. Co. C. Jackson Rifle Battn. La. Mil.

Dardennis Guards, Co. I. 30th Regt. La. Infy.

Dauer's Artillery Capt. J. F. Dauer's Co. La. Arty. Mil.

Davenport Rebels, Co. G. 15th La. Infy.

Davidson Guards La. Mil. (Alexandria, La.) Capt. Jno. W. Addison, Ind.

Davidson Guards La. Mil. Capt. W. E. M. Linfield Ind.

Davis Guards Co. H. 1st. La. Infy.

Davis Guards Cavalry Co. G. Miles Legion La.

Davidson Guards, Co. D, (Beauregard Regt. & Battn. La. Mil. also 2nd Co. I, Cres. Regt.)

De Clouet's Guards, Co. D. Guard Battn. Regt. La. Mil.

De Feriet Guards Co. I. Chalmette Regt. La. Mil. Vols.

Defenders Falkner's Cav., Co. D, 3rd ((Harrison's) La. Regt., Cav. form Co. I, Pargoud's Regt.

De Gournay's, afterwards Kean's La. Battery, 12th Batty., served as Co. E, 1st Battn., La. Zouaves.

Delhi Guards, La. Mil., Capt. D. Pinkney Smith, Ind.

Delta Rifles, La. Mil., Capt. Hugh Breen, Ind.

Delta Rangers, Co. C, Wheat's Battn., La. Infty.

Delta Rifles, Co. F, 4th La. Infty.

Denson's Cavalry Co., Capt. W. B. Denson, Caddo Light Horse.

Derbigny Guards, Co. B, 10th La. Infty.

De Soto Blue, Co. F, 9th Infty. Regt.

De Soto Creoles, Co. K, 3rd Co. K, Cos. H, K, 19th Regt. La. Infty.

De Soto Rangers, De Soto Regt. La. Mil.

De Soto Rifles, Co. D, 5th La. Infty.

Dillon Guards, Co. A, 11th La. Infty.

Dixie Guards, La. Militia, Capt. F. H. Pugh, Ind.

Dixie Rifles, Co. —, 27th La. Infty.

Donaldsonville Arty., Capt. V. Maurin's Co., La. Arty., attached as Co. B, to Garnett's afterwards Richardson's Battn., also known as Landry's Battery.

Donaldsonville Arty., Co. B, also called Cannoneers of Donaldsonville.

Dubloon Guards, La. Mil., Capt. W. H. Waters, Ind.

Downsville Guards, La. Mil., Capt. Jas. B. Landers, Ind.

Dreux's Co., La. Cav., served as escort to Gen. Beauregard, Bragg, Hood and Johnson.

Dragoons of E. Baton Rouge, La. Mil., Capt. H. M. Pierce, Ind.

Ducote Guards, La. Mil., Capt. J. J. Ducote, Ind.

Duncan Lt. Infty., La. Mil., Capt. Paulin Grandpere.

Duverge Guards, La. Mil. Co. Algiers Battn., La. Mil., also Co. E, 9th Regt., 1st Brig., La. Mil.

East Feliciana Guards, Co. A, 16th La. Inf., also East Feliciana Regt., La. Mil.

Eclaireurs of Jefferson, La. Mil., Ind.

Edmonston's (J) Independent Battn., La. Mil. Vols.

Ed. Moore Rangers, Co. A, 1st La. Cav.

Edward Thompson Guards, Beauregard Battn. Regt., Ind.

Edward Guards, Co. B, 16th La. Inf.

- Eight Battn., La. Arty., W. E. Pinkney, Lt. Col.
- Elam Guards, Co. B, 29th La. Inf., also called 28th (Thomas).
- Emerald Guards, Co. E, 9th La. Inf.
- Emmet Guards, Co. D, 1st Inf., Nelligan's Regt., Co. in La. Irish Regt., La. Mil.
- Empire Rangers, Co. D, 13th after 14th La. Inf., after Co. B, 15th La. Inf.
- Engineers Co., 1st Regt. French Vol., La. Mil., 1st Regt., European Brig.
- Esplanade Guards, Co. F, Orleans Guards Bttn. Regt., La. Mil.
- European Brig., Louisiana Militia.
- Evergreen Invincibles, Co. H, 16th La. Inf.
- Family Home Guards, La. Mil. Ind., Capt. J. T. Degrais.
- Farmer Guards, Co. C, after D, 12th La. Inf.
- Farmer Rangers, Co. H, after K, 12th La. Inf.
- Fassman Guards, La. Mil., Capt. Jas. Powers Ind.
- Fausse River Guards, Co. in King's Spl. Battn., La. Inf.
- Feilleux, (after Daner's) Batty. La. Mil., attached to Battn. Vols.
- Fenners Battery, La. Arty.
- First Special Battn., La. Vols., also Wheat's Special Battn.
- Florence Guards, Co. F, 20th La. Inf.
- Floyd Guards, Co. G, 2nd La. Inf.
- Forstall Guards, Co. I, 10th La. Inf.
- France-American Guards, La. Mil., Capt. Simon Richard, Ind.
- Franklin Guards, La. Mil., Capt. H. B. Smith, Ind.
- Franklin Life Guards, Co. C, 4th Battn., La. Infty.
- Franklin Sharp Shooters, Co. E, 9th Regt., La. Infty. Vols.
- Franklin Rangers, Co. B, 1st Battn., La. State Grds., Cav., also known as 13th Battn.
- Franko Rifles, Co. B, 13th, afterwards 14th, La. Infty.
- Frappe d'Abord, Co. H, Chalmette Regt., La. Mil. Vols.
- Frellson Guards, Capt. Geo. R. Canadine's Co., La. Mil. Ind.
- French Co. of St. James, La. Mil., Ind. Co.
- French Capitol Guards of East Baton Rouge, also called "Rough" Ind.
- French Co. of Berwick Bay, Capt. A. Cardillas, Ind.
- French Co. of Donaldsonville, La. Mil., Capt. C. J. Boulanger, Ind.
- French Co. of Iberville, La. Mil., Capt. Pierre Artaux, Ind.

- French Co. of Lafayette, La. Militia, Capt. B. Cazaandebat, Ind.
- French Co. of Pointe Coupee, La. Militia, Capt. A. Verneuil, Ind.
- French Co. of St. Martin, La. Mil. Capt. Pierre Cabrol, Ind.
- French Co. of St. Mary, La. Mil., Capt. Frederick Robin, Ind.
- French Co. of Thibodaux, La. Mil., Capt. Jean Pierre, Ind.
- French Legion of Terrebonne, La. Militia, Capt. Jean Besse, Ind.
- French Volunteers, La. Mil., Capt. A. Gauthier, served in St. Martin Regt., Ind.
- Fulton Guards, Co. in Bragg's Battn., La. Militia, Co. H, Leeds' Guard Regt., La. Mil., Vols.
- Furman Rangers, Co. E, 2nd La. Cavalry.
- Fusiliers, No. 1, Capt. Henerich Gerdes, Ind.
- Garnett Rangers, Capt. Jas. Borges Co., La. Mil.
- Garibaldi Guards, Co. F, Cazadores Regt. Espanoles, La. Mil.
- Gentilly Rangers, Co. G, Chalmette Regt., La. Vols.
- German Guards.
- German Guards, La. Militia, Capt. Roemer, Ind.
- German Yagers (or Joegers), Co. I, 22nd Regt., La. Infy.
- Gleen Guards, Co. F, 1st Regt., 1st Brig., and in Beauregard Rgt., La. Mil., Beauregard Battn.
- Galden Rifles, Co. H, 13th La. Infy.
- Gobers Regt., La. Cav., called 5th Regt., part 9th and 18th Battn., La. Infy.
- Gorday's & Cornay's Battery, St. Mary Cannoneers, 1st La. Field Battery.
- Governor's Guard, 1st, 2nd, 3rd, 4th, 5th and 6th Cos., 13th Inf.
- Government Mechanic Guards, Co. E, Lewis Battn., Regt. La. Mil.
- Greenleaf's Co., La. Cav., See Orleans Light Horse.
- Greenwood Guards, Co. I, 2nd La. Inf.
- Gretna Fire Guards, La. Mil., Co. G, La. Fire Battn. and Regt. La. Mil.
- Grivot Artillery, Capt. J. T. Holmes' Co., La. Arty.
- Grivot Fancy Guards, Co. E, 26th La. Inf.
- Grivot Guards, Co. E, 1st Battn., La. Inf.
- Grivot Guards (Co. B), Co. H, 26th La. Inf.

Grivot Guards (Co. C), Co. C, after Co. F, 26th La. Inf.  
Grivot Partisan Rangers, Indep. Co., La. Cav.  
Grivot Rifles, Co. E, 15th La. Regt. Inf., Vol. (2nd Polish

Brig.)

Gross Tete Creoles, Co. C, 15th La. Inf.  
Gross Tete Flying Artillery, 6th Batty., La. Arty.  
Gross Tete Rangers, La. Mil., Capt. C. W. Keep, Ind.  
Gulf Guards, Co. E, Chalmette Regt., La. Vols.  
Guards de St. Bernard, Co. D, 12th Regt., 2nd Brig., 1st Div.,

La. Mil.

Hannibal Light Artillery, Co. Brown's Battery.  
Hansa Guards, Cos. A, B, C, D, E, and F, 4th Regt., European  
Brig., La. Mil., Vols.

Hardee Rifles, La. Mil., Capt. Jos. Andrews, Ind.  
Hawkins Guards, Co. D, after K, 10th La. Inf.  
Hayes Champions, Co. D, 18th La. Inf.  
Heation Guards, Co. F, Chalmette Regt., La.  
Henry Clay Guards, Capt. A. B. Seeger's Co., 9th Regt., 1st  
Brig., 1st Div., La. Mil., also Algiers Battn., La. Mil.  
Henry Hart Guards, La. Mil., Capt. Chas. L. Aitkens.  
Henry Marshall Guards, Co. F, 19th La. Inf.  
Herrick's Co., Co. E, 20th Regt., La. Inf., also known as Or-

leans Blues.

Hewitt Guards, Co. C, 10th La. Inf.  
Hickens Guards, See Noel Rangers, New Co. B, 20th Regt.,

La. Inf.

Hickory Guards, Co. A, Capt. Jno. Cavanaugh, Ind.  
Hildreth Guards, La. Mil., Capt. Geo. R. Wells, Ind.  
Hinston Guards, La. Mil., Capt. Thos. J. Lester, Ind.  
Hollins Rangers, La. Mil. of De Soto Parish, Ind.  
Home Guards, La. Mil. of De Soto Parish, Ind.  
Home Guards, 1st Brig., 1st Div., La. Mil., Capt. Wm. W.

Wilson, Ind.

Holmes Light Guards, Co. C, 11th La. Infty.  
Holmes Battery, attached to 1st La. Cavalry.  
Home Guards, La. Mil., Capt. Jas. O. Fuqua, Ind.  
Homestead Rangers, La. Mil., Capt. Jas. W. Martin, Ind.  
Hope Guards, La. Militia, served in Assumption Regt., Capt.

Wm. M. Marks, Ind.

Howard Guards, Co. —, Chalmette Regt., La. Vols.  
Huckins Guards, Co. B, 20th La. Infty.

- Hunter Rifles, Co. A, 4th La. Infy.  
 Hunter Guards, La. Mil., Capt. Levy, Ind.  
 Hunter Rifles, Co. B, 4th La. Infy.  
 Hussars of the Teche, Co. D, 10th Battn., La. Infy. (Formerly Cav. Co.)  
 Iberville Greys, Co. A, 3rd La. Infy.  
 Iberville Guards, Co. D, 27th La. Cavalry.  
 Iberville Rangers, Co. D, 2nd La. Cavalry.  
 Iberville Regt., La. Militia, 6th Brig.  
 Independent Capitol Arty. of East Baton Rouge, La. Mil., Capt. J. N. Foose, Ind.  
 Independent Co., La. Cavalry, Co. A, 2nd La. Cavalry.  
 Independent Guards, La. Militia (Served in St. Mary's Regt., Capt. J. Edmond, Ind.)  
 Independent Guards of East Baton Rouge, Mil., Capt. Jos. C. Charotte, Ind.  
 Independent Orleans Arty., also called Orleans Arty., Capt. Paul F. De Gournay's Co., La. Artillery.  
 Independent Rangers of East Baton Rouge, La. Mil., Capt. David H. Penny, Ind.  
 Independent Rangers, Co. E, afterwards Co. B, 12th La. Infy.  
 Independent Rangers (Cav. Squadron) of Iberville, La. Mil., 1st Co.  
 Irish Brigade, (Co. A) Co. I, 6th La. Infy.  
 Irish Brigade, (Co. B) Co. F, 6th La. Infy.  
 Irish Volunteers, Co. F, 7th La. Infy.  
 Irish Volunteers, Capt. L. Doyle's Co., La. Irish Regt., La. Militia.  
 Irving Guards, Co. —, — La.  
 Isle of Wright Blues.  
 Jackson Arty. of Algiers, Capt. Jno. Mitchell's Co., La. Arty.  
 Jackson Arty., Co. A of Algiers, La. Mi., served in 9th Regt., 1st Brig., La. Militia.  
 Jackson Arty., Co. B of Algiers, La. Mil., served in 9th Regt., 1st Brig., La. Mil.  
 Jackson Avengers, La. Mil., Capt. Gus. Lauve, Ind.  
 Jackson Battalion, 5th Battn., La. Inf., merged into 21st La. Inf., Jackson Regt.  
 Jackson Greys, Co. K, 9th La. Inf., Vols.  
 Jackson Guards, La. Mil., Capt. Louis Gastinel, Ind.

- Jackson Home Guards, La. Mil., Capt. W. M. Hughes, Ind.  
Jackson Mounted Rifles, La. Mil., Capt. G. A. Scott, Ind.  
Jackson Rangers, La. Mil., Capt. W. F. Clark, Ind.  
Jackson Rifles, La. Mil., Capt. H. L. Pond, Ind.  
Jackson Regiment, 21st La. Inf., formerly Kennedy Battn.,  
5th Battn., La. Inf.  
Jackson Regt., La. Mil., served in 1st Brig., 5th Div., and in  
11th Brig., La. Mil.  
Jackson Sharp Shooters, Co. D, afterwards C, 12th La. Inf.  
Jackson Sharp Shooters, Lieut. A. C. Simonon's Co.  
Jackson Railroad Rifles, Co. in Continental Regt., La. Mil.  
Jackson Volunteers, Co. F, 28th La. Inf.  
Jackson Volunteers, Co. C, 1st Battn. of Inf. (Terrell's).  
James Jackson Guards, La. Mil., attached to Beauregard  
Regt., Ind.  
Jameson Light Guards, Co. K, 20th La. Inf.  
Jeff Davis Regiment, Col. Alex Smith's Regt., La. Mil.  
Jeff Davis Lt. Guards, Capt. Jos. C. Daymon, Ind.  
Jefferson Arty., Co. A, La. Mil., Capt. A. B. Carbonnet.  
Jefferson Blues, Continental Regt., La. Mil., Vols.  
Jefferson Cadets, Co. B, formerly Co. C, after A, 14th Regt.,  
La. Inf.  
Jefferson Chasseurs, La. Mil., Lt. J. H. Harvey, Ind.  
Jefferson Confederate Guards, Co. A, La. Mil., Co. B, Jeff  
Davis, Battn., after Regt.  
Jefferson Confederate Guards, Co. B, La. Mil., Co. C, Jeff  
Davis Battn., after Regt.  
Jefferson Fire Guards, La. Mil., Co. C, La. Fire Battn. and  
Regt., La. Mil.  
Jefferson Guards, La. Mil., Capt. Fred. Wallbrecht, Ind.  
Jefferson Light Guards, La. Mil., Capt. Thos. La. Maxwell,  
Ind.  
Jefferson Mounted Guards, Capt. Guy Dreux's Ind. Co. Cav.  
after Gen. Beauregard's Body Guard Dreux's Co. Cav.  
Jefferson Mounted Guards, Capt. Millandon's Co. B, Cav. La.  
Mil.  
Jefferson Rangers, Co. A, Jeff Davis Battn. after Regt. La.  
Mil. Vol.  
Jefferson Rifles, La. Mil., Capt. Jules G. Dreux, Ind.  
Johnston Rifles, La. Mil., Co. B, La. Irish Regt., La. Mil.  
Keachi Warriors, Co. E, afterwards I, 19th La. Infy.

- Kean's Battery, La. Arty. (De Gournay's Battery).  
 Kelso's Battery, La. Mil., Capt. Jno. Kelso, Ind.  
 Kennedy Battn., 5th Battn. La. Infy., which afterwards became Jackson's Regt., 21st La. Infy.  
 Kenner Guards, La. Mil., Capt. John B. Humphreys, Ind.  
 Kirks Ferry Rangers, La. Mil., called Cav. Co. of Catahoula, Ind.  
 Kirk Guards, Capt. R. S. Kirke's Co., Continental Regt., La. Mil. Vols.  
 King's Spec. Battn., La. Infy.  
 Knights of the Border, Capt. C. Buchanan's Co., La. Vols.  
 Koscinski, Guards-Whann Rifle Grds., Co. E, Kennedy's 21st Regt., La. Infy.  
 Labauve Guards, Co. B, 11th La. Infy.  
 Lecompte Guards, La. Militia and Co. A, 2nd Regt., La. Infy.  
 Lafayette Light Artillery, Capt. Joseph Lewis, Jr.'s Co., La. Mil.  
 Lafayette Guards, Co. in Bragg's Battn., La. Militia.  
 Lafayette Minute Men, La. Militia, served in Lafayette Regt. Ind.  
 Lafayette Prairie Boys, Co. A, 26th La. Infy.  
 Lafayette Co. No. 2, La. Mil., Capt. Gustave Lehmann.  
 Lafayette Rangers, La. Mil., served as Co. G, 9th Regt., 1st Brig., Ind.  
 Lafayette Regt., La. Militia, served in 1st Brig., 4th Div. and 9th Brig.  
 Lafayette Rifle Cadets, Co. E, 13th La. Infy.  
 Lafayette Volunteers, Co. A, Fire Battn., afterwards Regt. La. Militia.  
 Lafourche Creoles, Co. G, 18th La. Infy.  
 Lafourche Dragoons, La. Mil., R. G. Darden, Ind.  
 Lafourche Guards, Co. E, 4th La. Infy.  
 Lafourche Hunters, La. Militia, Capt. Chas. Lesseps, Jr., Ind.  
 Lake Borne Co., Spanish Regt.  
 Lake Providence Cadets, Co. C, 4th La. Infy.  
 Lamonth's Battery, La. Mil., Co. 4, attached to La. Legion, Ind. Co. in Lafourche Regt., La. Militia.  
 Landrum Guards, Co. E, 17th La. Infy.  
 Landry's Battery, Donaldsonville Arty.  
 Landry's Guards, La. Mil., also called St. Landry Grds, Ind.



Laughlin Light Guards, Capt. T. O. Laughlin's Co., La. Mil., 9th Co. in La. Irish Regt., La. Mil.

Le Bisque Battery, Co. B, 12th Battn., La. Arty., afterwards Castellanos Battery and De Gournay's Hy. Arty.

Lecompte Guards, Co. G, 2nd La. Infy.

Lee's Co., Capt. J. C. Lee, La. Militia, Ind.

Lee Guards, La. Mil., served as Co. D, 9th Regt., 1st Brig., Ind.

Leeds Guards, Battn. Regt. La. Mil., Col. Chas. J. Leeds, La. Mil., Vols.

Leeds Light Horse, also called N. O. Lt. Horse, Orleans Lt. Horse Cav.

Le Gardeur's Battery.

Leefe Guards, La. Mil., served in Beauregard Regt., Ind.

Lemmon Guards, Co. C, 9-17 Battn., La. Infy.

Lewis Guards Co., 30th La. Infy., Co. H, Sumpter Regt., La. Mil. and Lewis Battn. Regt., La. Mil.

Lewis Guards, La. Militia, called Lewis Rifles, Capt. H. Meister, Ind.

Linton Light Infy., La. Militia, Capt. P. Grandpere, Ind.

Lipscomb Co., Co. E, 20th La. Infy.

Livingston Home Guards, Co. Local Defense Troops, La.

Livaudaus Guards, Co. E, Confed. Grds. Regt., La. Mil., Vols.

Livingstons Rifles, Co. K, 27th La. Infy.

Local Defense, Capt. Saml. J. Norwood's Co., La. Cavalry.

Lockport Home Guards or Lockport Guards, La. Militia, Ind.

Long Rifles, Capt. J. Carcou's Co., La. Vols., Co. C, Cazadores Esp. Regt., La. Mil.

Lonsdale Guards, Co. Jackson's Regt., La. Infy.

Louisiana Defenders, Battn. La. Mil., Vols., also called 7th Battn. La. Vol.

Louisiana Dragoons, Co. K, 1st La. Cavalry.

Louisiana Guard Defenders, 3rd Co., La. Defenders Battn., La. Mil.

Louisiana Fire Battn., afterwards Regt. La. Militia.

Louisiana Grays, Transfd. to Monroe Rifles Co. K, 5th La. Infy.

Louisiana Guard Artillery, Capt. Camille E. Girardey's Co., also borne as Green's Co., La. Arty., orig. Co. B, 1st La. Infy.

Louisiana Guards, 1st Battn., La. Mil., East Baton Rouge.

- Louisiana Guards, Co. A, of East Baton Rouge Co., La. Gd.,  
1st Battn., La. Militia.
- Louisiana Guards, Co. E, of East Baton Rouge Co., La. Gd.,  
1st Battn., La. Militia.
- Louisiana Guards, Co. A, 1st Battn., La. Infy.
- Louisiana Guards, Co. B, 1st La. Infy.
- Louisiana Guards, Co. C, 1st La. Infy., Co. C, 1st Battn. Inf.
- Louisiana Guards, Co. D, Crescent Regt., La. Infy., Co. C,  
24th Regt., La. Infy. Regt.
- Louisiana Irish Regt., Col. P. B. O'Brien's Regt., La. Mil.
- Louisiana Independent Rangers, La. Militia.
- Louisiana Guards of Livingston Parish, Capt. J. J. Cotton,  
La. Mil.
- Louisiana All Hazards, La. Mil., Capt. A. L. Guxman, Ind.
- Louisiana Legion Regt., Infy., La. Mil.
- Louisiana Mounted Rangers, also called Cole's Rangers, Ind.  
Co., La. Cav.
- Louisiana Musketeers Co., 29th La. Infy.
- Louisiana Native Grds. Co., 1st Regt. Native Grds., La. Mil.
- Louisiana Rebels, Co. F, 10th La. Infy.
- Louisiana Sappers and Miners, Independent Co., La. Vols.
- Louisiana Scouts, Capt. W. G. Mullen's Independent Co. of  
La. Vols.
- Louisiana State Guards, Co. A, 30th Regt., La. Infy., also  
Co. I, Confed. Grds. Regt., La. Mil. Vols.
- Louisiana State Grds., Co. B, 30th Regt., La. Infy., also Co.  
K, Confed. Regt., La. Mil., Vols.
- Louisiana State Guards, Co. G, 5th La. Infy.
- Louisiana Swamp Rifles, Co. E, 10th La. Infy.
- Louisiana Tigers-Wheat's Battn., La. Infy.
- Louisiana Turcos, Co. H, 15th La. Infy. (Supposed to be but  
not found as such.)
- Louisiana Turcos, La. Vols., Capt. Hy. Pardeaux, Ind.
- Louisiana Volunteers, Co. E, 20th La. Infy. See also Reich-  
ards Battn.
- Louisiana Zouaves, Battn. La. Infy.
- Lovell Light Infy., also 1st Arty., Co. I, Leeds Grds., Battn.  
Regt., La. Mil., Vols.
- Lovell Rifles, Co. B, 26th La. Infy.
- Lovell Guards, La. Mil., Co. F, Leeds Grds., Battn. Regt., La.  
Mil., Vols.

- Lovell Scouts, Independent Co., La. Cav., Capt. David Ker.  
Macon Cavalry, La., Assigned to Starke's 28th Cav., became part 24th Ark. Cav.  
Madison Infantry, Co. A, 4th Battn., La. Inftry.  
Madison Cavalry, La. Militia, Capt. Sam Anderson, Ind.  
Madison Light Artillery, Original Madison's Arty. (Madison Tipperarys afterwards Capt. Geo. V. Moody's Co., La. Arty.)  
Madison Parish Infantry Co., La.  
Madison Tipperary's, See Madison Lt. Arty., La. Moody's Battery served in Alexander's and Hegers Battn., Reserve Arty.  
Magazine Guards, Co. G, 6th Regt., 1st Brig., 1st Div.  
Maddox's Regt., Reserve Corps, Col. W. A. Maddox.  
Madison Co., La. Mil., Capt. W. P. Peck, Ind.  
Madison Dragoons, La. Mil., Capt. C. H. Moore, Ind.  
Magnolia Guards, Continental Regt., La. Mil., Vols.  
Magee Guards, Continental Regt., also Co. E, Lewis Battn., Regt. La. Mil.  
Magnolia Guards, Capt. F. Roder's Co., La. Mil. See Co. D, Lewis Battn., Regt. La. Mil.  
Magnolia Guards, La. Mil., Capt. R. M. Montgomery, Ind.  
Manassas Rifles, Co. A, Chalmette Regt., La. Inf.  
Mandeville Rifles, La. Mil., Capt. Chas. Morgan.  
Mann Rifles, Co. I, 20th La. Inf.  
Mansura Guards, La. Mil., Co. E, Johnson's Special Battn., La. Mil.  
Marion Artillery, Lieut. Jean Descant's Co., La. Arty. attached to European Brig.  
Marksville Guards, La. Mil., Co. D, Johnson's Spl. Battn., La. Mil.  
Marion Guards, Co. D, 21st after 22d, La. Inf.  
Marion Rangers, La. Mil., Co. C, Cres. Regt. called 24th Regt.  
Marion Infantry, Indep. Co., La. Inf. on provost duty in District of Mobile.  
Marion Rangers, Co. B, La. Cav. Regt.  
Martin's Scouts, Co. K, 6th Regt. Cav.  
McCall Guards, Co. A, 23rd La. Inf.  
McCall Guards, Co. B, 23d La. Inf., after Co. A, 22d Rgt., La. Inf.  
McClure Guards, Co. G, 13th after Co. D, 14th La. Inf.  
McCown Regiment, 21st Regt., La. Inf.  
McCree Rangers, Co. in Bragg's Battn., La. Mil.

- McCulloch Rangers, Ind. Co., La. Inf., after Co. A, 59th Va. Inf.
- McClellan Guards, Co. D, Kennedy's 21st Regt., La. Inf.
- McLaurin Invincibles, Co. K, 27th La. Inf.
- McRea Rangers, Co. F, Beauregard Battn. & Regt. La. Mil.
- McWaters Rangers, Capt. J. A. McWaters, Co. La. Cav.
- Mechanic Guards, La. Mil., Co. G, Leeds Guard Battn. Regt. La. Mil. Vols.
- Mechanic Guards, La. Mil., Capt. Lanbach's Co., La. Mil.
- Mercer Guards, Co. E, 6th La. Inf.
- Meschacebe Native Guards, La. Mil., Co. 1st Regt. Native Grds. La. Mil.
- Miles Artillery, Capt. Claude Gibson's Co., La. Arty., Attached to Miles Legion, Co. K, 22d and 21st La. Inf. Dents Batty. formerly Robertson's C. S. Arty.
- Miles Legion, La. Vols., Wm. R. Miles, Col.
- Miliken Bend Guards, Co. E, 9th La. Infy. Vols.
- Minden Blues, Co. G, 8th La. Infy.
- Minden Rangers, La. Cavalry served as Co. A, Wimberley's or Webb's Squadron, La. Cavalry.
- Milneburg Fire Guards, La. Militia, Co. G, Orleans Battn., Regt. La. Mil.
- Mississippi Native Guards, Co. in 1st Regt. Native Grds., La. Militia.
- Mississippi Rifles No. 2, La. Mil., Capt. Fred Camerden.
- Monroe Guard, Co. K, 5th La. Infy.
- Monroe Rifles, Co. K, 5th La. Infy.
- Montgomery Cadets, La. Militia, Capt. Volkmann, Ind.
- Montgomery Guards, Co. B, La. Mil., Capt. J. B. Cunningham, Ind.
- Montgomery Guards, Co. F, 1st La. Infy.
- Montgomery Guards, Co. C, Co. H, Irish Regt., La. Militia.
- Monticello Rifles, Co. H, 3rd La. Infy.
- Moody's Battery, Madison Light Arty.
- Moore Guards, Co. K, 2nd La. Infy.
- Moore Fencibles, Co. A, 9th La. Infy.
- Moreau Grds., La. Militia, Capt. L. Moreau's Co., La. Mil.
- Morehouse Avengers Co., 25th La. Infy.
- Morehouse Rangers, La. Cavalry, Capt. Danl. Newton.
- Morehouse Fencibles, Co. E, 3rd La. Infy.
- Morehouse Guards, Co. B, 3rd Battn., 3rd La. Infy.

- Morehouse Southrons, Co. H, 17th La. Infty.  
Morehouse Stars, Co. F, 12th La. Infty.  
Morrison's Battn., La. Infty, Co. K, 31st Regt. La. Infty.  
Mounted Engineers, Capt. C. W. Randolph's Co., La. Vols.  
Mounted Rangers, Co. A, 16th Battn., La. Infty., Confed.  
Grds. Response Battn.  
Mounted Wild Cats, also called Independent Mtd. Wild Cats,  
Indep. Co., La. Cavalry, Capt. Miller's Co.  
Mullen's Co., Scouts or Shp. Shooters, Ind.  
Murdock Guards, Co. C, 1st Battn., La. State Grds. Cav.,  
also called 13th Battn.  
Mustang Rangers, La. Militia, Capt. A. J. Johnson, Ind.  
McPherson's Battery Orleans Howitzers, La. Militia.  
Natchez Rifles Co., 4th Battn., La. Infty.  
Natchitoches Rebels, Co. C, 18th La. Infty.  
Natchitoches Cavalry Co., La. Mil., Capt. R. S. Rogers, Ind.  
Natchitoches Mounted Guards, La. Mil., Capt. L. L. McLau-  
ren, Ind.  
National Guards, Co. B, 4th La. Inf.  
National Guards (of St. James), La. Mil., Capt. F. E. Lapa-  
ginier, Ind.  
New Basin Guards, Co. H, 3rd Regt., 3rd Brig., La. Mil.,  
also in 4th Regt., 1st Brig., 1st Div., La. Mil.  
New Orleans Home Guards, La. Mil., served in N. O. Rifle  
Regt., Ind.  
New Orleans Reserve Guards, Capt. L. Davigneaud's Co., La.  
Vols.  
New River Rangers, Cav. 3rd Co. Cav. Battn., Miles Legion,  
La. Vols., Ogdens Battn., La. Cav., also called 9th Regt.  
Nixon Rifles, Co. H, 13th after Co. E, 14th La. Inf.  
Noel Rangers, Co. B, 15th Battn., La. Inf., also New Co. B,  
20th La. Regt. Inf.  
North Louisiana Cadets, Co. F, after A, 12th La. Inf.  
Norton Guards, Co. K, 13th La. Inf.  
Norwood's Co., Capt. J. J., La. Mil., Jeff Davis Rangers, Ind.  
O'Brien's Light Infty., Co. in La. Irish Regt., La. Mil.  
Ogden's Cavalry Battalion, Battn. La. Cav., also called 9th  
Regt.  
Old Dominion Guards, Co. D, Wheat's Battn., La. Inf.  
Opelousas Guards, Co. F, 8th La. Inf.  
Opelousas Greys, La. Mil., Lt. C. H. Hamilton.

Opelousas Volunteers, Co. K, 18th La. Inf.

Opelousas Rifles, Capt. Jas. B. Israel, Ind.

Orleans Artillery, La. Mil., Served as Reserve Co. Orleans Battn. Art.

Orleans Battn. Arty., Indep. Battn., La. Arty., 12 months service; after attached to 23d La. Inf. as Cos. A, B, C, D, and Co. B, 2nd Co. 23d Regt. Inf.

Orleans Blues, Co. H, 10th La. Inf.

Orleans Blues, Co. A, Herrick's Co., Co. E, 20th La. Inf.

Orleans Blues, Co. B, Co. G, 20th La. Inf.

Orleans Cadets, Co. E, 5th La. Inf. (Perhaps Co. B.), also Co. C, Beauregard Battn. and Regt., La. Mil.

Orleans Cadets, Co. F, 1st Battn., La. Inf.

Orleans Cadets, Capt. R. L. Dolbear, 1st Co. L, Cres. Regt.

Orleans Cadets, Co. I, 18th La. Inf.

Orleans Cadets, Capt. J. E. Blanchard's Co., La. Legion also Co. in Sumpter Regt.

Orleans Cadets, Co. D, La. Mil., Co. B, Beauregard Battn. and Regt.

Orleans Cadets, Co. E, Co. H, 24th La. Inf. (Crescent Regt.)

Orleans Guard, Co. E, after Co. F, 30th La. Inf.

Orleans Claiborne Guards, Chaffins Co., also called Rough and Ready Rangers, Co. 1st Spec. Battn., La. Infy.

Orleans Fencibles, La. Militia, 8th Co. La. Irish Regt. La. Infy.

Orleans Fire Battn., afterwards Regt. La. Militia.

Orleans Good Will Fire Guards, La. Mil., Co. A, Orleans Fire Battn. Regt. La. Mil.

Orleans Guard Artillery, Independent Battn., La. Arty.

Orleans Guard Battn., Regt. La. Mil.

Orleans Guard Batteries, Cos. A, and B, Orleans Grd., Arty. Battn.

Orleans Guards, Co. A, 1st Battn., La. Infy.

Orleans Guards, 13th Battn., La. Infy.

Orleans Guards, Co. —, La. 3rd —.

Orleans Guards, Co. F, 30th La. Infy.

Orleans Guards Regiment, Col. Numa Augustin's Regt., La. Militia.

Orleans Guides, Cav. Co., Battn. La. Legion, La. Mil., Vols.

Orleans Howitzers, Capt. S. J. McPherson's Co., La. Mil.

Orleans Light Guards (Co. B), Co. G, 1st La. Infy.

Orleans Light Guards (Co. C), Co. K, 1st La. Infty.

Orleans Light Guards (Co. D), Co. F, 1st La. Infty.

Orleans Light Guards (Co. A), afterwards Co. D, 1st La. Infty.

Orleans Light Horse Cavalry, also called N. O. Lt. Horse and Leeds' Lt. Horse Ind. Co., La. Cav., Greenleaf's Co., La. Cavalry.

Orleans Rangers, Co. G, 10th La. Infty.

Orleans Racachas, La. Mil., Capt. J. A. Fremaux, Ind.

Orleans Rifle Rangers Co. H, 6th La. Infty.

Orleans Rifle Guards, La. Mil., Capt. J. A. Jacques, Ind.

Orleans Rifles, Co. H, 6th La. Infty.

Orleans Skirmishers, Co. I, 10th La. Infty.

Orleans Southrons, Co. F, 5th La. Infty.

Orleans Tirailleurs, Co. K, 23rd La. Infty.

Ouachita Blues, Co. B, 4th Battn., La. Infty.

Ouachita Guerillers Arty., Capt. J. Frank Lacy.

Ouachita Rangers, La. Mil., Capt. Frank Pargoud, Ind.

Ouachita Southrons, Co. A, 17th La. Infty.

Packwood Guards, Co. K, 4th La. Infty., Vols.

Panola Guards, afterwards Beauregard Rangers. Co. D, Cres. Regt. La. Infty.

Pargoud Vols., La. Mil., Capt. A. A. Lipscomb.

Payne's Co., La. Mil., Capt. A. H. Payne, Ind.

Peale Rangers, Capt. Hugh Breen, Ind.

Pelican Battery, 5th Battery La.

Pelican Greys, Co. A, 2nd La. Inf.

Pelican Guards, Co. B, Jackson's Rifle Inf. Battn., La. Mil., Vols., also Capt. O'Hara Co., Ind.

Pelican Guards of Iberville, La. Mil.

Pelican Rangers, No. 1, Co. H, 3rd La. Inf.

Pelican Rangers, No. 2, Co. D, 3rd La. Inf.

Pelican Regiment, 7th La. Inf.

Pelican Rifles, Co. A, 2nd La. Inf.

Pelican Rifles, Co. K, 3rd La. Inf.

Pemberton Rangers, Co. G, 6th La. Inf.

Perret Guards, Co. H, 5th La. Inf.

Perseverance Life Guards, Capt. S. B. Collins, Ind.

Perseverance Guards, Co. A, 21st, after 22nd, La. Inf., also Lewis Battn. Regt. La. Mil.

Perseverance Fire Guards, Co. E, Orleans, Battn. La. Mil.

Perseverance Guards, Co. G, after 22nd La. Inf.

Perseverance Native Guards, Co. 1st Regt., Native Grds.,  
La. Mil.

Phoenix Co., Co. K, 8th La. Inf.

Phoenix Fire Guards, La. Mil., Co. C, Orleans Fire Battn.  
Regt. La. Mil.

Phoenix Guards, Capt. Jos. S. Martin, Ind.

Phoenix Rifles, Co. D, 17th La. Inf.

Pickett Guards, Co. —, 26th La. Inf.

Pickett Rifles, Capt. John B. Vinet's Co., La. Vols.

Pickwick Froby's Co., Beauregard Battn. and Regt. La. Mil.

Pikemen of '61, La. Mil., Co. D, La. Fire Regt., La. Mil.

Pilie Rifles, Capt. Danl. Vancourt, Ind.

Pine Grove Guards, Capt. Thos. L. East, Ind.

Pinewoods Sharpshooters, Co. G, 16th La. Inf.

Pinkney Battn., 8th Battn., La. Heavy Arty.

Pioneers, Capt. C. D. J. Williams, Ind.

Pioneer Guards, No. 1, La. Mil., Co. D, La. Fire Battn. and  
Regt., La. Mil.

Plain Rangers, served in E. Baton Rouge Regt., Ind.

Plain Store Rangers, Cav. 1st Co. Cav. Battn., Miles Legion,  
La. Ogden's Battn. Cav.

Plaisance Guards, served in St. Landry Regt., Ind.

Planche Guards, La. Militia, Capt. J. B. Noble's Co.

Planche Rebels, Co. —, Chalmette Regt., La. Infy.

Planters Life Guards, Co. A. Cav. Battn., Miles Legion Vols.

Planters Guards, Capt. Jos. Torres, Ind.

Plaquemine Guards, served in 13th Regt., 2nd Brig., 1st Div.,  
La. Mil.

Plaquemine Mtd. Rangers, La. Militia, Indep. La. Cavalry.

Plutus Guards, Co. in Bragg's Battn., La. Mil., also Co. in  
Jeff. Davis, Battn., and Regt., La. Militia.

Pochelee Rangers, Co. H, Jeff Davis Battn. and Regt., La.  
Mil.

Pointe Coupee Artillery, Battn., La. Arty.

Pointe Coupee Creoles, La. Mil., Co. D, Pt. Coupee Regt.

Pointe Coupee Light Infy., Capt. L. H. Troudeau, Ind.

Pointe Coupee Volunteers, Co. H, 11th La. Infy.

Police Guard, Co. "A", Co. —, Beauregard Regt.

Police Guard, Co. "B", Co. D, Beauregard Regt.

Polish Brigade, 13th, 14th and 15th La. Infy.

Polish Regiment, First 14th Sulakowski's La. Infy.



- Pontooniers, La. Mil., with Orleans Battn. Arty.  
Port Hudson Guards, Capt. Randolph Cheek, Ind.  
Prairie Rangers, Co. A, 1st Battn. La. Infty, afterwards  
Todd's Independent Co. Cav. La. Vols.  
Prairie Boys, Co. A, 26th La. Infty.  
Protection Rifles, Capt. John Purcell's Co., La. Mil., Co. F,  
Confed. Grd. Regt., La. Militia and Co. in 7th Regt., 1st Brig.,  
1st Div., La. Militia.  
Protection Guards, La. Militia, called also Protection Grds.  
Prudhomme Guards, Co. G, 26th La. Infty.  
Quitman Guards, served in St. Landry Regt. Ind.  
Quitman Rangers, Co. H, 14th La. Infty.  
Racachas No. 1, La. Militia, Capt. Aug. Abadie, Ind.  
Racachas No. 2, La. Mil., Ed. Duncan, Ind.  
Raceland Guards, La. Mil., Capt. Chas. Thibodeaux, Ind.  
Radetzky Rifle Battery (Arty.) Co. Jackson's Regt. La. Infty,  
5th Battn.  
Rapides Co., La. Mil., Capt. A. S. Smith, Ind.  
Rapides Rangers, Co. D, 1st La. Cavalry.  
Rapides Invincibles, Co. I, 8th La. Infty.  
Rapides Rangers, Lt. T. McFeeley's Co., Ind.  
Rapides Terribles, Co. C, 27th La. Inf.  
Rapides Tigers, Co. E, 16th La. Inf.  
Rawson Guards, La. Mil., as Co. C, St. Charles Regt. and  
Chasseurs a pied Regt., Ind.  
Red River Rangers, Attached to 15th Battn., La. Cav.  
Red River Rebels, Co. B, 1st La. Inf.  
Red River Scouts, Battn., La. Cav.  
Red River Sharpshooters, Battn. Steamboat Men La. Vols.  
Red Stick Rebels, La. Mil. Capt. Hy. R. Graham, Ind.  
Reichard Rifles, Co. C, 20th La. Inf., also Reichards Battn.  
Reinhardt Guards, La. Mil., served as Co. E, Beauregard  
Regt.  
Rescue Rangers, La. Vol., Lt. Etienne Velten, Ind.  
Reserve Cazadores, Co. 5, 5th Regt. European Brig., La. Mil.,  
Vol., La. Legion.  
Rescue Guards, Co. B, Leeds Guards Regt., La. Mil. Vols., also  
Co. C.  
Reichard's Battn. Inf., also called 6th and Lovell Battn., and  
Orleans Rifle Battn.  
Richard Musketeers, La. Vols., Capt. C. de la Bretonne, Ind.

- Rifle Blues, La. Mil., in 13th Regt, 2nd Brig, 1st Div.  
 Robert's Absalon, C Co., La. Mil., Jeff Davis Rangers, also  
 Jeff Davis Light Horse.  
 Robina Greys, Co. B, 19th La. Inf.  
 Rosalie Guard, Co. I, 11th La. Infty.  
 Rough & Ready Guards, La. Mil., Capt. E. W. Blake, Ind.  
 Rouquillo Guards, La. Mil. in 13th Regt. 2nd Brig. 1st Div.  
 La. Mil.  
 Rousseau Guards, La. Mil., Capt. Jas. R. Curell, Ind.  
 Robinson's Co. Horse Arty., 1st Regt. La. Cav. formerly  
 Holmes Howitzer Batty.  
 Robert Brown Guards, La. Mil., Co. D, Lewis Battn., Regt.  
 La. Mil.  
 Ruggles Guards, Co. G, Cres. Regt., La. Inf. 24th Regt., La.  
 Inf.  
 Sabine Rifles, Capt. McArthurs Co., Co. A, 6th Regt. La. Inf.  
 Sabine Rebels, Co. B, 17th La. Inf.  
 Sabine Independents, Co. in Sumpter Regt., La. Mil.  
 Sabine Independents, La. Mil., Co. I, Jeff Davis Battn. and  
 Regt. La. Mil. Vol.  
 Saddler's Guards, La. Mil., Capt. Mooney's Co.  
 Slavonian Rifles, 1st Co., Co. E, Cazadores Esp. Regt., La.  
 Mil.  
 Slavonian Rifles, 2nd Co. La. Mil., Cazadores Esp. Regt., La.  
 Mil.  
 Sarfield Rifle Guards, La. Mil., Capt. Jas. O'Hara.  
 Sandy Creek Rangers, La. Mil., served in 1st Battn., La.  
 Grds. and in E. Baton Rouge Regt.  
 Sappers and Miners, Co. H, 27th La. Infty.  
 Sanitary Regiment (Louisiana).  
 Sarsfield Rangers, Co. B, La. Mil., Capt. P. Murray, Ind.  
 Sarsfield Rangers, Co. C, 7th La. Infty.  
 Sarsfield Southrons, Co. —, La.  
 Savany Guards, Co. 1st Regt., Native Grds., La. Militia.  
 Scandinavian Guards, Co. A, Chalmette Regt., La. Infty.  
 Scott Guards, La. Mil., Capt. Thos. J. Hightower, Ind. Co.  
 Scotch Rifle Guards, Co. H, 21st La. Infty.  
 Scotch Rifle Guards, Co. C, afterwards 22nd La. Infty.  
 Scotch Rifles, Scotch Rifle Guards.  
 Screwmen's Guard, Co. A, 22nd La. Infty.  
 Screwmen's Guards, Co. B, 22nd La. Infty.

Screwmen's Guard, also called Moore Fencibles, Co. A, 9th La. Infty.

Second Battery, La. Hvy. Arty., Capt. Geo. Logan.

Sedentaire Battery, Capt. Jules Benit's Co., La. Arty.

Sappers and Miners, Sureg's Co., La. Militia.

Shamrock Guards, Co. —, 4th Regt., French Brig., La. Mil.

Vol.

Sharpshooters La. Legion, La. Mil., Capt. Jos. Christian, Ind.

Shelley Battalion, 11th Battn., La. Infty.

Shepherd Guard, Co. 10th La. Infty.

Shreveport Greys, Co. D, 1st Battn., La. Infty., 1st La. Regt.

Infty.

Shreveport Rangers, Co. F, 3rd La. Infty.

Shreveport Rebels, Co. K, 11th La. Infty.

Shreveport Rifles, 1st La. Infty.

Siege Battery, Capt. E. T. King's Co., La. Arty.

Simmons Stars, Co. C, 17th La. Infty.

Skipwith Guards, Co. A, 27th La. Infty.

Slavonian Rifles, Co. —, Infty. Battn., La. Legion, La. Vols.

Slocomb Rifles, Co. C, 1st La. Vols., Infty.

Shamrock Guards, Co. B, La. Militia, Co. F, La. Irish Regt.,

La. Militia.

Smith Artillery, Capt. John Roy's Co., La. Arty.

Southern Cadets, La. Mil., Capt. F. Cornish, Ind.

Southern Celts, Co. A, 13th La. Infty.

Southern Guards, Co. A, 6th La. Regt., Infty., Vol.

Southern Guards of Union Parish, La. Mil., Ind.

Southern Guards of Rapides Parish, La. Mil., Ind.

Southern Protection Guards, La. Mil., Capt. Wm. Lampton.

Southern Rifles La. Militia, Capt. J. A. Jacques, Ind.

Southern Sentinels, Co. I, afterwards Co. H, 12th La. Infty.

also company in Bragg's Battn., La. Mil., also Continental Regt.

La. Militia, Vols.

Spanish Teradors, Co. —, Infty, Battn. La. Legion, La. Vols.

Spanish Independents, La. Militia in 9th Regt., 1st Brig. La.

Mil.

Sparrow Cadets, Co. I, 31st La. Infty.

Sparta Guards, Co. E, 27th La. Infty.

Sparta Cavalry, La. Mil., Capt. D. H. Sheppard, Ind.

Special Battn., La. Vols., also called 1st Spec. Battn., La.

Vols., (Wheat's).

- Spearsville Co., La. Mil., served in Union Regt. La. Militia.  
 Spencer Rifles, Co. H, 27th La. Infty.  
 Squires Siege Train, Capt. M. T. Squires, Ind.  
 St. Bernard Mounted Rifles, Capt. Jules Delery's Indep. Co.,  
 also called St. Bernard Horse Rifles.  
 St. Ceran Rifles, Co. D, 15th Regt., La. Infty., Vols.  
 St. Helena Rebels, Co. F, 16th La. Infty.  
 St. Helena Rebels, Co. F, 4th La. Infty.  
 St. Helena Rebels, Co. F, 15th La. Infty.  
 St. James Guards, Lecoul's Co., 30th La. Infty.  
 St. James Rifles, Co. A, 18th La. Infty.  
 St. John Baptist Guards Co., in Sumpter Regt., La. Militia.  
 St. Landry Light Guard, Co. C, 6th La. Infty.  
 St. Landry's Grays, La. Mil., served in St. Landry Regt.  
 St. Landry Volunteers, Co. B, 18th La. Infty.  
 St. Landry Home Guards, La. Militia, served in St. Landry  
 Regt.  
 St. Martin's Rangers, Capt. E. W. Fuller's Co., King's Bat-  
 tery, La. Vols.  
 St. Martin's Parish Rangers, Co. G, 10th Battn., La. Infty.  
 St. Mary's Cannoneers, Capt. E. O. Cornay's Co., La. Arty.  
 form Co. F, 4th La. Infty., 1st Field Battery Gordys and Cornays.  
 St. Mary Volunteers, Co. G, 13th La. Inf.  
 St. Paul Battn. Foot Rifles, 7th Battn., La. Inf.  
 St. Charles Foot Rifles, in Chasseurs a Pied Regt.  
 St. Charles Light Arty., La. Mil., Capt. Chas. Davenport, Ind.  
 St. Charles Mtd. Minute Men, La. Mil. in St. Chas. Regt.  
 St. Charles Horse Guards, La. Mil., Capt. Samuel McCutcheon.  
 St. John Baptist Rifles, also Carbiners of St. I., La. Mil.  
 St. John Baptiste Guards, La. Mil., Capt. N. Loque, Ind.  
 St. John Baptiste Native Guards, La. Mil., Capt. J. R. For-  
 stall.  
 St. Landry Partisan Rangers, La. Mil., served in St. Landry  
 Regt.  
 St. Martinville Rangers, La. Mil., Capt. A. De Blanc, Ind.  
 St. Mary Greys, La. Mil., Capt. J. Baker, Ind.  
 St. Tammany Arty., La. Mil., Capt. J. A. Turner, Ind.  
 St. Tammany Greys, La. Mil., Capt. C. Crosby, Ind.  
 St. John Baptist Reserve Guards, La. Mil.

**Stafford Guards, also called Screwman Guards, Co. B, 9th La. Inf.**

**Stanley Guards, Cos. A, H, 20th La. Inf.**

**Stanley Guards, Co. B, La. Mil., Co. in Pt. Coupee Regt., La.**

**Mil.**

**Stars of Equality, Co. E, 19th La. Inft.**

**Star Guards, La. Mil., Capt. Saml. C. Scott, Ind.**

**State Guard Battery, Capt. D. E. Grove, Ind.**

**Smith Guards, La. Mil., Capt. T. O. Laughlin, Ind.**

**Stephen Guards, La. Mil., Co. A, La. Irish Regt., La. Mil.**

**Stephen Guards, Co. G, 30th Regt., La. Inf.**

**Stephen Guards, Co. A, 20th La. Inf., also Reichards Battn.**

**Stewarts Legion, 9-17 Battn., Co. A, 9th Battn.**

**Stuart Cavalry, 2nd Co. Cav. Battn., Miles Legion, La. Vols.**

**Sully Knights, La. Mil., Capt. D. W. Magill, Ind.**

**Summer Grove Cav., La. Mil., in Caddo Regt., 3rd Regt., 2nd**

**Brig., Ind.**

**Sumpter Regt. Cres. Cadets, Co. I, Sumpter Regt., La. Mil.**

**Sumter Greys, Co. A, also Ind. Co., Capt. D. Maypay.**

**Sumter Greys, Co. A, 30th La. Inf., Co. D, Sumpter Regt.**

**Sumter Greys, Co. B, 30th La. Inf., Co. E, Sumpter Regt.**

**Sumter Greys, Co. B, 30th La. Inf., Co. E, Sumpter Regt.**

**Sumter Greys, Co. B, also Ind. Co., Capt. Hy. J. Beebe.**

**Sumter Guards, Co. D, 8th La. Infty.**

**Sumpter Guards, Co. K, 24th La. Regt., Crescent Regt.**

**Sumter Rebels, Co. I, Crescent Legion, Regt. La. Infty.**

**Sumpter Rifles, Continental Regt., La. Mil., Vols., also 3 Co.**

**I, Crescent Regt.**

**Sumter Regiment, 30th La. Infty.**

**Sumpter Regiment, La. Militia, Organized Dec. 17, 1861.**

**Sumpter Turner Guards, Co. C, Beauregard Regt., also Continental Regt., La. Mil., Vols., also Lewis Battn.**

**Swiss Guards, attached to 3rd Regt. European Brig., La. Militia.**

**Taylor Guards, Co. E, Kings Special Battn., La. Infty.**

**Taylor Guards, Capt. T. C. Calvitts, Co. D, Miles Legion.**

**Teche Guards, La. Mil., (St. Mary Regt.); Capt. Wm. F. Harleigh, Ind.**

**Tensas Rangers, also known as Tensas Cavalry attached to 15th Battn., La. Cavalry and Harrison's 3rd Regt., La. Cavalry.**

**Tensas Rifles, Co. D, 6th La. Infty.**

- Terrebonne Regiment, La. Mil.  
 Terrebonne Rifles, La. Militia, Capt. V. H. Rightor, Ind.  
 Third District Fire Rangers, La. Mil., Co. B, Orleans Fire  
 Battn., La. Mil.  
 Thibodaux's Co., Lafourche Regt., La. Militia, Ind.  
 Thibodaux Reserves, La. Mil., Capt. V. Richard, Ind.  
 Thomas' Battn., La. Infy., merged into 30th Regt.  
 Thomas' Guards, La. Militia, Capt. V. Cormier, Ind.  
 Tiger Bayou Rifles, temporarily attached to 1st La. Infy.,  
 properly served as Co. I, 13th, afterwards 14th La. Infy.  
 Tickfaw Home Guards, La. Militia, Capt. H. H. Swassy, Ind.  
 Tiger Rifles, See Tiger Bayou Rifles.  
 Tiger Battalion, Wheat's Battn., La. Infy.  
 Tiger Rifles, Co. E, or Co. B, Wheat's Spec. Battn., La. Infy.  
 Tiger Rifles, Co. B, La. Mil., Capt. E. Eastman, Ind.  
 Tirailleur's D'Orleans, Co. I, 10th La. Infy., Co. K, Orleans  
 Grds. Battn. Regt., afterwards Co. B, 22nd La. Infy.  
 Tiradoes Espanoles, Co. Cazadores Espanoles Regt., La. Mil.  
 Tirailleurs, Francais, Co. —, Infy. Battn., La. Legion, also  
 Ind. Co.  
 Tracy Guards, La. Mil., Capt. J. S. Lallande, Ind.  
 Trevot Guards, La. Mil., Capt. Jos. A. Gagne, Ind.  
 Todd's Independent Co., La. Cavalry, Prairie Rangers, La.  
 Mil.  
 Trailleurs of St. James, Co. K, 30th Regt., La. Inf.  
 Titterton's Guards, Oteros Co., Orleans Battn., Regt. La. Mil.  
 Tunica Co., Attached to West Feliciana Regt., La. Mil.  
 Tunica Guards, La. Mil., also called Tunica Vols. and Bayou  
 Tunica Grds.  
 Tunica Guards, Co. D, 20th La. Inf., also Reichards Battn.  
 Turcos Native Guards, Co. 1st Regt., Native Grds., La. Mil.  
 Twelfth Battn., Heavy Arty., B. F. De Gournay, Maj.  
 Twiggs Guards, Co. E, Cres. Regt., La. Inf., 24th Regt. La.  
 Inf.  
 Twiggs I. t. Guards, Capt. F. A. Rasch, Ind.  
 Twiggs Rifles, Co. A, Co. G, 23rd La. Inf.  
 Twiggs Rifles, Co. B, Co. H, 23rd La. Inf.  
 Twiggs Rifles, Capt. B. Griffin's, Co. Local Defense Troops,  
 La.  
 Union Rebels, La. Mil., Capt. S. H. Griffin, Ind.  
 Union Rifles, Co. C, 3rd La. Inf.

- Union & Sabine Rifles, Co. A, 6th La. Inf.  
United Guards, also called United Rifles, La. Mil., Capt. F. T. Nicholls, Ind.  
Valcourt Aime Guards, Co. A, after D, 30th La. Inf.  
Valentine Lt. Guards, 2nd Co. K, 20th La. Inf. (Disbanded.)  
Vance Guards, Co. A, 19th La. Inf.  
Ventress Lige Guards, Capt. Jos. Goldman's Co., Local Defense Troops La., 20th La. Inf.  
Ventress Protectors, La. Mil., Capt. Cedroski, Ind.  
Vernon Guards, Co. E, 2nd La. Inf.  
Vetran Francais, 5th Co., 6th Regt., European Brig., La. Mil. Vol.  
Vermilion Guards, La. Mil., Capt. L. Cedrowski, Ind.  
Vermilion Troops, La. Mil., Capt. D. O'Bryan, Ind.  
Vidette Guards, La. Mil., Capt. D. H. Dyar, Ind.  
Vienna Rifles, Co. C, 2nd La. Inf.  
Vigilant Fire Guards, La. Mil., Co. I, Orleans Fire Battn., Regt. La. Mil.  
Violet Guards, Co. K, 6th La. Inf.  
Virginia Blues, Co. L, 7th La. Inf.  
Virginia Guards, Co. D, 7th La. Inf.  
Volunteer Co., La. Mil., Assumption Parish, Capt. P. C. Kyle, Ind.  
Volunteer Guards, La. Mil., Co. E, Fire Battn. and Regt. La. Militia.  
Voltigeurs D'Orleans, 1st Co. Jackson's Infty. Battn., La. Mil., Vols.  
Voorhies Guards, Co. H, Miles Legion.  
Votigues de Lafayette, 7th Co., 1st Regt., French Brig., La. Mil. (French Legion.)  
Walker Guards, Co. A, Wheat's Spec. Battn., La. Infty.  
Walker Roughs, Co. D, 16th La. Infty., sometimes called "Spartans."  
Wallace Guards, La. Militia, Co. —, Beauregard Battn., Capt. Wm. J. Locke, Ind.  
Washington Artillery, La. Artillery Battn.  
Washington Cadets, Co. —, Aigiers Battn., La. Mil., called Terry Battn.  
Washington Battn., St. Paul's Foot Rifles, La. Vols.  
Washington Cavalry, St. Landry, La. Mil., Capt. Jno. Reid, Ind.

- Washington Guards, Co. H, Cres. Regt., La. Infty.  
 Washington Lt. Guards, La. Mil., Capt. Towell, Ind.  
 Washington Light Infantry, Co. E, 21st, afterwards 22nd La. Infty.
- Infty.**  
 Washington Jackson Guards, La. Mil., Co. F, Fire Battn. and Regt., La. Militia.  
 Washington Rifles, Co. I, 9th La. Infty.  
 Washington Rifles, La. Militia, Capt. Duquecron, Ind.  
 Waterman Guards, Continental Regt.  
 Watson's Battery, Capt. D, Beltzhoover's Co., La. Arty.  
 Weatherly Battn., La. Infty.  
 Webb's Co., La. Cavalry, served as Co. E, 18th Tenn. Cav.  
 Webb's (formerly Wimberly's Squadron, La. Cav., also called 1st Squadron, La. Cavalry.)  
 West Baton Rouge Tirailleurs, Co. H, 4th La. Infty.  
 West Baton Rouge Cadets, Co. D, West Baton Rouge, Regt.  
 West Feliciana Guards, La. Mil. Capt. Wm. H. Barrow, Ind.  
 West Feliciana Home Scouts, Capt. Dan R. Gorham's Independent Co., La. Vols.  
 West Feliciana Rifles, Co. E, 4th La. Infty.  
 Westbrook Guards, Co. E, 11th La. Infty.  
 Wheat Life Guards, Co. E, Wheat's Spec. Battn., La. Infty.  
 White Battery, La. Militia, Capt. Alex. White, Ind.  
 Wild Cat Cavalry, also called Mtd. Wild Cats, Capt. O. P. Miller's Co., La. Cav.  
 Willow Bayou Rifles, La. Militia, Capt. E. L. Heriot, Ind.  
 Wilson Rangers, Capt. W. H. Berthelot's Co., La. Vols.  
 William Goodrich Guards, La. Mil., Co. C., Lewis Battn. and Regt., La. Militia.  
 Wimberly's Squadron, La. Cav., also called 1st Squadron, La. Cav., Webb's Squadron.  
 Winn Rebels, Co. F, 27th La. Infty.  
 Winn Reserves, La. Vols., Co. A, 1st Battn., Infty., Terrells.  
 Winn Rifles, Co. C, 3rd La. Infty., (Sometimes Guards.)  
 Winn Rifles, La. Militia, Winn Regt., Capt. Wm. B. Stovall, Ind.
- Wing's Co., Co. —, Kennedy's 21st La. Regt., Infty.  
 Wood Rangers, La. Mil., Capt. Wm. H. Waters, Ind.  
 Wood's Co., Cavalry La. Militia, Capt. Thos. A. Woods Ind.  
 Yellow Jacket Battn., 10th Battn., La. Partisan Rangers, consolidated with 18th La. Infty.



Yankee Pelters, La. Mil., Capt. or 1st Battn., La. Inftry., Co.  
B, L. C. Calloway, Capt., Ind.  
Young Greys, Capt. Terrell's La. Vols.  
Young Creole Native Guards, Co. in 1st Regt., Native Grds.,  
La. Mil.  
Zouave Battn., La. Vols.  
Zouaves and Chasseurs Battn., La. Vols.

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INDEX TO BATTLES, CAMPAIGNS, ENGAGEMENTS, ETC.,  
FOUGHT WITHIN THE LIMITS OF THE STATE OF  
LOUISIANA, 1861-1865.

*Alphabetically Arranged.*

Alabama Bayou, Sept. 20, 1864.  
Alexander's Creek, Oct. 5, 1864.  
Alexandria, May 6, 1863; April 26, May 13, 1864.  
Amite River, June 27-29, July 24, 1862; April 12-17, Sept.  
24-29, 1863; July 25, Oct. 2-8, Dec. 12, 1864; March 18-26-29,  
1865.  
Amite River and Jackson Railroad, March 21-29, May 9-18,  
1863.  
Ashton, May 1, 1864.  
Ashwood Landing, May 1-4, 1864.  
Atchafalaya, July 21, Oct. 5, 1864.  
Atchafalaya and Bayou Plaquemine, Feb. 12-28, 1863.  
Atchafalaya River, Feb. 10-14, June 4, Sept. 8-9-20, 1863;  
May 30, June 5, Aug. 25, Sept. 17, Dec. 16-19, 1864.  
Avoyelles Prairie, May 15, 1864.  
Barres Landing, April 21, May 21-26, Oct. 21-22, 1863.  
Baton Rouge, La., Jan. 10, 1861, June 7-9, July 27, Aug. 5-20-  
21, Dec. 17-28, 1862; May 12-13, 1863; Sept. 19, 1863; March 3-8,  
April 15, May 3, July 3-25-29- 1864; May 8-22, 1865..  
Bayou Goula, June 19, 1863; Jan. 24, Feb. 14-18, March 23-24,  
April 21-22, May 9, 1865.  
Bayou Sara, Aug. 10-23, 1862; Nov. 9, 1863; Sept. 6-7, Oct.  
3-6, 1864.  
Bayou Sara Road, May 18-19, 1863.  
Bayou Tunica, Nov. 8, 1863.  
Beauregard Fort, May 10, Sept. 4, 1863.

- Belle Prairie, May 16, 1864.  
 Belle River, Oct. 22-24, 1864.  
 Benton's Ferry, July 25, 1864.  
 Berwick, May 21-26, June 1- 1863; April 26, May 1, 1864.  
 Berwick Bay (Steamer), Feb. 3, 1863.  
 Berwick Bay, Nov. 1-6, 1862; June 23, 1863.  
 Bethel Place, April 12, 13, 1863.  
 Bisland Fort, April 12, 13, 1863; April 12, 1864.  
 Black Bayou, March 19, 1864; May 4, 1865.  
 Black River, Feb. 10-14, May 5, 1863.  
 Blair's Landing, April 12-13, 1864.  
 Boeuf Bayou, April 22-29-30, 1863; May 7, 1864.  
 Boeuf Bayou Crossing, June 24; 1863.  
 Bonfuca Bayou, Nov. 21, 1862; Jan. 31, Feb. 1, 1865.  
 Bonnet Carre, Oct. 19, 1862.  
 Borgne, Lake, Nov. 22, 1863.  
 Bourbeau Bayou, Nov. 2-3, 1865.  
 Boutte Station, Sept. 5, 1862.  
 Boyce's Bridge, May 14, 1863.  
 Boyce's Plantation, May 6, 1864.  
 Brashear City, June 21-23, July 22, 1863; Feb. 3-6, 1864;  
 April 30, May 12, 1865.  
 Breaux Bridge, April 17-21, 1863.  
 Brown's Plantation, May 11, 1865.  
 Bruin Lake, (See Choctaw Bayou).  
 Bullitt's Bayou, Aug. 24, Sept. 14, 1864.  
 Butte-a-la-Rose, April 20, 1863.  
 Buzzard's Prairie, Nov. 2-3, 1863.  
 Calcasieu Pass, May 6-10, 1864.  
 Caledonia, May 10, 1864.  
 Campti, Mar. 26, April 4, 1864.  
 Cane River, April 26-27, 1864.  
 Cane River Crossing, April 23, 1864.  
 Carrion Crow Bayou, Oct. 14-15-18, Nov. 3-11-18, 1863.  
 Centerville, April 12-13, May 25, 1863.  
 Chacahoula, May 3, 1865.  
 Chacahoula Station, June 24, 1863.  
 Chemise Bayou, March 24, 1865.  
 Cheneyville, May 18-20, 1863.  
 Chicotville, April 29-30, 1863.  
 Choctaw Bayou, April 28, 1863.

- Clark's Bayou, April 26, 1863.  
Clinton, June 3-8, 1863; May 11, July 17-18, Aug. 23-29, Oct. 5-9, Nov. 15, Dec. 23-24, 1864; March 30-1-12, April 2, 1865.  
Clinton Roads, May 14, 1863.  
Cloutierville, March 29-30, April 22-24, 1864.  
Columbia, Feb. 4, 1864.  
Comite River, Mar. 9-10, May 2, 1863; Aug. 25, 1864; Mar. 30, April 2, 1865.  
Como Landing, June 15-16, 1864.  
Concordia, July 22, 1864.  
Concordia Bayou, Aug. 5, 1864.  
Cotile Landing, April 25, 1864.  
Courtableau Bayou, May 22, 1863.  
Covington, July 27, 1862.  
Cox's Plantation, July 12-13, 1863.  
Cross Bayou, July 4, 1864.  
Crump's Hill, April 2, 1864.  
Cypress Creek, March 8, 1864.  
Dallas Station, Dec. 25-26, 1862.  
David's Ferry, May 1-4-5, 1862.  
Davis' Bend, June 29, 1864.  
Davison's Ford, July 17-18, 1864.  
De Glaize Bayou, May 17-18, 1864.  
De Large Bayou, May 25-27, 1865.  
Delhi, Dec. 25-26, 1862.  
Deloach's Bluff, April 26, 1864.  
De Paul Bayou, April 8, 1864.  
De Russy, Fort, April 23-25, May 4, 1863; March 14, 1864.  
Des Allemands, July 18, 1863.  
Des Allemands Bayou, June 20-22, Sept. 4, 1862.  
Desert Station, Dec. 10, 1862.  
Donaldsonville, Aug. 9, Sept. 21-25, Oct. 25, 1862; June 28, Sept. 23, 1863; Feb. 8, July 31, Sept. 4, 1864; Jan. 19-20, 1865.  
Doyal's Plantation, Aug. 5, Nov. 29, 1863.  
Dunbar's Plantation, April 7-15, 1863.  
Dunn's Bayou, May 5, 1864.  
Eastern Louisiana, Oct. 2-11, 1864.  
False River, March 19, 1863.  
Fausse Pointe Lake, Sept. 7-11, Nov. 18, 1864.  
Fausse River, Sept. 13-17, 1864; Feb. 7-10, 1865.  
Floyd, Aug. 24, 1863.

- Fordoche Bayou Road, May 29, 1864.  
 Franklinton, Feb. 1-3, 1864.  
 French Settlement, April 2-5, 1865.  
 Gentilly's Plantation, Sept. 1, 1864.  
 Georgia Landing, Oct. 27, 1862.  
 Gillespie's Plantation, Aug. 4-6, 1864.  
 Goodrich's Landing, June 30, 1863; Mar. 24, Aug. 23-31, 1861.  
 Governor Moore's Plantation, May 1-4, 1864.  
 Graham's Plantation, May 5, 1864.  
 Grand Bayou, Feb. 14-18, April 2-10, 1865.  
 Grand Caillou, April 19-25, 1865.  
 Grand Caillou Bayou, May 8, 1862; Nov. 19-27, 1864.  
 Grand Coteau, Oct. 16-19, 1863.  
 Grand Ecore, April 3-10-11-16-29, 1864.  
 Grand Lake, Sept. 7-11, 1864.  
 Grand River, Aug. —, Sept. 7-11, 26-30, 1864; Jan. 18-19-29,  
 Feb. 7, 1865.  
 Greensburg, May 1, 1863; Oct. 5-9, 1864.  
 Greenwell Springs Road, Sept. 19, Oct. 5, 1863.  
 Grossetete, Feb. 19, 1864.  
 Grossetete Bayou, April 2, June 19, 1864; Feb. 7-10, 1865.  
 Hard Times Landing, April 25-29, 1863.  
 Harrisonburg, Sept. 1-7, Sept. 4, 1863; Mar. 1-4, 1864.  
 Henderson's Hill, March 21, 1864.  
 Hermitage, The, April 2-5, 1865.  
 Hermitage Landing, March 24, 1863.  
 Hermitage Plantation, Dec. 14, 1864; Jan. 5, 1865.  
 Highland Stockade, July 29, 1864.  
 Hodge's Plantation, Sept. 11, 1864.  
 Hog Point, Mississippi River, Nov. 18-21, 1863.  
 Houma, May 11-18, 1862.  
 Independence Station, May 15, 1863.  
 Indian Bayou, Nov. 9, 1863.  
 Indian Bend, April 13, 1863; March 25-27, 1865.  
 Capture of the Indianola, Feb. 24, 1863.  
 Indian Village, Jan. 28, 1863; Aug. 6, 1864.  
 Irish Bend, April 14, 1863.  
 Jackson, Aug. 3, 1863; Mar. 3, Oct. 5, 1864; Mar. 1-12, April  
 12-13, 1865.  
 Jackson Fort, Jan. 10, 1861; April 18-28, 1862; Dec. 9, 1863.  
 Jackson Railroad, May 9-18, 1863.

- James Plantation, April 6-8, 1863.  
Jeanerette, April 14, 1863.  
Kittredge's Sugar House, Feb. 10, 1865.  
Labadeville, Oct. 27, 1862; Sept. 8, 1864.  
Lafourche, July 12-13, 1863.  
Lafourche Crossing, June 10-21, 1863.  
La Fourche District, Oct. 24, Nov. 6, 1862.  
Lake Providence, May 24, June 28, 1863; May 27, June 9-24,  
1863 (?).  
Lake Saint Joseph, April 24, June 4, 1863.  
Lamourie Bayou, May 6-7-12, 1864.  
Lecompte, May 12, 1864.  
Liddell Bayou, Oct. 15, 1864.  
Livingston Fort, April 27, 1862.  
Livonia, May 31, 1864.  
McNutt's Hill, April 26, 1864.  
Macomb Fort, Jan. 28, 1861.  
Macon Bayou, May 10, Aug. 24, Sept. 27-29, 1863; Aug. 28-  
31, Nov. 6-8, 1864.  
McWilliams Plantation, April 13, 1863.  
Madisonville, July 27, 1862; Feb. 11, 1864.  
Magnolia Landing, June 15-16, 1864.  
Manchac Bayou, Oct. 2-8, 1864.  
Mandeville, Jan. 15-17, 1835.  
Mansfield, April 8, 1864.  
Mansura, May 16, 1864.  
Maringouin Bayou, Sept. 13-16, 1864.  
Marksville Prairie, March 15, May 15, 1864.  
Martin's Land, Feb. 15, 1865.  
Merritt's Plantation, May 14-18-19, 1863.  
Milliken's Bend, Aug. 18, 1862; June 7-25, 1863.  
Monett's Ferry, March 29-30, April 23, 1864.  
Monroe, Aug. 20, Sept. 2, 1863.  
Moore, Camp, Oct. 5-9, 1864.  
Moreauville, May 17, 1864.  
Morgan's Ferry Road, July 28, 1864.  
Morgan's Ferry, Sept. 7-20, 1863; Aug. 25, Sept. 20, Dec. 13-  
14, 1864.  
Morganza, Sept. 12, 1863; May 24, June 4 (or May 30), July  
28, Aug. 10-12, Sept. 16-25, Oct. 16, Nov. 23, Dec. 4-14, 1864; Jan.  
5-12-15, 1865.

- Morganza Bend, March 12, 1865.  
 Mound Plantation, May 24, June 24-29, 1863.  
 Mount Pleasant Landing, May 15, 1864.  
 Napoleonville, May 6, July 29, 1864; Feb. 10, 1865.  
 Natchez Bayou, Aug. 30, Sept. 2, 1864.  
 Natchitoches, March 31, April 5-20-21, May 5, 1864.  
 Nelson's Bridge, Oct. 4, 1863.  
 New Carthage, March 31, April 17, 1863.  
 New Iberia, April 18, Oct. 4, 1863.  
 New Orleans, Feb. 19, 1861; April 18, May 1, 1862.  
 New Orleans and Jackson Railroad, May 11, 1863.  
 Newport Crossroads, June 17, 1864.  
 New River, Sept. 24-29, 1863; Feb. 9, Oct. 2-8, 1864.  
 New Roads, Jan. 31, 1865.  
 Newton, April 16, 1863.  
 Niblett's Bluff, May 26-29, 1863.  
 Northeastern Louisiana, Jan. 26, Feb. 11, 1865.  
 Old Oaks, May 17-18, 1864.  
 Old River, Feb. 10, 1863.  
 Olive Branch, Aug. 5-25, 1864.  
 Olive Branch Bayou, May 3, 1864.  
 Opelousas, April 17-21, Oct. 20-21-30, Nov. 1-17, 1863.  
 Orange Grove, July 31, 1864.  
 Osyka, Oct. 5-9, 1864.  
 Ouachita River, March 1-4, 1864.  
 Oyster Bayou, March 25-28, 1865.  
 Park, The, Jan. 26, Feb. 4-17-22, April 2-10, 1865.  
 Pass Manchac, June 17, July 25, Aug. 2, Sept. 13-15, 1862;  
 Feb. 8-11, 1863.  
 Pattersonville, April 11, 1863; Aug. 2, 1864.  
 Pearl River, July 25, Aug. 2, 1862; Sept. 9-12, 1864.  
 Pearl River Expedition, April 1-10, 1864.  
 Pelton's Plantation, April 19-25, 1865.  
 Pest-House, May 28, 1864.  
 Petite Anse Island, Nov. 21-22, 1862.  
 Phelps Bayou, April 26, 1863.  
 Pierre Bayou, May 2-3, 1864.  
 Pigeon Bayou, Sept. 7-11-26-30, 1864; March 20-22, 1865.  
 Pike Fort, Jan. 14, 1861; April 27, 1862.  
 Pineville, April 24, 1864.  
 Pin Hook, May 10, 1865.

- Plain's Store Road, May 21-23, 1863.  
Planton Bayou, Jan. 30-31, 1865.  
Plaquemine, Dec. 29-31, 1862; Jan. 3, April 18, June 18, 1863;  
August 6, 1864.  
Plaquemine Bayou, Feb. 12-28, April 22-23, 1863.  
Pleasant Grove, April 8, 1864.  
Pleasant Hill, April 7-9, 1864.  
Pleasant Hill Landing, April 12-13, 1864.  
Point Pleasant, June 25, 1864.  
Ponchatoula, July 5-8, Sept. 13-15, 1862; March 21-30, May  
13, 1863.  
Pontchatrain, July 25, Aug. 2, 1862; Sept. 13, Oct. 2, 1863.  
Portage Bayou, Nov. 23, 1863; Nov. 17-19, 1864.  
Porter's Plantation, April 13, 1863.  
Port Hudson, Aug. 15-19, Sept. 7, 1862; March 14-15-17, May  
21, July 8, Nov. 30, 1863; April 7, May 28, Aug. 29, 1864.  
Pratt Camp, Nov. 20-25, 1863.  
Quitman Fort, April 27, 1862.  
Raccourci, Nov. 25, 1864.  
Rapides Bayou, March 20, 1864,  
Rapides Bayou Bridge, April 26, 1864.  
Ratliff's Landing, June 15, 1864.  
Ratliff's Plantation, May 14-16, 1865.  
Red River, Feb. 10-14, Oct. 1-20, 1863; April 26-27, 1864.  
Red River Campaign, March 10, May 22, 1864.  
Redwood Bayou, May 3, 1864.  
Richland Plantation, Jan. 30, 1865.  
Richmond, Jan. 29, Mar. 31, April 4, June 6-15-20, 1863.  
Robert Bayou, May 8, 1864.  
Roberts' Ford, May 2, 1863.  
Rosedale, Feb. 19, 1863; Sept. 15, 1864.  
Sabine Cross Roads, April 8, 1864.  
Saint Charles Court House, Aug. 29, Sept. 7-8, 1862; Oct. 5,  
1864.  
Saint Francisville, Oct. 5, 1864.  
Saint Joseph, Oct. 8, 1864.  
Saint Martinsville, Nov. 12, Dec. 3, 1863.  
Saint Philip, Fort, Jan. 10, 1861; April 18-28, 1862.  
Saint Vincent Bayou, May 24, 1865.  
Saline Bayou, April 14, 1864.

- Sicily Island, Sept. 26-30, 1864.  
 Simmesport, June 3, 1863; June 8, July 5-7, 1864.  
 Smith's Plantation, May 16, 1864.  
 Sorrel Bayou, Jan. 21-22, 1865.  
 Southwest Mississippi and East Louisiana, Oct. 2-11, 1864.  
 Springfield Landing, July 2, 1863.  
 Springfield Road, May 23, 1863.  
 Stirling's Plantation, Sept. 12-29, 1863.  
 Tallulah, Aug. 19, 1862.  
 Tchefuncta River, July 25, Aug. 2, 1862.  
 Teche Bayou, Jan. 14, April 12-13, Oct. 3, 1863; Mar. 21, 1865.  
 Teche Country, Oct. 3, Nov. 30, 1863.  
 Teche Road, May 21-26, 1863.  
 Tensas Bayou, May 9, Aug. 10, 1863; July 30, Aug. 26, 1864.  
 Thibodeaux, June 30, 1863.  
 Thompson's Creek, May 25, 1863; Oct. 5, 1864.  
 Thompson's Plantation, Jan. 23, 1865.  
 Tickfaw Bridge, May 16, 1863.  
 Trinity, Sept. 2, Nov. 15-16, 1863; May 1-4, 1864.  
 Tunica Bayou, Nov. 8, 1863.  
 Tunica Bend, Nov. 8, 1863, April 21, 1864.  
 Vermilion Bayou, April 17, Oct. 9-10, Nov. 11-25, 30, 1863.  
 Vermilion, Nov. 5-8, 1863.  
 Verret Lake, Jan. 30-31, Feb. 10-13, April 2-10, May 23, 1865.  
 Vidalia, Sept. 14, Nov. 15-16, 1863; Feb. 7, July 22, Oct. 26-27, 1864.  
 Wall's Bridge, May 1, 1863.  
 Washington, April 10, Oct. 24-31, 1863.  
 Waterloo, June 16, 1863; Oct. 20, 1864.  
 Waterproof, Jan. 29, Feb. 23, April 20, Sept. 26-30, 1864.  
 Well's Plantation, May 2-6, 1864.  
 Whiskey Bayou, Jan. 16-18, 1865.  
 Williams Bridge, May 1, 1863.  
 Williamsport, Sept. 16, Nov. 25, 1864.  
 Wilson's Landing, May 2-14, 1864.  
 Wilson's Plantation near Pleasant Hill, April 7, 1864.  
 Wood Fort, April 27, 1862.  
 Yellow Bayou, May 17-18, 1864.  
 York Plantation, Oct. 26-27, 1864.  
 Young's Point, June 7, 1865.



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## TABLE OF CONTENTS

Vol. 4, No. 4

OCTOBER, 1921

Stones of Reims— <i>Edward Alexander Parsons</i> .....	425
Rights of Women in Louisiana— <i>W. O. Hart</i> .....	437
The Biloxi Bi-Centennial— <i>André Lafargue</i> .....	459
Gayarre's Report of Louisiana Archives in Spain.....	464
Records of the Superior Council No. XII.....	481
<i>Edited by Henry P. Dart</i> ]	





# THE LOUISIANA HISTORICAL QUARTERLY

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## STONES OF REIMS.

*By Edward Alexander Parsons.\**

"In the elder days of Art  
Builders wrought with greatest care  
Each minute and unseen part,  
For the gods see everywhere."

—Longfellow.

### 1. THE CATHEDRAL.

In man's ceaseless efforts to attain Olympian Heights, the realization of beauty has been, perhaps, his foremost achievement. The Good, the True, and the Beautiful are synonymous representations of the spirit, thought and form of life, literature and art. In life, the character and exaltation of rare spiritual lives; in literature, the consummate artistry of word and thought; and in art, a perfection of form on canvas, in marble or in stone.

Of man's first art, and probably the last that shall confront his own destructiveness, or the elemental chaos of the end,—in architecture—we will find the embodiment of his every purpose and of all his fears, hopes and dreams. From the cutting of the first tree for the entrance to the first hut,—hoary parent of Doric to Corinthian column,—to the last mallet stroke of Ictinos on the

\* A paper read before the Louisiana Historical Society January 24, 1922. At the Jeanne D'Arc celebration, Reims, France, July 15-17, 1921, the Louisiana Historical Society was represented by Messrs. Edward A. Parsons, Andre Lafargue and the late J. Sanford Saltus. Messrs. Andre Lafargue and Edward A. Parsons were also the delegates of the City of New Orleans.

The delegates were received by the municipal authorities of Reims; they were accorded special honor at the great Pontifical Mass, (July 17, 1921) celebrated by his Eminence, Cardinal Luçon, Archbishop of Reims, and held in the famous square with the historic Cathedral as an altar-background. Mgr. Tessier of Chalons delivered the oration. Cardinal Luçon, the heroic Archbishop of Reims, specially received the delegates at a memorable meeting. In the afternoon, literary leaders of France and prominent members of the theatre delivered addresses and recited poems.

The delegates, at the foot of Dubois' far-famed equestrian statue of the Maid of France, presented the Flag of New Orleans to the City of Reims. A wreath was placed on behalf of the Louisiana Historical Society.

Pentelic marble of the Parthenon, or the final polish by some unknown master on the last relief on the Western facade of the Cathedral of Reims, or the inlaying of the last gem in the arabesques of the Taj Mahal, all epitomize our complex career from our simplest needs to our soul's loftiest flights.

At least three times in architecture has perfect work been done. In the ancient world, in Greece, at Athens, the Parthenon most perfect of buildings, proclaims the national glory of the most gifted of the children of men; in the Middle Age, in France, at Reims, the Cathedral, flower of architecture, heralds the eternal truths of Christendom; and in modern times, in India, at Agra, the Taj Mahal, most beautiful of buildings, keeps alive the constant flame of man's deathless love.

To the glory of God, to the greatness of a people, and to the undying memory of human affection, these precious things were reared by soul and mind and heart, embracing the perfect gamut of our being and proclaiming our triumphs of faith, of patriotism and of humanity. And they are (or at least they were) literally, the veritable heritage of the race.

But one survives in pristine state, the mausoleum that Shah Jehan built to his fair love. A sinister fate, singular, and curious, has overtaken the other two; in 1687 the mortar of Koenigsmark, the German commander of the Venetian land forces, destroyed the Parthenon, priceless relic of ancient art, and in 1918, the unknown gunners of the German army ruthlessly shot to pieces the Cathedral of Reims, the fairest gem of mediaeval art.

It is a wonderful story, the history of the Church in art (i. e. architecture).

In the beginning the humble believers assembled in catacombs and secret places to worship the true God. Then came the great triumph under Constantine, when the Church emerged from material darkness, took her proper place in the sun, developed her splendid ritual and sacerdotal ceremonial, fought, no longer an unequal or uncertain fight with paganism and destroyed it; and finally established as the religion of the empire, had need for fitting places for divine service. The temples of the pagan gods could not be used, if for no other reason than that they were relatively small and not built to hold a multitude of worshippers, and so they turned to the vast buildings called basilicas, which had served in the ancient world for places for the administration of justice, for the assembly of the people, a sort of fair or

market-place for traders and money changers. These were first used, but the early Christians gradually made important structural changes of their own, abandoning the Graeco-Roman system of rectilinear construction; and making the arches rest directly on separate columns, which served as their support. The breaking up of the arcade or range of arches was a new departure; it made the column the real support of the arch, and definitely parting from the ancient orders, laid the foundation of an ecclesiastical style, employing cupola, vaults and arches in Christian churches, of which St. Sophia at Constantinople, built in the 6th century under Justinian, is a most glorious example. The Byzantine spirit crept to the West, and contributed its jewels at Ravenna and other seats in Italy. After Charlemagne, for nearly two centuries civil strife, Norman incursion, and chaos reigned and darkness settled over the fair lands of Europe, as zealots preached the millennium, the end of time. But the year 1000 passed without the dread event and men took up life anew. In the words of the good Monk, Raoul Glaber, the chronicler:

“It was as if the World, shaking off its old tatters, desired to re-clothe itself in the white robes of the Church.”

And he tells how “all religious buildings,—cathedrals, country churches, village chapels,—were transformed into something better.” This was the Romanesque architecture that differed from the old basilica. It took the form of the Latin cross, that is, a long nave intersected at above two thirds of its length by a transept; a vaulted roof, thick walls, windows usually round at the top, with decorations geometrical, fantastical or conventional, and as a rule one or more towers; the whole having the air of much solidity, yet somewhat heavy and depressed in style, but with all the sense of serene majesty and grandeur. The Cathedral of Pisa and particularly the churches south of the Loire are good examples of the Romanesque school. Many of them were built by associations of builders, abbots, prelates, and monks, men bound by religious vows; the arts and crafts were practiced in the convents; bishops and churchmen directed the work, and the monks performed labors of every sort. Hence somewhere it has been claimed that this Romanesque Round Arch was the chief sacerdotal style adopted wherever ancient tradition, feudalism, and the Church were strongest. But this was the untenable thesis of Victor Hugo (in *Notre Dame de Paris*) and the Romantic School of the 19th century, who created the fond idea

that there was a liberty in architecture during the Middle Age corresponding to the liberty of the press in our time.

And now we reach the last great stage—the climax of ecclesiastical architecture. It was Raphael, I believe, who in a report to his great patron, the art-loving Medici, Pope Leo X, first characterized the style as “Gothic” (i. e. “Barbarous” in the old classical sense) as opposed to Roman; and Vasari, the Plutarch of painters, sculptors, and architects, in his Bible of Italian Art, has so firmly embedded the word in universal vocabularies that the fine stylus of the scientific inquirer will never, I fear, be able to dislodge it. And therefore it remained misnamed, because it has nothing whatsoever to do with the Goths, the Gothic Style. Able theses have been written in favor of the “Pointed” style or “French Pointed Style” or “German Pointed Style,” according to the nationality of the proponent, but the English will have none of it; hence old Georgio Vasari wins and it remains the “Gothic” style.

With nature as the foundation and Heaven the object of his vision, the Gothic architect has evolved a veritable marvel of thought wrought in letters of stone.

Gothic Art may be a progression, an evolution in the continuity of art, but it is a phase so original in design, so daring in aspiration, and astounding in realization as to be thought of as a separate, distinct, single, living, vital force. Where its predecessor sought the earth in solid magnificence, it sprang to the sky, with delicate folds of lacy stone and dazzling spires of infinite height. Casting aside the old builders’ rule, from Egyptian temple to Romanesque Church, of massive walls and few apertures, it boldly dealt in vertical lines and lofty heights; all was “lifted up;” they raised the height of walls, further weakened the structure by many openings, and then, it not being strong enough to resist the thrust of the vaults, they invented the “flying buttress” (exterior stone arches supported at the spring by solid masses of masonry called buttresses) to insure the buildings’ firmness; they increased the height of vaults to enlarge spaces for windows, rose windows and apertures in excess of solid surfaces; they lifted up the arch and made it pointed; they erected airy pinnacles, slender belfries, daring flights of lace-like traceries in stone; and they used ribbed vaulting and exterior galleries and architectural divisions and structural necessities, which were decorated with fruits and plants, the local flora of

the region; with a fauna illustrative of the extraordinary imagination and piquant humor of the mediaeval mind and with sculptures, of scene and incident of scriptural lives, pregnant with meaning, like some formulae from the pages of St. Thomas Aquinas, all wrought with a skill and mastery suggestive of early Grecian sculpture.

And so were reared those airy, light and lofty structures, heralding the fame of the men who gave them birth, and proclaiming the faith of the age that built these churches that veritably lift up the soul to God. For if, within a Gothic shrine, a man there is who feels not the exaltation of the place, for him art has no message, or the divine things of life—a miracle alone can save him.

These "sermons in stones" were erected throughout Western Christendom in France, Notre Dame (1163) and Sainte-Chapelle (1248) of Paris; Bourges (1172); Chartres (1194); Amiens (1215); and Reims (1211); in Alsace (Strassburg, (1277); in Germany (Cologne, 1248); in Spain, Portugal, Sweden, Bohemia, and Hungary; in England (Canterbury, rebuilt), Lincoln (1190), Westminster Abbey (1245), Salisbury (1220); down into Italy, where that forest of white marble at Milan proclaims the triumph of Gothic art in the country least willing to accept it.

In the wonderful thirteenth century in the ancient City of Reims, in 1211 Bishop Alberic de Humbert laid the first stone of the Cathedral. It was completed in exactly one hundred years (1311) to which is attributed its perfect unity of design and execution. A magnificent example of the early Gothic style, it was probably the masterpiece of mediaeval Gothic art.

The plans were made and the apse built by Jean d'Orbais.

"Nothing can exceed the majesty of its deeply recessed portals, the beauty of the rose-window that surmounts them, or the elegance of the gallery that completes the facade and serves as a basement to the light and graceful towers that crown the composition." (Fergusson.)

Robert de Coucy was the artist that made the great doorway, crowned with the gallery of the forty-two statues of the Kings of France.

The rose window surmounting the central portal is nearly forty feet in diameter.

Its three recessed portals, its rose window, its gallery of kings, its two towers, and the whole ensemble was a wonderful book in stone, from whose pages on the morning of the great Pontifical Mass (July 17, 1921), there seemed to come forth the ghosts, the shadow shapes of that ancient, historic and artistic array of smiling angels, sad or sour saints, serious, anxious and conventional kings, life-like ecclesiastics, with hundred of figures of angels, saints and devils, priests, bishops, and kings, men, beasts, and monsters, with minute figurines illustrating arts, various motifs from classic simplicity in pose and drapery to every intricacy of gothic imagination, from Christ and the Virgin and heroes of the Old and New Testaments and scenes of judgment to grotesque and extraordinary gargoyles, portraying every phase or thought or dream, in the kaleidoscopic pageantry of the mediaeval mind.

The Western Facade, described by experts to be "perhaps the most beautiful structure produced in the Middle Ages," is likewise adorned with three wonderful recessed portals, containing over 500 statues. The N. Portal has many figures including the celebrated "Beau Dieu" or Christ giving a benediction. There are hundreds of statues practically surrounding the edifice on the buttresses, the flying buttresses, and the open arcade below the spring of the roof.

The Church is 453 feet long, 98 feet wide, and 125 feet high.

The imposing interior has less decoration than the exterior, although the framework of the portals is adorned with 122 statues.

The whole structure in design, in construction and embellishment embodied forth the fairest genius of mediaeval art; it was a perfect work wrought by men with faith and music in their souls, that music which old Vitruvius said the consummate architect must possess with the sister arts of painting, sculpture and design.

## II. THE CITY OF REIMS.

On the right bank of the Vesle, with Picardy to the North, Champagne to the East, and the whole of the Ile de France to the West, is situated the historic City of Reims.

An old English traveller of the 18th century (Arthur Young, F. R. S.) describes his impressions:

"The full view of the City from this hill, just before the descent, at the distance of about four miles, is magnificent. The cathedral makes a great figure, and the Church of St. Remy terminates the town proudly. Many times I have had such a view of towns in France, but when you enter them, all is a clutter of narrow, crooked, dark and dirty lanes. At Reims it is very different; the streets are almost all broad, straight, and well built, equal in that respect to any that I have seen."

And this description is given after the traveller had just experienced a great disappointment. For he had just related that he was on the "road to Rheims, very famous for its wines" and that: "I (he) had a letter for Mons. Lasnier, who has 60,000 bottles in his cellar, but unfortunately he was not at home."

In Roman days it was called *Durocortorum* and was the capital of the Remi, as the Gauls of that region were named. It early submitted to Caesar; was capital of *Belgium Secundum* in the 3rd century; Valentinian sojourned there in 267 and it was a prominent centre of Gallo-Roman culture.

During the third century Saints Sixtus and Sinicius established a See; Christianity was actively preached in the 4th century and the Consul Jovinus was converted. A line of great bishops have held the See. In 406 the Vandals beheaded the Archbishop St. Nicasius at the threshold of the church. The great St. Remigius brought about the marriage of Clovis with St. Clotilda; Clovis was baptized on Christmas 496, and the foundation of the political and religious power of the great See of Reims was laid.

The story of the Church at Reims is of much interest, full of life and color. Hincmar (845) the most illustrious built the Cathedral destroyed by fire in 1211; the Count Herbert of Vermandon forced his son Hugh, a boy of five, to be consecrated Archbishop—he was finally excommunicated; the decisive step in the elevation of the Capets to the throne of France was taken here; Gerbert (991), afterward Pope Sylvester II, was Archbishop; Renaud de Chartres (1414) wrote the unjust letter concerning Jeanne d'Arc to the citizens of Reims and did nothing to rescue her from his suffragan, the despicable Bishop Couchon of Beauvais; William Gifford, an Englishman, was once Archbishop; Mary Stuart came at the age of six and was partly educated here; Archbishop Landriot (1867-74) great writer and preacher, famous during the Franco-Prussian War for his protest

against the military execution of the Abbe Miroy, one of his parish priests, by the Prussians, in the middle of an armistice, and finally the devoted Cardinal Luçon, who remained faithful to his charge during all the bombardments and who after the total destruction of his episcopal palace, became the great historic witness of the ruthless destruction of his, no, of all the world's and of all the generations that are to come—their church—the precious gem of Gothic Mediaeval art.

Reims had many fine buildings. Its Hotel de Ville, a handsome Renaissance structure, in the Rue Colbert, contained a library of 80,000 volumes and 1,500 manuscripts. The abbey church of St. Remi was the most ancient ecclesiastical building in the city and contains the famous Tomb of St. Remi, with the Saint baptizing Clovis, surrounded by the Twelve Peer of France, who carry the symbols of the coronation (the six spiritual peers) —the Archbishop of Reims, who annointed the king; the bishops of Laon, who held the sacred ampulla; of Langres, with the royal sceptre; of Beauvais, holding the emblazoned surcoat; of Chalons, with the royal signet ring; of Noyon, with the baldric, and the six temporal peers, the Duke of Burgundy, holding the crown, with the Dukes of Normandy and Aquitaine and the Counts of Flanders, Champagne and Toulouse, all in white marble.

As the Primates of France, the Archbishops of Reims in their Cathedral have crowned all the rulers of France from the beginning of the Capetian dynasty and some before except Hugh Capet, crowned at Noyon, Henri IV at Chartres, Napoleon I at Paris, and Louis XVIII, Louis Philippe and Napoleon III, who were not crowned at all.

In this hasty sketch we can merely mention the great University of Reims in the 16th century, in the time of William Allen, when the New Testament was published by the English College at Reims (1582), now forming part of the so-called Douai Bible. An Opera House and public buildings graced this city of over a hundred thousand souls.

It is curious to relate that the Porte de Mars, a triumphal arch and chief Roman memorial, in Reims almost alone escaped injury and destruction.

Many are the famous sons of Reims: Dom Marlot, the Benedictine, historian of the city; Colbert, the famous minister; Tronson Ducondray, who defended Marie Antoinette, etc., etc.



But the one great fact in the history of this famous city is that on July 17, 1429, Charles VII was crowned King of France through the heroic efforts and divine mission of Jeanne d'Arc.

### III. JEANNE D'ARC.

Jeanne d'Arc! It is indeed a name to conjure with. I know of but two peoples who completely rally at the name of a single being, who possess a perfect shibboleth for pagan and believer, for rich and poor, for learned and unlettered, for conservative and radical, for Christian and socialist, for all of the common blood to come and offer reverence—they typifying the very genius of their lands and people—they are the leader of the Latin race, France, the Spiritual daughter of ancient Greece, acclaiming the simple, spotless, virgin, warrior Maid who visualized the poetical soul of her race; and Italy, the historical child of ancient Rome, uniting around the austere figure of the celestial Dante, who embodied the profound culture of his land.

From Milan to the seas of Sicily you will find in every place the companion alone of Homer and of Shakespeare. Throughout every hamlet, village, town and city of France, yea, in every church, in every hamlet, village, town and city, is the simple Maid of Domremy, the savior of her country.

It is indeed a story unique in history, seeming more like an exquisite tale of mediaeval legend, such as our mother might have told, of the fair white maiden who went forth to succor the wounded knight, herself always in danger of the dread dragon.

It is without parallel in the annals of mankind. You, who have pondered over the pages of Herodotus, and followed the records of events through the tomes of his Greek, Roman, Byzantine and Western Continuator; you, who have dabbled in cuneiform or labored with hieroglyphs and are familiar with the sacred scriptures, do you know in all that record of seventy centuries any career, actual or apocryphal, comparable with that of the Maid of France?

A simple peasant girl, the child of an humble farmer, occupied in the household spinning, sewing, occasionally assisting in the field or watching the flock, absolutely unlettered, having learned the Pater, the Credo and Ave Maria by word of mouth, a cheerful, reasonable, normal girl, with a great reverence for religion and a deep intuitive goodness, who has never left her native village of Domremy in Lorraine, is at the age of twelve the recipient

of a strange visitation—St. Michael, the flaming sword of the Lord, and the gentle Saints Catherine (of Alexandria) and Margaret (of Antioch) appear to her and become her far-famed "Voices" guiding, admonishing and comforting her in the little garden of her home, in the field, the church, the prison, the court, and, we pray, at the last moment of her great sacrifice. They told her of the "pity there was in France" and many things of great moment and an intense longing to go into France and expel the invaders and crown her lawful king took complete possession of her and she goes forth on that wonderful and fateful mission.

Against the wishes of her parents, with every obstacle in her path, she goes to the rough soldier de Baudricourt at Vaucouleurs and persuades him to send her to the king at Chinon. She dons male attire from necessity and with Jean de Metz and Bertrand de Poulengy, her two faithful soldier-guides, sets forth on the wild and dangerous journey, more than one hundred and fifty leagues through territory infested by Burgundians and English foeman. Surmounting every danger because "her Lord had told her she must go into the war in order to recover the kingdom," she at last arrives at Chinon and after much investigation she is admitted into the royal presence.

Although Prince Charles de Bourbon pretended to be the king, she went straight up to Charles, and when he asked who she was, she answered: "Gentle Dauphin, my name is Jeanne the Maid, and the king of Heaven announced by me that you will be crowned in the City of Reims. And I tell you on the part of my Lord (of Heaven) that you are the true heir of France and son of the king. He sends me to lead you to Reims."

Then began that brief but extraordinary military career of about thirteen months in which Orleans was relieved and delivered in but nine days after a siege of half a year; in which the victory of Patay was achieved and the campaign of the Loire, which lasted a week. She was entitled to the credit for the surrender of Troyes, though she had gone to Reims. But she was ever a sign to be contradicted, and the campaign in the Ile-de-France and the failure at Paris was entirely due to the paltriness of Charles VII, and the treachery of his advisers.

She had crowned her king in the great Cathedral of Reims and it is said that in four months the English had lost the conquest of ten years.

Jeanne soon learned, however, that though you can crown a king you cannot make him fight and the warrior maid went forth

with a handful of men to combat the enemies of her king both foreign and domestic.

But her great hour had come when, practically deserted, if not betrayed by her own people, she at Compeigne succumbed to the various bands of Picards, Burgundians and English; she was taken by Wandonne and became the prisoner of John of Luxembourg. And thus she had fallen into the hands of that great gamester, the Duke of Burgundy. Luxembourg, to his everlasting shame, actually sold the Maid, through the villain Couchon, a political cleric, to the English king for ten thousand livres tournois, a large sum—indeed the ransom of a king.

The sequel of the pitiable tragedy is well known. How at Rouen, after experiencing all the horror of captivity, at a court presided over by Couchon, and with the connivance of the faculty of the University of Paris, the Maid was tried and murdered.

The trial is an extraordinary spectacle in the intellectual history of man. Jeanne was her only witness, alone, day after day, week after week, she successfully met her pitiless and unscrupulous persecutors. After nights and days in vile prisons, guarded by brutal soldiers, subjected to every infamy, she would be brought before her accusers, who enjoying all the luxuries and comforts of life, would try to trick her into incriminating admissions. But she was ever keen and alert, quick to answer when she should answer and knowing well when to be silent or to say to her tormentors, with firmness and dignity "Pass on to other matters." All this without counsel or advice, deserted by all and aided only by her Voices. And so this untutored girl, who could not even read or write, baffled the sharpest minds of lawyers and theologians. Either she was inspired or our methods of acquiring knowledge are vain, and the student, like Dr. Faustus, should burn his books.

On May 30th, 1429, at eight o'clock in the morning in the old market place at Rouen, the spotless maid was burned at the stake, to the shame of her English enemies and the Burgundian traitors, and to the everlasting infamy of France. When the frightful deed was accomplished, Tressart, Secretary to the English King, cried out "We have burned a Saint."

It is curious to note that by the English was she first called a saint, and that even Shakespeare says:

"No longer on St. Denis will we cry

But Joan la Pucelle shall be France's saint."—I Hen. VI-(1-6)

To the English she was their enemy, one who had humbled their military pride. They had acquired her in dishonor, but the

ethics of a brutal age and unscrupulous statescraft could see but three things to do: (1) Not to execute her, meant that she could be ransomed and would be again in the field against them. (2) To execute her, as their political and military enemy, would remove her from the earthly field, but might further the cause of France. (3) But to have the "Church" try and condemn her for witchcraft or heresy, would destroy her mission and ruin the cause of Charles VII.

But for France and Charles VII! Before she came, chaotic France was a by-word for scorn and contempt and the very birthright of Charles was questioned. She drove the invaders out, she crowned her King, and recreated France. Yet in her hour of trial and terror, he cowardly deserted her and did not a thing to rescue or avert her fate.

The only mitigation of this blot, particularly on the fair escutcheon of France, is that both French and English scholarship have from the beginning admitted their sin and done justice to the memory of the pure and true Maid of France.

A few years after her death a second trial was held and 121 witnesses freely testified to her perfect faith, truth, and virtue. This was the famous Rehabilitation and on July 7, 1456, sentence was proclaimed at Rouen, in the cemetery and at Orleans, with all the pomp and circumstance of ancient ceremony: "Annuling the process of condemnation, the abjuration, the sentence, and all the effects that followed therefrom."

On April 6, 1919, in the Hall of the Consistory at the Vatican, Pope Benedict XV proclaimed St. Jeanne d'Arc, Maid of France, truly the patron-saint of her land and race.

"Thy country's sin, the insult and the shame,  
The scaffold's doom, the faggot and the flame—  
All these shall pass and be remembered not;  
Fair Charity, with kindly tears shall blot  
From France's shield the black corroding stain,  
Caught from thy blood, O Lily of Lorraine!

The hero's heart shall lose its thirst for fame,  
And truth be dead, and virtue but a name,  
Ere men shall cease to honor thee who gave  
To France, to liberty, to truth—  
In battle's bloodiest trenches undismayed  
'Neath insult meek, in persecution brave  
Thy love, thy life, thy stainless youth  
O, Virgin, Patriot, and Martyr Maid!"

## RIGHTS OF WOMEN IN LOUISIANA

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*By W. O. Hart.\**

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I did not know until I received the card announcing this meeting what my subject was to be, but thought it was to be "The Rights of Married Women in Louisiana"; however, as unmarried women of age and widows have never been under restraint except as to suffrage and office-holding, necessarily most of what I shall say will refer to married women.

We lawyers of Louisiana believe that next to the Constitution of the United States, the Civil Code of Louisiana is the greatest work that ever came from the mind of man, and most of those who complain of its provisions are ignorant of it and are too prejudiced against it to properly appreciate it.

Many of the inequalities under the law claimed by some opposed to the code relate to husbands as well as to wives; but when the complaint is made there is no effort to show that same are not intended as a rule as discriminations against married women. For instance, under the Civil Code as originally written and revised in 1870 (Article 1752) it was provided that a man or woman who contracts a second or subsequent marriage having children by the former, can give to his wife, or she to her husband, only the least child's portion, and that only as a usufruct, and in no case shall the portion of which the donee is to have the usufruct exceed the fifth part of the donor's estate. Now, I have heard advocates of women's rights in discussing this law, say the husband can give to his second wife not more than one-fifth of his estate and that only during his lifetime, while to a stranger he may give two-thirds, if he have but one child by the former marriage. But a second husband under this law is in the same

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\* A paper read before the Louisiana Historical Society March 22, 1921.

condition as the second wife, but this was never thought of in attacking the law.

I am glad to state that in the course of human events, this Article has been twice amended. First, in 1882, increasing the possible gift to one-third in full ownership, and then in 1916, so as to allow a donation to the second husband or wife to the same extent as to any other person.

Another Article of the Code (1753) also applied to husband and wife and provided that where a spouse who married again and had children by a former spouse, property coming to that spouse from the deceased spouse or from the children of the marriage should by subsequent marriage revert to the surviving children of the marriage, the surviving spouse in such a case having only the usufruct after the second marriage.

This law, which has since been repealed, worked endless hardships, a case now being under advisement before the Supreme Court where children are suing to recover property sold by their mother which she inherited from other children, many years ago.

Under the Inheritance Tax Law of 1906, the rate of taxation was less for ascendants and descendants than for collaterals and strangers and in the Succession of Baker, 129th La., page 74, the Supreme Court held that the wife or husband was to be considered on the same footing as a stranger regarding the rate of taxation.

The inequity of this construction was apparent and in 1912 the wife was placed on the same footing as children and ascendants and this plan is followed in the Constitution of 1921.

I simply cite these three instances, and there are others, to show that there are provisions in the law applicable alike to the husband and wife and to widows and widowers.

The Civil Code of Louisiana is based on the project of the Code Napoleon which Code is the basis of the substantive law of Continental Europe, Asia, Africa, Oceanica, the Islands of the Seas, (including the West Indies), excepting Jamaica and other British possessions, Hawaii and Newfoundland, but including Mexico, Central and South America and the province of Quebec, Canada, besides permeating the law of Scotland and many of the

States of this Union which were first governed by the laws of Spain.

It must be admitted that the original code of Louisiana was against second marriages for in addition to the two instances above quoted, Article 137 says:

“The wife shall not be at liberty to contract another marriage, except ten months after the dissolution of the preceding marriage;

the purpose of the law being to prevent a child from having two fathers. The Supreme Court has held this law to be without effect, because it contains no prohibition. (Succession of Benton, 106th Louisiana, page 703), and a marriage contracted before the time fixed is legal and valid. It is perfectly apparent, however, that no person having the authority to celebrate marriage, should do so in violation of this law.

I have heard it repeatedly stated that the wife had no testamentary power without the consent of her husband, but on this point, Article 135 of the Civil Code is worthy of quotation. It reads as follows: “The wife may make her last will without the authority of her husband,” provided she be over sixteen years of age.

Wedding presents belong to the wife and not to the husband, even though they may have been given by the husband’s friends and to him. (Allen vs. Segrave, No. 30,711, Division “B” Civil District Court, decided January 16, 1894.)

Later, this question was again before the Civil District Court, and was decided in the same way, when in the matter of George P. Lambert vs. Anna A. D’Hemecourt, his wife, No. 128,-298, Division “D” of the docket of the Court, on November 4, 1919, Judge Porter Parker, presiding therein, refused an injunction asked by the husband in the suit, which was for divorce, to restrain the wife from selling the wedding presents.

Usually, as we know, wedding presents, particularly when they are of money or of great value, are generally given by the parents or near relatives of the bride, and so well is the woman protected as to those that wedding presents are not subject to what in our law is known as “Collation.” In Louisiana we have the law of forced heirship and equality of inheritance, so that advances made to one child, unless given as a separate portion,

must be accounted for in the settlement of the estate of the donor, and may be reduced or entirely annulled if they exceed the disposable portion, but wedding presents are not subject to this law unless they exceed the disposable portion, and thus again is the woman protected. (Civil Code, 1244.)

In Louisiana "by dowry is meant the effects which the wife brings to the husband to support the expenses of marriage." (Civil Code, Article 2337), and by Article 2347 of the Code, "the dowry is given to the husband for him to enjoy the same as long as the marriage shall last." The dowry does not become the property of the husband, nor does it become community property, and "for the restitution of her dowry,—the wife has a legal mortgage on the immovables and a privilege (lien) on the movables of her husband." (Civil Code, Article 2376.)

By Article 2390, the wife, during marriage, may petition "for a separation of property whenever her dowry is in danger, owing to the mismanagement of her husband, or otherwise, or when the disorder of his affairs induce her to believe that his estate may not be sufficient to meet her rights and claims." For all the money that a wife brings into the marriage or gives to her husband after marriage, or the proceeds of property inherited by, or donated to her, she has a mortgage on his property, provided the claim be properly recorded, and, if the husband is in failing circumstances, while our law prohibits his preferring one creditor to another, this does not apply to the claims of his wife, for he may transfer his property to her in payment of her claims against him, even though insolvent, in preference to his other creditors, reserving of course, the rights of mortgage creditors, whose claims may have been recorded before that of the wife. (*Neuman vs. Eaton*, 27th Ann. 341.)

After the death of the husband, when there has been a community between the husband and wife, her linen and clothes are retained by her without any formality, and they form no part of the community estate. (Civil Code, Article 2416.)

Another statement often made is that a married woman in Louisiana cannot engage in business without the authorization of a Court,—was never the law in Louisiana; a married woman has always had the right to engage in business under her own name without the consent of anyone, and if she does so without being separate in property, then her husband would be liable with her for all the debts of the business.



Under Article 216 of the Civil Code, "a child remains under the authority of his father and mother until his majority or emancipation. In case of difference between the parents, the authority of the father prevails." How there could be any other rule I am at a loss to understand. There must be a head to all things, and unless one of the parents has the right in case of difference, the poor child would be in an anomalous condition, to say the least of it. After the death of the father, the mother cannot be deprived of the custody of her children, though she is not compelled to accept their tutorship, because the law gives her the right to let someone else be the tutor, though never depriving her of the custody of the children.

Article 253 of the Civil Code on the subject, reads as follows:

"The mother who refuses the tutorship of her children retains the superintendence of them and the care of their education."

The father has no such right after the death of the mother; he cannot renounce the tutorship (Succession of Watt, 111th Louisiana, 938). If a mother marries again, she cannot be retained in the tutorship save on the advice of a family meeting. (Civil Code, Article 254), which, however, is not, as is usually stated, "by the formal consent of her first husband's family."

The family meeting is composed of the nearest relatives of the children, both from the maternal and paternal sides, and the mother, who has the right to apply for the family meeting, may name other persons as friends of the minors, sufficient to outvote the relatives on the father's side who may be opposed to her retaining the tutorship after her second marriage.

Just such a case was that of the Succession of Carbajal, 111th La., page 944, where the relatives on the husband's side were in the majority, opposed to the retention of the tutorship by the mother, but the court, at her request, added her friends to the members of the family meeting sufficient to vote her the majority.

Even in cases where the mother loses the tutorship, by her remarriage, she may be reappointed after the marriage. (Succession of Faley, 34th Annual, 130), and in no event does she lose the custody of her children except for unworthiness. A trust company may be appointed as tutor of minors whose father is dead, but such appointment embraces only the control and ad-

ministration of the minors' property, their custody remaining with their mother, if she be alive, and this whether she remarries or not and in such a case, one-half of the commissions allowed by law to the tutor, would go to the mother. (Act No. 45 of 1902.) Under Act 124 of 1888, when proceedings are instituted by the husband or wife for divorce or separation from bed and board, the custody of the children remains with the mother pending the trial, and even though judgment is rendered against her she may be allowed to retain the children, if the court believes it to be a greater advantage to the children or some of them. (Act 38, E. S. 1921.)

In the matter of *Lasserre vs. Michael*, 105th La., page 741, the Supreme Court held that during marriage "neither spouse had an absolute right to the children." (Civil Code, Art. 157.)

A married woman cannot become security for her husband nor can her property be used to pay his debts, and any judgment rendered against her she may annul upon showing that the debt sued for inured to her husband's benefit, or to the benefit of the community existing between them. If she wishes to mortgage her property she must be authorized by the court after an examination apart from her husband, and establish to the satisfaction of the court that the money to be secured by the mortgage is for her benefit or for the benefit of her property. If she mortgage her property without this order of court, she may show against anyone that the debt was her husband's, and even if she have the authority of the court and she has misled the court as to the use of the money, the mortgage will be null, unless the creditor who takes same and advances money on the faith thereof, shows that he had no knowledge of the nonverity of the court proceeding. (Civil Code, Articles 126, 127, and 128.)

And it is to the great credit of our present Legislature that notwithstanding pressure was brought to bear to repeal this law, it still stands and may stand forever!

Where there is a community existing between husband and wife, all the earnings of the husband and the revenues of all his separate property, including that owned by him before the marriage, fall into the community, but the revenues of the separate property of the wife do not fall into the community unless she gives the administration thereof to her husband, and she may recall at any time, that administration, after giving it. (Civil Code, Article 2387.)

When a husband, in Louisiana, dies insolvent, his widow and minor children are entitled to receive One Thousand Dollars out of the estate in preference to all his creditors, except recorded mortgage claims and if he die rich and the wife is poor, the wife is entitled to one-fourth of his estate in full ownership, if he left no children, and otherwise, to the life usufruct of one-fourth unless there were four or more children, in which event she would be entitled to the usufruct of a child's share.

Donations which a wife makes to her husband during marriage she may revoke at any time, and he cannot donate the immovables of the community without her consent. A few days ago judgment was rendered by our Civil District Court returning to a wife her share of community property donated by her husband, without her joining in the donation.

Some time ago there was an article published in one of our newspapers, from a woman writer, stating that in Louisiana a husband might mortgage his wife's property without her knowledge or consent. This is absolutely incorrect. The husband cannot mortgage his wife's property because it is not his and, moreover, as before stated, to make the wife's mortgage entirely legal she must be authorized by the court, independently of her husband, to execute it.

It is true that during the existence of the marriage, community property, which embraces property acquired by the joint labor of the husband and wife, or from the revenues of the husband's property, or even from the investment of his separate property, unless in the act he especially declares that he is making a separate investment,—(See *Sharp vs. Zeller*, 110th Louisiana, page 61), and property donated jointly to the spouses may be sold or mortgaged by the husband without the consent or even knowledge of his wife.

From the foregoing it is perfectly apparent that the married woman in Louisiana has many rights over her property superior to those which a husband has over his.

Another forward step in protecting married women was Act No. 170 of 1912, making separate property of the wife, property which had heretofore in large measure been community property and requiring the signature of the wife where it was sought to sell or mortgage community property where the title was in her name. This act, which was prepared by Mr. R. E. Milling, reads in part, as follows:

"The earnings of the wife when living apart from her husband, although not separated by judgment of court, her earnings when carrying on a business, trade, occupation, or industry separate from her husband, actions for damages resulting from offenses and quasi-offenses, and the property purchased with all funds thus derived, are her separate property.

"Common property is that which is acquired by the husband and wife during marriage in any manner different from that above declared. But when the title to community property stands in the name of the wife, it cannot be mortgaged or sold by the husband without her written authority or consent."

Until 1902, damages recoverable for personal injuries to the wife belonged to the community and the wife was not even a competent witness in such a case, but by Act 68 of that year, all this was changed so as to make such damages her separate property, and this provision was continued in the Act of 1912.

In 1916 there was passed Act No. 94, approved July 15, and which was amended in 1918 by Act 244, approved July 14, giving to married women the right of disposition over their separate property, the right to sue and be sued, and the right to contract and bind themselves, the act reading as follows:

"A married woman, whether a resident of this State or not, shall be competent to contract debts, purchase and mortgage, and to bind and obligate herself personally with reference to her separate and paraphernal property, and to appear in courts and to sue and be sued, to the same extent and in the same manner as though she were a *femme sole*; provided, that nothing herein contained shall be deemed or construed to affect in any way the statutes of this State, establishing and regulating the matrimonial community of acquets and gains, and prescribing what shall be deemed community and what shall be deemed separate property of the spouses."

The Court of Appeal for the Parish of Orleans in construing this law held that the wife could not bind herself unless she had separate property and only to the extent thereof but the Supreme Court in reversing the decree of that Court held that the married woman could contract in all respects except as security for her husband, the same as an unmarried woman. (*Hicks vs. Caldwell*, 148th La., 21, and *Lorio vs. Gladney*, 147th La., 930.)

The wife, however, was not powerless before this change in the law with reference to her separate property because she had recourse to the courts if her husband were absent, mentally incapacitated or refused his consent.

Under the Civil Code, (Art. 2406), at the death of either spouse, one-half of the community property after the payment of debts becomes vested in the survivor and no legacies made by the one first dying can affect this one-half, (Art. 915); if there were no children or parents surviving the decedent, the surviving husband or wife, as the case may be, had the life usufruct of the remaining half; if there are children of the marriage, the survivor has the usufruct of the share of these children, which usufruct terminates by a second marriage; by will, either of these usufructs may be excluded or the usufruct which would terminate by a second marriage (Art. 916) be continued notwithstanding that fact. If there are no children, but parents, the wife had no usufruct at all and the share going to the parents and the brothers and sisters, if any, went to them immediately at the death of the husband or wife.

By Act No. 57 of 1910, the surviving husband or wife, where the deceased left neither ascendants nor descendants, was given the full ownership if no disposition thereof had been made by will, of the share of the deceased in the community property and by Act No. 80 of 1916, if there were no children, but a father or mother, or both, then one-half of the share of the deceased in the community property was given to the survivor.

When before marriage the intended husband or wife make a marriage contract and therein the husband settles upon his wife certain property or money to be paid at his death, this is a debt of the succession and ranks any legacies that he may make in his will. (Succession of McCloskey, 29th Annual, 237.)

In suits for separation from bed and board, or divorce, the wife is entitled to alimony pending the suit, provided she be plaintiff, originally or plaintiff in counter-suit or "Reconventional Demand" as it is called in Louisiana, (Civil Code, Art. 148; Landreaux vs. Landreaux, 114 La., page 528), and such judgment for alimony, if rendered in a suit for separation from bed and board, extends until the wife has obtained a final divorce (Hill vs. Hill, 114th, La. 44).

By Article 160 of the Civil Code, the wife is entitled to alimony from the husband in the final judgment of divorce, which she may obtain, not to exceed one-third of his income. As originally written, the Supreme Court construed the law to mean that earnings were not to be estimated in fixing the amount of alimony (Jackson vs. Burns, 116th La., 695) ; but by Act No. 173 of 1916, the article was amended so as to provide that this alimony is payable "out of the property and earnings of her husband." This alimony, of course, ceases when the wife contracts a second marriage, or should it be shown that by reason of acquiring property in the meantime, she would not need the alimony.

Judgments for separation from bed and board or divorce dissolve the community as of the date of the filing of the suit, and the wife, whether plaintiff or defendant, in such a proceeding, is entitled to an immediate settlement and division of the community property by partition proceedings or otherwise.

In 1888 by Act of the Legislature of that year No. 150, approved July 12th: money or other property deposited in savings banks by married women—could be drawn out by them upon their own order or signature without other authorization.

This privilege was repeated in Act 95 of 1892, approved July 7, and by Act 63 of 1896, approved July 8, the rights of married women in this regard greatly extended in the following words:

"Any married woman shall have the right to open accounts in the different banks of this State, whether National or State banks, and in savings banks, and deposit money, checks, notes and other funds therein, and to withdraw the same by check or otherwise and without the assistance or intervention of her husband in the same manner and under the same conditions as if she was a *femme sole* or unmarried woman."

The general banking law was again amended by Act 189 of 1902, approved July 10th, and the same right was continued for married women over their deposits.

By Act 74 of 1894 approved July 7, married women were authorized to subscribe for, withdraw, or transfer, stock of building, homestead or loan association, and to deposit funds with and withdraw the same from any such association without the assistance or intervention of their husbands and in the general homestead Act No. 120 of 1902, approved July 8th, the same right was given.

Another act of great benefit to married women is Act No. 157 of 1916, approved July 5, repealing in large measure, Article 2281 of the Civil Code, which prohibited husbands and wives from testifying for and against each other; the effect of this act is to enable married women to secure many of their rights before denied to them owing to their inability to testify against their husbands.

While of little importance, women in 1908 were made competent witnesses to wills (Act No. 30) and other legal documents (Act No. 67) and in 1921 to inventories (Act No. 43, E. S.)

Probably the greatest step forward in the interest of married women is contained in Act No. 35 of the Extra Session of 1921 providing: "The designation and declaration of the family home and the manner in which the same shall be placed on record, alienated or encumbered." The effect of this Act is to preserve the family home when duly designated and the designation recorded, and to prevent any sale or mortgage thereof during the marriage, by the husband without the consent of his wife.

The Constitutional Convention of 1921 was very unkind to widows of Confederate soldiers and I cannot understand how the three women members of that Body overlooked this injustice.

Under the Constitutional Amendments in force when the Convention of 1921 met, it was provided that widows of Confederate soldiers who had lived in Louisiana for five years were entitled to pensions from the State no matter from what state their husbands had enlisted nor where they had resided nor where they had died and further, that any Confederate widow marrying a Confederate Veteran, for the second time would be entitled to a pension after his death.

Under the present Constitution, all widows' pensions cease upon remarriage without exception, and no widow of a Confederate veteran is entitled to a pension unless her husband was a resident of Louisiana at the time of his death.

Of all the travesties on Louisiana law, the greatest is the decision given a few months ago by then United States Attorney General Palmer, when he held in effect that community property in Louisiana was, during the existence of the community, owned one-half by the husband and the other half by the wife, and that therefore, income from community property should be divided into two parts, the husband to pay taxes on one half and the wife on the other half.

In Louisiana, community property in law belongs to the ideal being called "the Community"; in fact, it belongs to the husband, who has the control, administration, dominion, and disposition thereof with the single exception above noted, that he cannot donate the immovable property of the community without the consent of his wife.

The wife has not the slightest interest in community property during the existence of the marriage. She cannot administer it, except as the agent of her husband; she does not control it, she cannot dispose of it and she cannot touch a dollar of its revenues; payment of a community debt to a wife does not discharge the debtor, who is still liable to the husband; therefore, even if community property did belong half to the husband and half to the wife, which it does not, the decision of the learned former Attorney General is entirely without foundation because income taxes are levied not on property but on income, and as before stated, the wife has not the slightest interest in the income of community property. It is absolutely certain that this decision will be recalled and where possible, back income taxes will be collected on community incomes as a whole.

It would be just as logical to say that the rights of dower, which wives have in most if not in all of the common law States, in the property of their husbands give them an ownership in such property before the dissolution of the marriage.

As the community income belongs to the husband and the tax thereon is a community debt, the wife, under the laws of Louisiana, could be responsible for no part thereof, even if she had separate property, because the separate property of the wife is in no case liable for community debts.

I think it will be found on examination that in cases where the separate returns have been made for community income, that the wife paid no part of the income taxes thereon, but that the husband paid them all and from community funds belonging to him. I know nothing about the laws in other States where the community of property exists and I speak only of Louisiana.

Several acts were passed by the Legislature in 1921, giving greater rights to women but I think some of them fall short of what was intended. Under the laws contained in the Civil Code, the only woman who can hold the office of Curatrix, as it is called in Louisiana, (meaning guardian or committee in other



States), of an insane person, or "interdict" as such person is called in Louisiana after judgment of court declaring insanity to exist, was the wife as to the husband, and Act No. 34 of the Extra Session of 1921, conferring certain rights upon women I do not believe confers the right to the position of Curatrix and Under-Curatrix, which office to a certain extent, is a check upon the other.

The law as introduced in the Legislature, reads as follows:

"Women are hereby given the same rights, authority, privileges, and immunities, and are required to perform the same obligations and duties, under the law, as men possess and are required to perform, in the holding of office."

This law, as introduced, in my judgment was entirely unnecessary because the adoption of the Nineteenth Amendment had the effect of striking from the Constitutional and Statutory provisions of every State the word "male" insofar as the use of it had confined suffrage and office-holding to males, because in passing upon the Fifteenth Amendment to the Constitution, the Supreme Court of the United States held that its effect was to strike out the word "white" from all State Constitutions and laws so as to give persons of color the same rights of suffrage that white people had previous to the adoption of the amendment, and the wording of the two amendments is practically the same.

I know it has been argued by some that the right to vote does not carry with it the right to hold office, but it does in Louisiana. Under the Constitution of 1879 not only were citizens of the United States allowed to vote, but foreigners were so allowed, who had declared their intention to become citizens, but had not been naturalized. I am glad to say that this provision is not in the Constitution of 1898, 1913 and 1921, though it is in the Constitutions of several of the States of the Union with the result that during the Great World War some persons holding office under the States in which they lived were registered enemies of the United States.

In the case of *Leche vs. Fowler*, 41st Louisiana Annual, page 380, decided in 1889, the Supreme Court held, as follows:

"The defendant was elected to the office of coroner at the last general State election. He has all the qualifications of an elector prescribed by Art. 185 of the State Constitution.

“Previous to his election he had declared his intention to become a citizen of the United States, but he has never been naturalized. For this reason it is urged he is not a citizen of the United States, and therefore not a citizen of the State.

“A person who is a citizen of the United States is necessarily a citizen of the particular State in which he resides. But a person may be a citizen of a particular State and not a citizen of the United States. To hold otherwise would be to deny to the State the highest exercise of its sovereignty, the right to declare who are its citizens.

“The sovereignty of the citizens of a republic has its highest assertion in representative government, and is constituted in its political order in the representation of persons, and not classes or of interests. In the realization of this sovereignty of the people, its expression is obtained through some law regulative of political action by which the will of the people can be obtained. This is done through the instrumentality of qualified electors, who in the exercise of a free will, assert in conformity to that law the determination of the civil and political organization in which is manifested the will of the people. Electoral right is a political right and although the right to vote is primarily the right of every citizen, yet it may be denied to a certain class of individuals. Therefore a person may be a citizen of the State and may not be invested with electoral power. It is, however, difficult to conceive how a person can be an elector and not a citizen of the community in which he exercises the right to vote. The State in the exercise of its sovereignty, can confer the right to vote, can make an alien an elector, and electoral power, when thus bestowed and exercised, becomes one of the most important duties and the highest and proudest privileges of citizenship.

“The elector is, therefore, one of the sovereign people, a member of the civil State and entitled to all its privileges.

“The Constitution of the State makes no distinction between citizen and elector. The words are used to signify the same thing.”

And this decision was expressly affirmed a few months later in the case of *Di Carlo vs. Abbott*, 41st Louisiana Annual, 1096.

Therefore in this State women are eligible to every office from Governor and Chief Justice down where they have the qualifications therefor as prescribed in the Constitution and laws.

To return to the Act No. 34, I find from an inspection of the Journals that the act was amended in the Senate, so as to add thereto, these words:

“Including the civil functions of tutor, under-tutor, administrator, executor, arbitrator, notary public, and member of family meeting.”

The inclusion of the words “notary public” in this act amounts to nothing because as a Notary Public is an officer under the laws of Louisiana, the right of a woman to hold that office became absolute when the Nineteenth Amendment was adopted.

While ordinarily words of enumeration in a statute are not exclusive, I do not think that rule applies when the descriptive words are offered as an amendment to an act pending before the Legislature, because in such a case the words showing the intention of the Legislature to go no further must be considered as complete in themselves.

This observation applies with greater force to this law because about the time it was adopted by the Senate, another bill giving in express terms the right of women to be appointed Curatrix and Under-Curatrix, was withdrawn from the files of the Senate and these two actions of the Legislature considered together clearly show that it was not the intention of the Legislature to bestow that civil function upon women.

The Nineteenth Amendment required no enabling act, either of Congress or of any State to put its provisions into effect; the very moment the Secretary of State of the United States by proclamation announced that the requisite number of States had ratified the Amendment, it became part of the Supreme Law of the land. The State of Maryland claimed that having rejected the Nineteenth Amendment, it could have no effect in that State until the State had adopted legislation to carry it into effect but it is needless to say that the Supreme Court of the United States gave no heed to this contention.

The claim of the State of Maryland represented nullification in its baldest form. If a Constitutional Amendment or Act of Congress is not effective in a particular State unless that State be willing, then the United States would be driven to the condition it was in before the adoption of the Constitution of the United States, when under the articles of Confederation acts of the Continental Congress were little more than advisory to the States.

Louisiana early took notice of the adoption of the Nineteenth Amendment. In the Constitutional Convention held in this state last year, there were three women members. There are several women who are Notaries Public, Clerks of Court, on various Boards, and who hold other offices of trust and responsibility; but even before this, women held important public offices in this State. The offices of State Librarian and its two assistants have been filled by women for many years; and we have had a Factory Inspector in New Orleans, for more than a decade, who is a woman, and this last was done under an amendment to the Constitution of the State.

Some of the Truant Officers in the Juvenile Court are women and there has been a Matron in our Parish Prison (County Jail), ever since one was found willing to accept the position.

The proposed Twentieth Amendment to the Constitution, reads as follows:

“No political, civil, or legal disabilities or inequalities on account of sex or on account of marriage unless applying to both sexes, shall exist within the United States, or any place subject to the jurisdiction thereof.”

I have already shown that no political disabilities or inequalities now exist in this country by reason of sex and marriage has no effect on such rights or absence of rights. What is meant by “civil or legal disabilities” in the Twentieth Amendment, it is hard to determine and will require construction from the courts, if the amendment should be adopted, before their meaning can be fully known. The Constitution of the United States was adopted in 1789 and we do not yet know what all of its provisions mean.

Very recently the Supreme Court of the United States held that the power of Congress to regulate commerce between the several States and with foreign countries carries with it the right to regulate commerce within the States and thus another of the rights reserved to the States has been swept away by Congressional and Judicial Action.

The objects and purposes of the Fourteenth Amendment to the Constitution of the United States, which was adopted with a view of giving some rights to former slaves, have been lost sight of in the course of time and the amendment now represents “the bulwark of the trusts.”

If the proposed Twentieth Amendment is intended to mean that there are no disabilities or inequalities special to sex or married women, then many of the laws passed in the different states and some by Congress representing special legislation in favor of women, shorter hours, one day's rest in seven, prohibited employments, maternity legislation and the like, would probably be declared unconstitutional and not at the request of any women benefited thereby but at the request of corporations who do not want their labor regulated.

The two child labor laws enacted by Congress have been declared unconstitutional and by the same Judge and his opinion in the first case was affirmed by the Supreme Court of the United States, which has not yet passed on the second case; but this attack was not made by any one for the benefit of the child, but by corporations who want to exploit child labor and do not want to be interfered with in so doing.

Now a few words about the so-called Blanket Bill, which the Woman's Party will urge upon every State at the next session of their respective legislatures and which reads as follows:

"Section 1. Women shall have the same privileges under the law as men with respect to:

"The exercise of suffrage.

"Holding an office or any position under the government, either state or local.

"Eligibility to examination for any position affected by civil service regulations.

"Freedom of contract.

"Choice of domicile, residence and name.

"Jury service.

"Acquiring, controlling and conveying property.

"Ownership and control of labor, and earnings.

"Care and custody of children, whether legitimate or illegitimate, and control of earnings and service of such children.

"The right to act as executors or administrators of estates of descendents.

"Grounds for divorce.

"Becoming parties litigant.

"Immunities or penalties for sex offenses.

"Quarantine examinations and treatment of diseases, and in all other respects.

"Section 2. The courts, executive and administrative officers shall make all necessary rules and provisions to carry out the intent and purposes of this statute.

"Section 3. All acts and part of acts in conflict with any of the provisions of this statute are hereby repealed."

The first three provisions therein, the right of suffrage, of holding office, and for examination under civil service regulations, which is but a step to the holding of office, already exist in this State.

The fourth item, "Freedom of Contract" exists with one exception and that is that a married woman may not be security for her husband's debts and this I have previously discussed.

The fifth, "Choice of Domicile, Residence and Name", would destroy absolutely, the family life. The Legislature in 1921, must have heard of this Blanket Bill when it passed Act 35 before referred to, preserving the family home, when there was inserted in said act: "In no event shall there exist, during the same period, more than one family home."

From the beginning of the world the husband has been the head of the family and if civilization is to exist, this condition must continue. If the wife has the right to establish a separate residence or domicile from the husband, what will become of the children? Where will they go? And as the husband and wife must unite under the Act of 1921 to preserve the home, with two homes the act would be ineffective and the wife, therefore, would lose the protection given by that act.

The custom of the wife adopting the husband's name is but a custom and while well nigh universal, there have been some exceptions thereto. While the law of Louisiana provides court proceedings for changing a name, these proceedings are not necessary, and anyone can take any name he or she pleases, the only question in connection therewith being one of identity; so that if Mrs. Brown chooses to call herself Mrs. Smith, no one can interfere and a law giving right to choose a name would give no rights that do not now exist.

The next item in the Bill is "Jury Service." The Constitution of 1921, in Article VII, Section 41, provides on this subject as follows:

"No woman shall be drawn for jury service unless she shall have previously filed with the Clerk of the District Court a written declaration of her desire to be subject to such service."

I have heard of no rush of women to the two District Courts in this City to register for Jury Service and I have been advised that no women have registered. Jury Service should not be forced upon any woman and when the law gives any woman a right to serve as a juror, provided she wants to, it seems to me the law goes far enough.

No doubt many of you have read of the recent "trying" not to use a stronger term, experiences of women in a mixed jury in St. Paul. In Louisiana in criminal cases the Jury cannot be separated for an instant for if they do the verdict is void and sometimes cases have taken several weeks to try in this State. Further comment on this point, it seems to me, is unnecessary.

The next two items regarding property and earnings have been already covered and the wife's rights over her property and over her earnings are as absolute probably as may be necessary, but there can be no objections to a special statute amending the Act of 1912 so as to provide that all earnings of the wife shall be her separate property.

Laws in Louisiana cannot be repealed or extended by implication, and nothing in the Blanket bill will affect the Community Laws of Louisiana.

The law of Louisiana regarding children born in marriage should be a model for every State. The Articles of the Civil Code on the subject are as follows:

"215. A child, whatever be his age, owes honor and respect to his father and mother.

"216. A child remains under the authority of his father and mother until his majority or emancipation.

"In case of difference between the parents the authority of the father prevails.

"217. As long as the child remains under the authority of his father and mother, he is bound to obey them in everything which is not contrary to good morals and the laws."

To this may be added Article 223, as follows:

"Fathers and mothers shall have, during marriage, the enjoyment of the estate of their children until their majority or emancipation."

In case of separation from bed and board or divorce, this usufruct then becomes in favor of the one who obtains the judgment. By Article 226, "This usufruct shall not extend to any estate, which the child may acquire by her own labor and industry."

Therefore, as the law of Louisiana now stands, probably the earnings of a minor child belong to the child but if further legislation on this subject is necessary then it should be done by a special law carefully drawn and after full consideration of the whole subject.

The question of illegitimate children and their rights and the rights of parents with respect thereto is too big a subject to be disposed of in one line of a general statute. This subject has been a theme of discussion in law, medicine, religion, science and social economy from the beginning of the world and should be considered separately from all other subjects when a law is to be passed determining the rights of all concerned.

As to the next item, I have never seen any objection to the appointment of women, whether married or otherwise, as executors, when named in a will and as administrators of the estates of deceased persons dying intestate, but if there was ever any doubt on the subject, it is removed under the terms of Act 34 of 1921 several times above mentioned.

As to grounds for divorce, while at one time in Louisiana grounds applicable against the wife were not always applicable against the husband, this was changed more than a half century ago.

By Article 142 of the Civil Code, it was provided that where the marriage was contracted in this State and the spouses moved to a foreign country and there the husband behaved towards his wife in such a way as to give her right under the laws of this State to a separation from bed and board, she might return to Louisiana and obtain such judgment, which "shall have force and effect in the same manner as if the parties had never left the State," and a year after this judgment of separation if the wife and her husband have not become reconciled, she might obtain a final divorce.

This right of the wife was greatly extended by Act No. 113 of 1920, which reads as follows:

"Whenever a marriage shall have been contracted in this State or elsewhere by parties either of whom are residents of this State and the matrimonial domicile shall have been established in a foreign country or in another State and if the husband shall have abandoned the wife, in the State of said marriage or elsewhere or shall behave or have behaved toward his said wife in said for-



eign country or in said other State, in such manner as will entitle her, under our laws, to demand a separation from bed and board, it shall be lawful for her, on returning to the domicile where said marriage was contracted, or to her domicile in this State, prior to said marriage, unless she has been absent from the State for a period of two years or more, to institute a suit against her said husband for the purposes above mentioned in the same manner as if the parties were domiciliated in such place, any law to the contrary notwithstanding."

Originally, under the law, only the successful party in a suit for separation from bed and board could sue for a divorce based on such judgment but by Act No. 25 of 1898, the same right was given to the unsuccessful party except that he or she had to wait two years to bring such suit while the successful party was required to wait but one year. But this act preserved substantial rights of the wife by providing that where she had obtained a judgment of separation from her husband and he had brought suit two years thereafter for a divorce, she would have the same rights to claim alimony as though she had brought the suit for divorce, and by continuing with her the custody of the minor children, issue of the marriage.

As to the next item women married and unmarried are now allowed to become parties litigant in all cases, the same as men.

The next two items I decline to discuss for reasons that must be apparent to those who are now hearing me.

I do not believe that the so-called "Blanket Bill" if adopted, as written, would be constitutional in Louisiana. The present Constitution like most of its predecessors, provides in Article III, Section 16, "every law enacted by the Legislature shall embrace but one object, and shall have a title indicative of such object."

I do not know what is to be the title of the proposed "Blanket Bill" but it certainly embraces a multitude of objects and therefore is amenable to the prohibitions of the Constitution which have been uniformly upheld by the Supreme Court.

In a newspaper article published some time ago, in discussing inequalities of men and women under the laws of various States, it was stated that in Mississippi the husband had the legal right to "chastise the wife in moderation" and that in Florida "a husband may will away the person of an unborn child." I have con-

sulted eminent lawyers in these two States and they tell me there are no such laws as above described. As a matter of fact, the only statute until this year in Florida was the one adopted in 1828 reading as follows: "Fathers may appoint guardians for their children during any part of infancy by deed, in writing, attested by two witnesses, or by last will and testament," but this was specifically repealed on May 17, 1921, and a law adopted in effect "that the mother jointly with the father shall be the natural guardian and may jointly appoint guardians, and that in the event of either parent's death sole guardianship should pass to the survivor, who should have power to appoint guardians as provided in the former law."

I have not discussed the suggestion made by some that under the proposed Twentieth Amendment, if adopted, women would be liable to military service, because I do not think that amendment would touch the question.

The power to declare war is, under the Constitution of the United States, vested exclusively in Congress, and this power is so broad as has been held by the Supreme Court of the United States, to include every possible contingency and practically gives Congress a free hand in dealing with all questions relating to war, and I do not think an Amendment to the Constitution, which does not specifically touch the war powers, would have any effect thereon.\*

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\* It is the policy of The Quarterly not to print discussions on current problems particularly when there is a wide divergence in public opinion. The foregoing article on the Rights of Women in Louisiana is partly historical but it is also largely a polemic, as for instance the views expressed on the so called Blanket Bill. The very great interest excited by its delivery as a lecture and its real value in other respects, accounts for its appearance here. The reader will also bear in mind that The Quarterly does not hold itself responsible for the opinion of its contributors.



## THE BILOXI BI CENTENNIAL\*

*By André Lafargue*

*Mr. President, Ladies and Gentlemen:*

I have been asked very graciously by the Executive Committee of Louisiana Historical Society to read before its honored membership and its distinguished guests assembled in this most appropriate and historically reminiscent Sala Capitular the address which I delivered at the exercises that were held at Biloxi on April 8th, 1920, in connection with the unveiling of a two ton granite boulder erected on the sun kissed and picturesque shores of the Bay of Biloxi and marking the site where two hundred and twenty one years previous Pierre LeMoynes d'Iberville and his companions had landed and subsequently constructed a fort, known as Fort Maurepas, thus laying the foundation of the thriving little community of Biloxi.

I feel highly honored to have had this invitation extended to me by my history loving companions and I have acceded to their request not because my paper has any intrinsic worth, either historically or otherwise, but because of the opportunity which presents itself to recall a celebration that was given but a passing notice by the Press although it commemorated deeds and achievements whose far reaching consequences and the lessons that they have taught us have as much significance and importance as those which we are this year extolling in connection with the three hundredth anniversary of the Landing of the Pilgrims at Plymouth.

We should not overlook the fact that the landing of Iberville and his trusty companions on the southern shores of the North American Continent in 1699 was the initial act in the tense and soul stirring colonial drama which culminated on December 20th 1803 in this very hallowed hall, when Laussat as the High Commissioner of the French Government formally turned over to the representatives of the young American Republic the greater part of the vast territory, title to which had been definitely established through the building of the little fort on Biloxi's back bay. For prior to the construction of Fort Maurepas

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\*A paper read before the Louisiana Historical Society on December 2, 1920. André Lafargue's address delivered at Biloxi on the occasion described here was published in La. Hist. Quarterly, Vol. 3, No. 4, pp. 617-623.

and the establishment of the Biloxi colony the French who had explored the upper and lower Mississippi and who rightfully laid claim to the adjacent territory, had never taken formal possession of the land. True Father Marquette and Joliette, the Indomitable, had traced the course of the Chicago, Illinois and Wisconsin Rivers down to the Mississippi itself and had traveled down the "Father of Waters" to what was known as the Arkansas River and LaSalle had later on navigated the great stream to its very outlet into the Gulf of Mexico, on that occasion proclaiming in picturesque and grandiloquent language that he most formally took possession of the Mississippi, "of all the rivers that emptied therein and of all the lands that they irrigated, and this for and on behalf of his high and puissant king, Louis of France", but as a matter of fact no settlement of any kind had been effected in that vast section of territory to which was subsequently given the euphonious and memory endearing name of Louisiana. And so it is that when Iberville on the 8th of April 1699, accompanied by his brother Bienville, by de Surgeres, de Sauvolle and by a party of picked men from the two frigates "the Bandine" and the "Marin", landed from their life boats on Biloxi's back bay and broke ground for the construction of what they termed "a well bastioned fort", they performed the first act that legally and through international usage gave their country full title to the boundless and savage infested tract known as the Province of Louisiana.

It was therefore very appropriate that we of Louisiana should participate and take interest in the celebration held at Biloxi this last April. It commemorated an event of transcendental importance, one that led up to the founding of our own splendid metropolis. It marked the first step taken by the hardy and fearless pioneers of France in making good their well earned claim to a section of country which France was most unquestionably entitled to by right of discovery and exploration, but the title had to be perfected and the founding of Biloxi accomplished that purpose.

The event was not a centennial celebration properly so called. Biloxi saw fit to wait until the unveiling of the Tennessee granite boulder presented by Mrs. J. T. Jones to the Gulfport Chapter of the Daughters of the American Revolution had been determined upon to celebrate coincidentally the 221st anniversary of its founding. Municipalities unlike the "fairer sex" do not

care how old they get and rather take pride in pointing to their venerable old age and so Biloxi decided on April 8th 1920 that it would unblushingly admit that it was 221 years old and stood prepared to receive the felicitations of its younger sister communities. And Biloxi did things quite royally on that occasion. Even the weather man had been propitiously approached and made good his promise of fair and sunshiny weather. The day was a glorious one and we who were there all expressed the hope that Iberville and his companions had been blessed with such balmy and delightful weather when they first caught sight of the spot where they elected to land.

In truly idyllic manner as befitted the occasion and the event that was being commemorated the exercises were held in the open, on the gaily festooned and flag draped front gallery of a resident of Back Bay, who had kindly turned over the use of her premises to the authorities and to the hundreds, old and young, solemn and gay, pensive and carefree, who flocked to the scene in order to pay homage due and proper to the memory of the brave men, whose love of country and loftiness of soul and ideals had carried them safely through a perilous voyage and had enabled them to fulfill the wish of their King in effecting a landing and settlement in newly discovered Louisiana. The celebration was a splendid object lesson. It served to forcibly recall the great and heroic virtues of the early pioneers of Louisiana, men whose work and accomplishments when we ponder over them seem to us to have been gifted in their days with superhuman endurance; physical and mental.

There were several fishing smacks and small boats moored close to the beach, their occupants in picturesque and working attire resting on their oars and giving to the scene an added touch of poetic interest. Their presence reminded one most forcibly of the sea faring men who made up the expedition that Iberville had organized when he left Brest in the latter part of 1698 in order to take up the work that the unfortunate La Salle had never been able to complete through foul assassination at the hands of his disgruntled companions.

The military in their sober, olive drab, war like accoutrement were there, forming a guard of honor. The Gulf Coast Military Academy and the Naval Station Bands discoursed martial and stirring music between speeches and to give the vast assembly color in keeping with the event that was being celebrated,

missionary fathers from the far northern Canadian plains, on a visit to Pass Christian, mingled with the crowd and brought up recollections of the noble deeds accomplished by their predecessors in the early and difficult period of Louisiana colonization.

Col. R. P. McGehee in courteous fashion acted as master of ceremonies and introduced Father Spengler, a young stalwart son of America, who had seen service during the world war and who delivered a most beautiful and soul inspiring invocation, clad in his uniform of an army chaplain.

An invitation had been extended to His Excellency, Mr. Jusserand, Ambassador of France at Washington, to attend the function, but the arduous duties of the distinguished diplomat prevented him from being present and he had delegated in his stead the Honorable Charles Barret, Consul General of France at New Orleans, who delivered a most scholarly address in the harmonious language of his own country, in which he dwelt at length upon the life, character and wonderful achievements of the great Iberville, for whom he rightfully had but words of warmest praise and of whom he made a pen picture couched in most interesting and characteristic style. Mr. Barret's address was a notable contribution to the occasion and showed that he had most painstakingly studied the early colonial history of our country and was familiar with the many deeds of bravery and of endurance recited therein.

Scarce had he finished speaking when the "Marseillaise", France's immortal hymn, rang out in stirring and martial tones. It was sung by Mr. Charles Roche, formerly connected for several years with our late lamented French Opera. His voice resounded well nigh across the bay and was a most fitting climax to the address of the representative of France.

I was then introduced to the audience as your delegate and as the representative of Louisiana and of the City of New Orleans. When I had finished, "Dixie" as played by the combined bands brought forth its usual quota of cheers and joyful demonstrations.

A most appropriate poem written for the occasion by Mrs. Louise Hinsdale entitled a "Song for the Gulf Coast" was read, at the conclusion of which Dr. Dunbar Rowland, the very learned and efficient keeper of the archives and history of the State of Mississippi and an historian of considerable merit, read a most interesting and valuable address dealing mainly with the historic

events that were being commemorated, their significance and their influence in shaping the destinies of a vast portion of this country.

Mrs. J. T. Jones, widow of the man who had helped to make Gulfport the thriving maritime community of today and had been most instrumental in developing its industrial facilities, responded to addresses made by Col. McGehee and by Mayor Kennedy of Biloxi, both of whom eulogized the worthy lady and commented upon her generosity in connection with the erection of the boulder and as the bands again blared and the air resounded with martial music and cheers, the monument with a bronze tablet thereon bearing a most suitable inscription, was unveiled by Miss Sally Bowers, the most charming and accomplished daughter of former Congressman and Mrs. E. J. Bowers, who were likewise largely responsible for the success of the historic event.

And above it all there hovered the spirit of the dauntless and heroic Iberville, whose bravery, courage and devotion to King and country and whose invincible faith in his God had made possible the celebration. Like a golden eagle, with outstretched wings encompassing the entire scene, the indomitable spirit of this worthy son of a worthy sire soared above us, as it seemed, and looked down complacently upon the people who had assembled in large numbers under the moss covered trees that grew on the very shores when 221 years before had been enacted in simple but imposing fashion the deed that crowned the adventurous and most remarkable career of one whose motto throughout his life was that of the early Crusaders: For God and for Country.



## GAYARRE'S REPORT ON LOUISIANA ARCHIVES IN SPAIN

Edited by Henry P. Dart.

One of the items eagerly sought by collectors of printed matter concerning the history of Louisiana is the report made by Charles Gayarre, Secretary of State of Louisiana to the Legislature of 1850, concerning his official effort to obtain copies of Spanish documents of an historical nature regarding Louisiana during the period of the Spanish Dominion. This has been long out of print and it is practically inaccessible.

Miss Grace King has one of the original prints in her library and she has courteously consented to the use of the same by us. We feel that the time has come to reprint the same, as part of our archives. It should be added that since Gayarre's period a great deal has been done to put the Spanish archives in better shape and that Dr. J. Franklin Jameson, Director of the Department of Historical Research of the Carnegie Institution of Washington, hopes soon to have indexes and other data concerning these records accessible in Washington that will open much information to students of that period.

Report of the Secretary of State, On the State Library, Baton Rouge, 1850.

To the Senate and House of Representatives of the State of Louisiana, in General Assembly convened:

I have the honor to transmit to your honorable body the annexed document, marked A., showing the situation of the State Library for the year 1849.\* Of the money annually appropriated for the purchase of books, the sum of \$1,016.14 has been invested this year in the acquisition of 240 volumes. The balance, \$1.02 will be refunded to the Treasurer of the State.

On the eve of retiring from the office which I have filled for four years, it gives me satisfaction to have, either by purchase, exchange or otherwise, acquired some valuable and rare works for the State Library, which I shall deliver to my successor with

\* This has no present historical value, and we do not reprint it.—H. P. D.



an increase of 1091 volumes. I beg leave to recommend that the same annual appropriation of \$1,000 be at least continued, if not made greater. Under the liberal patronage of the Legislature, with proper management, and with the application of salutary regulations, I have no doubt that the State Library will become still more respectable, and worthy of its destination.

The boxing up and the transportation of all the books appertaining to the State Library has been a serious work, which the State Librarian has had to perform in addition to his ordinary duties. The salary, which consists in \$50 per month, has not been proportionate to the obligations of that office, and I beg leave respectfully to suggest that the regular salary be increased, and that an extra compensation, suited to the extra work I have mentioned, be granted to the present incumbent, who has always discharged his duties with zeal and ability.

I feel no small degree of satisfaction in informing your honorable body that I have lately received several bundles, containing copies of Spanish documents of an historical nature, for the procuring of which the State had made an appropriation in 1847. I have not had sufficient time to examine them, and to ascertain whether they are such as to meet the expectations of your honorable body. The document hereunto annexed and marked B, contains the correspondence which I had on the subject with Mr. Saunders, the U. S. Minister Plenipotentiary at the Court of Madrid. It is not destitute of interest, and gives the history of the many difficulties which had to be overcome to procure those documents. As you will see by the statements and accounts furnished by Mr. Saunders, the whole of the sum appropriated (\$2,000) has been disbursed, and I gather from the letters now submitted to your consideration, that we have a right to expect some more copies, which seem to have not been as yet ready when Mr. Saunders left Spain. The investigations made in the archives of that country are not complete, and further discoveries remain to be made. It is for your honorable body to decide whether an additional appropriation, to continue the researches already begun, would be judicious. I cannot but hope that you will come to the conclusion that any money employed in the elucidation of our history, would be a useful application of the public treasure.

In a report which, at the request of the Senate, I made in 1848 to that honorable body, and which was published with their journal, I demonstrated how defective was the organization of the department of State. The reformation which it demands is so necessary, that I deem it my duty to call your attention to that document. I hope that, if taken into consideration and acted upon, it will be the means of securing to my successor greater facilities for the discharge of his duties.

Respectfully submitted,

CHARLES GAYERRE,  
Secretary of State.

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APPENDIX TO FOREGOING REPORT.

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Starting with page 12 of Report of the Secretary of State, on the State Library, Baton Rouge, 1850.

B.

Correspondence annexed to the Report of the Secretary of State on the State Library.

Madrid, January 1, 1849.

Hon. Charles Gayarre, Sec. of State:

Dear Sir—I have duly received your favor covering a bill of exchange on Messrs. Baring & Co., at sixty days, and dated the 17th of November, to be applied to the expense of copying documents for the State of Louisiana.

I enclose a note just received from M. Gayangos, which will inform you as to the progress of the business. On his return to Madrid, you shall have a full account of his expenses. You will please inform me as to your wishes in having the documents forwarded—or would you prefer having them kept until the whole shall be complete? As it is my purpose to return to the United States in the course of the year, I might bring them with me, unless some safe opportunity should before accrue.

I am, etc.,

R. M. SAUNDERS,

Madrid, Oct. 21, 1848.

Hon. Chas. Gayarre, Sec. of State:

Dear Sir—I wrote you a few days since informing you of M. Gayangos' operations. Enclosed is a letter I have just received from him.

In my last, I requested you to forward as heretofore the balance of the appropriation, as it will be wanted. On M. Gayangos' return, you shall have accounts of his expenses.

Respectfully,

R. M. SAUNDERS,

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Sevilla, Fonda de la Union,  
August 31, 1848.

To R. M. Saunders,, Minister Plenipotentiary.

Sir—I have until now delayed giving you an account of my operations in this place, because I was told you were coming with the rest of the diplomatic corps.

After some delay, and in order to give the Chief Archivero time to look for and to bring out to me the papers, if any, which relate to Louisiana, I had the satisfaction to hear that there was a large room full of them, that came from Madrid in 1828. I was accordingly installed in the said room, and allowed to begin my search. I soon found that the papers were precisely in the same state as when they came from the capital, tied in bundles, most of which were not ticketed,—and without the least order of classification. I began, however, my search, and among a mass of useless trash, was lucky enough to discover, at the end of some days, some bundles or liasses, containing the correspondence of Unzaga, Navarro, Rendon, Morales, Miro, Carondolet, etc., who were either military governors or Intendents of Louisiana. I continued my researches, and was agreeably surprised to find part of the secret correspondence of Gen. Wilkinson, Dr. White, Col. Dunn, and other parties, who offered to annex Kentucky, Ohio, and other States, and were undoubtedly in the pay of the Spanish government, as may be fully proved by their own correspondence. Though these papers, as far as I can judge, are not complete, (some of the public officers at Madrid having neglected to send their contingent at the time,) I have no hesitation to say that much interesting matter may be selected from those

I now have in hand; and moreover, as on my return to Madrid, I shall not fail to look also in the archives of the War Office and in those of the *Suprimido Consejo de Indias*. I have no doubt we shall find there whatever is wanting here.

So far with regard to the papers themselves. With regard to my proceedings here, I deem it necessary to call your attention to the following facts. The papers, as I said before, are in the greatest possible disorder, no attempt having been made to classify them since they came from Madrid. Most of them have no other inscription but this: *Louisiana, Florida Occidental*; a few only have the year marked on the outside, in red letters, and the greater part, not to say all of them, contain such heterogeneous matter, that it requires a good deal of time and considerable patience to ascertain their contents. The archives are open only five days in the week, from ten to one. No transcripts are allowed except those made by the clerks of the establishment, and that according to a tariff which is more than double the price usually paid at Madrid.

The above circumstances will naturally retard my operations, and in order to examine 285 bundles and mark out what is worthy of transcript, it will be necessary for me to devote at least four months. In order to save expenses, I make, as I go on, extracts of such papers as are not sufficiently interesting to be transcribed at full. All together, and when the copies here being made are paid for, I calculate that it will cost about \$500, or one fourth of the sum allowed by the State of Louisiana; but, on the other hand, I feel confident that the documents obtained will be found to be highly interesting, and that, after this, the expense to be incurred at Madrid will be proportionately small.

Not knowing, for certain, whether you will decide to visit this place, I have thought proper to address you on this subject. I remain, etc.

PASCUAL DE GAYANGOS.

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Cadiz, 14th October, 1848.

To R. M. Saunders, Esq., Minister Plenipotentiary:

Sir—I write from Cadiz, where I have found in the Government archives some papers relative to Louisiana. It would appear, as they inform me, that they came here from the Island of Cuba, together with others about Florida, and were destined to

Seville; but either from the officer's carelessness, or some other cause, they were never sent to their destination, and here they are. As soon as I have ascertained whether there is anything in them worth transcribing, I shall go back to Seville.

Thinking that you may wish to write to M. Gayarre, I enclose you a copy of the letter which I wrote to you whilst in Seville, where I thought you were not coming.

About the end of the month, or beginning of next, I want more funds; but I will let you know in time.

Trusting that all your family are doing well, I remain, etc.,

PASCUAL DE GAYANGOS.

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New Orleans, January 6, 1849.

To R. M. Saunders, Esq., Minister Plenipotentiary:

Sir—I have received with great pleasure your letter dated, Madrid, October 21, 1848, enclosing two letters from M. Gayangos, by which I see that I am soon to be put in possession of a rich harvest of documents. I am expecting them with all the impatience of an historian who has become enamored of the subject on which his attention has been fixed so long.

In my letter of the 20th of November last, I informed you that I had transmitted to you directly, and to Messrs. Baring, Brothers and Co., of London, triplicate drafts drawn by Schmidt and Co., of this city, on John Louis Emme and Co., London, for 206 5-8 lb. sterling, of which I hope that you will soon acknowledge the receipt.

Very respectfully, etc.,

CHARLES GAYARRE.

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London, December 29, 1848.

To the Hon. Charles Gayarre, Secretary of State:

Sir—We have to acknowledge receipt of your letter of the 20th ult., enclosing a remittance on account of Mr. Romulus M. Saunders, U. S. Minister at Madrid, of 206 5-8 lbs. sterling, on J. L. Emmé & Co., for which we shall understand with him.

We remain, etc.,

BARING BROTHERS & Co.

Seville, December 25, 1848.

To R. M. Saunders, Esq., Minister Plenipotentiary:

Dear Sir—I suppose Mrs. de Gayangos has informed you of my trip to Gibraltar and the African Coast. Finding that, according to an old practice, the archives at this place were to be shut up to the public for three weeks, I availed myself of the opportunity to visit the African shores. I was absent about a month, the expense of which I shall not, of course, charge to Mr. Gayarre.

Your letter of the 25th of October was not delivered to me until a few days ago, when, hearing from Mrs. de Gayangos that you had written to me, I applied to the Post Office, and found that it had laid there for about six weeks. I see by its contents that you authorize me to draw upon you at three days sight for the funds I may require; but I shall not have occasion to do so, as, not knowing your intentions, I had taken my measures accordingly, and procured the sum required, engaging myself to pay the same on my return to Madrid.

I shall not, therefore, trouble you until I go back, which will be at the beginning of next month. Everything was finished, and I ready to depart by the 15th, when a sudden and unexpected discovery of some important papers obliged me to devote a few days more to their perusal, and the holidays coming on before I had finished my new task, I was unfortunately detained much longer than I expected. But, whoever has anything to do with Spanish affairs, must needs have patience and resignation, if he intends to accomplish his object. I cannot tell you the exact sum which I may require shortly after my return to the capital, as the chief archivero has not sent me his bill for the last two months, and I have agreed to pay the money into the hands of his brother at Madrid, but I presume the balance in my favor may be from 50 to 60 pounds sterling.

Believe me, etc.,

PASCUAL DE GAYANGOS.

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New Orleans, February 10, 1849.

To R. M. Saunders, Esq., Minister Plenipotentiary:

Dear Sir—I hasten to acknowledge the receipt of your letter of the 1st of January, enclosing one from Mr. de Gayangos, dated at Seville on the 25th of December last. I am delighted

at the information that his researches have been so very successful, and that he has again discovered some important papers.

As to your inquiry whether the documents already procured, shall be kept until the whole be complete, I think the best plan would be to send, by the first safe conveyance, whatever may be on hand. On your return to the United States, to which you allude, you might then bring with you either the balance, or whatever might be ready at the time.

I am exceedingly anxious to lay my hands on the long expected historical treasure; which I owe to your kind exertions, and to the enlightened researches of Mr. de Gayangos, to whom I beg to present my warmest acknowledgments.

I am, etc.,

CHARLES GAYARRE.

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Madrid, January 13, 1849.

To the Honorable Charles Gayarre, Secretary of State:

Sir—I herewith enclose M. Gayangos' statement of his accounts.

He informs me he has copied everything to be found in Seville,—that there are some of the papers not sent from here, which he will forthwith examine and have copied.

I am, etc.,

R. M. SAUNDERS.

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MR. GAYANGOS' ACCOUNT.

	reals
Received in May a draft on Messrs. O'Shea & Co. ....	5,000
Do. in August .....	7,050
Do. in Seville, \$239 3-4 .....	4,795
Do. in Madrid.....	1,000
	<hr/>
	reals 17,845
For three quarters salary at the rate of \$1,000 a year, from the 1st of April to the 31st of December, 1848	15,000
Journey to Simancas and back, including travelling and other expenses during an absence of 16 days .....	1,200
Journey to Seville and back .....	1,000

Extraordinary expenses during four months spent at Seville, from the 7th of August to the 7th of December, 1848, at the rate of \$1 1-2 per day .....	4,000
Discount on bank notes received in May, 6 p. c. on 5,000.	180
Do. on 7,050 received in August, at the rate of 3 1-2 p. c....	245
Paid for transcripts at Madrid .....	750
Do. at Simancas .....	800
Do. at Seville .....	3,600
<hr/>	
Amount of expenditure .....	26,855
Money received .....	17,845
<hr/>	
Balance due me .....	reals 9,010

Madrid, April 2, 1849.

To Honorable Charles Gayarre, Secretary of State:

Dear Sir—I herewith enclose two notes from Mr. Gayangos, that you may see the difficulties he has to encounter,—and how the matter stands at present. On the receipt of the first note, I called on the under Secretary of State, informed him as to what I had heard in regard to the order given by the Duke of Sotomayor, whilst Minister of State,—that the papers in the archives of the Foreign office should not be examined, because of their implicating in some way his father, whilst Minister in the United States. I told him in plain terms, unless I was allowed to have access to those papers, I should be under the necessity of addressing a strong note of remonstrance, to the Minister, stating the grounds of the refusal, and that I should send a copy of my note to the Governor of Louisiana. That I thought it much better the papers should be examined, and that copies of such alone should be taken as the Minister should not object to. I received, within a few days after, a note from the Minister of State, saying there were no papers in the Foreign office relating to the history of Louisiana, but that all such were to be found in the office of Grace and Justice, to which I should have free access. You will learn by Mr. Gayangos' last note what has been the result. I doubt not the papers which we are most anxious to get have been abstracted—but I shall not fail, if possible, to get those which relate to the Wilkinson affair.



I have said to Mr. Gayangos that you would feel greatly disappointed, should you fail to get everything to be had, and that for the sum appropriated. That I could not exceed that sum, and I yet hoped he might be able to accomplish it.

I still flatter myself that before I may leave for my return to the United States, we shall effect everything which may be practicable. I am, etc.,

R. M. SAUNDERS,

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March 11, 1849.

To R. M. Saunders, Esq., Minister Plenipotentiary:

Dear Sir—I have been engaged for the last two weeks in looking over the papers in the archives of the Foreign office. The archivero, for whom I have procured a letter of introduction, has been exceedingly kind, giving me every facility for investigation. Unluckily, the papers are now to be removed to another part of the palace, owing to the circumstance of a private theatre being built in the very rooms formerly occupied by the said archives, which circumstance has not only impeded my researches, but, I am afraid, will also render them exceedingly slow for the future. I mention this, because I wish you to take note of all the difficulties thrown in my way, and the consequent loss of time which they are daily causing me in the fulfilment of the duties which I have accepted.

I have, however, seen enough to convince me that all the secret papers concerning Louisiana are kept in these archives, and that Mr. Gayarre will have nothing to wish for, if we are allowed to penetrate into it. Of course, the archivero has only permitted me to look at the papers on the outside, saying, as I apprehended he would, that without a special order from the Minister, he could not take upon himself to let me take notes.

You know, as well as myself, the jealousy and mistrust by which the Spanish government is actuated in such matters. You know, also, that the Marquis of Casa Irujo would never grant the required permission, and I have been told that he gave strict orders to Senor Caballero, about the matter. Now, if you think that by making application to Senor Pidal, his successor in office, you can get admittance for me into these archives, you had better do it at once. But, if you are not sure of success, I had

better try what I can do myself. I will call on Senor Pidal, and tell him that I am engaged in writing a history of French Louisiana; perhaps I will raise no suspicions, and we shall obtain what we want. Whatever you determine upon, I shall be glad to know it as soon as possible, in order to lose no time, and etc.

PASCUAL DE GAYANGOS.

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March 31, 1849.

To R. M. Saunders, Esq., Minister Plenipotentiary:

Dear Sir—I have been lucky enough to discover, among a mass of papers laying in the greatest possible confusion, in the office of the Ministerio de Gracia y Justicia, Seccion de Indias, to which I had free access, duplicates of some of the very papers which I saw in the office of Foreign affairs, and which have been denied to us. Of course, I have not found the correspondence of Martinez de Irujo, our Minister in the United States, between the years 1765-78, or that of his successor, Gradoqui, nor the papers which are missing upon the secret negotiations of Brigadier General Wilkinson with the Court of Spain.

The state of those archives, I am sorry to say, is lamentably bad as any I have yet seen. Great masses of papers, thrown confusedly on large deal tables, or covering the floors of wide, desolate rooms no indexes whatever, and the clerks as ignorant of Louisiana affairs, as if that State had never formed part of the Spanish monarchy. I have, however, gained the principal point, which is free access to the papers and permission to take with me a scribe, to take such transcripts as may be necessary; although I apprehend that, owing to the confusion I allude to, it will give me immense trouble, and will take much more time than I anticipated. The archives, moreover, will be shut till after Easter.

As the sum appropriated by the State of Louisiana may not be sufficient to cover all expenses; and it is not probable that a fresh grant is made, as I recollect my having told you at one time that I considered the \$2,000 voted quite sufficient for all purposes, I am willing to go on, working gratis, and to have transcripts made at my own expense, should the investigation which I am now making in the archives of Gracia y Justicia de Indias produce more materials than the funds in your hands would afford transcribing, and so forth; for, owing to the dila-

tory proceedings of our blessed government, (I would rather call it disgovernment), owing to the number of archives scattered over the country, and last, not least, owing to the ignorance of archiveros, I cannot but help thinking that much time has necessarily been lost which might otherwise have been most usefully employed, had all the papers been together in the same place, and kept with anything like order—and although it is no fault of mine nor of yours, yet I consider myself bound to make this sacrifice in behalf of the State of Louisiana.

I enclose the account for the last quarter, and shall feel obliged if, after your perusal and approbation of the same, you send me a cheque for the amount.

I remain, etc.,

PASCUAL DE GAYANGOS.

	reals.
Received on the 20th of February, on a cheque on Messrs.	
O'Shea .....	1,000
For a quarter's honorary, at \$1,000 a year .....	5,000
Paid for transcripts and paper .....	1,425
Carriage of a package from Seville by coach .....	39
Total .....	6,454
Deduct .....	1,000
Balance due .....	5,454

New Orleans, La., May 24, 1849.

To R. M. Saunders, Esq., Minister Plenipotentiary:

Dear Sir—I have the honor to acknowledge the receipt of your letter of the 2d of April, in which you inform me of the difficulties which Mr. de Gayangos has still to encounter. He has already overcome many obstacles, and I hope that those which continue to be in his way will not prevent him from executing the task he has undertaken, as completely as may be desired by the State of Louisiana. I cannot understand the objection which the Duke of Sotomayor has to the examination of the correspondence of his father, whilst Minister of Spain to Washington. That, in connection with the province of Louisiana, his father should have favored the interests of Spain in preference to those

of the United States, is but what was to be expected from a Spanish Minister. It was his duty; and the proof of it, far from committing his memory, would raise it higher in the estimation of his countrymen, and could not be resented in this country. We are too patriotic not to appreciate patriotism in others. I still hope that the contracted view taken of this matter by the Spanish ministry, will not be of long duration, and that Mr. de Gayangos will in the end be allowed to make as full an investigation in the archives as may be necessary for our historical purpose. The information which I have received that the transcript of valuable papers have been made is highly interesting, and I am very anxious that all the copies on hand should be transmitted as soon as possible. I am, etc.,

CHARLES GAYARRE.

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To the Hon. Charles Gayarre, Secretary of State:

Dear Sir—The enclosed letter from Mr. Gayangos I have this moment received. You will see what he says. I have only to remark that I think for the first quarter he did very little—so that in fact, that should be considered. I have told him I cannot bind you for any further payment; that when the whole business was complete, the Legislature would be able to decide what would be right. You will say whether I am to give the price, or what sum, for the work referred to, should the author consent, in discharge of it.

As I do not expect to leave before September, I may possibly get your answer. If not, I would leave authority with my successor to open it, and follow your directions. I shall likely send the manuscripts with my own baggage, to New York, where I shall leave them, or have them sent over to you. I have paid to Mr. Gayangos the balance in my hands. A full statement shall be sent to you when the matter is closed.

R. M. SAUNDERS.

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Madrid, July 13, 1849.

To R. M. Saunders, Esq., Minister Plenipotentiary:

Sir—According to your directions, I have placed in Mr. Sawyer's hands that portion of the Louisiana papers which are now ready, being chiefly selections from Seville and Simancas. I still retain some by me, as I find I must refer to them occasion-

ally. I would have sent them much sooner,—indeed almost immediately after you expressed that wish,—had I known then where Mr. Sawyer was lodging, but on calling at his old rooms in the Calle de Peligros, I was told that he had left, without any reference to the place of his removal, and I naturally concluded he was in Aranjuez.

That gentleman tells me that your departure being now postponed till September, you wish, if possible, to have all the papers for the end of the next month, in order to take them with you to America. How soon the work of revision and selection in which I am now engaged may be completed, I cannot exactly say, but I do not think it can be done before the middle of October, owing to many reasons,—first of all, I find that the archives are about to be shut for three weeks, being what is called summer vacations. Secondly, this department seems to contain as much interesting matter as any I have yet visited. Thirdly, the papers themselves are in greater confusion than either at Seville or Simancas, being chiefly remnants of the various colonial offices which ought long ago to have been sent to Seville, but here remained behind by some unaccountable event. Fourthly, the keeper hardly knows himself what papers he has under his care. Every second day I find on my table a large bundle of papers, most times without any label or ticket attached to it, and when that one is examined and disposed of, another is brought in, without the least order as to chronology or subject.

You may easily conceive, that under such circumstances, and there being not at these archives any sort of register book, or index to the Louisiana papers; which, by the way, are always mixed with those of Florida, so that I have always to separate them,—it is impossible for me to calculate the extent of the work to be done, and therefore, how long I may be employed about it. All I can say is, that I shall use all diligence and speed; indeed, it is my interest to do so, for as you will find by the enclosed, being an account of the expenses incurred in the last quarter, I am actually working without remuneration at all, and I will continue to do so for some time to come, besides having to pay out of my pocket all expenses of transcribing, porter's fees, etc., which will form on the whole a considerable sum.

As I had once the honor of proposing to you, having perhaps imprudently engaged myself to complete the examination

and inspection of this department, (*Gracia y Justicia de Indias*). I consider myself in duty bound to complete the same, whatever may be the personal inconvenience and expense resulting from it. But at the same time I do not feel myself obliged to do the same in the archives of the Foreign department, should an order for admission be at last granted, as I have some reason to believe it will be hereafter, on my personal application. Nor do I feel bound to make any further investigations than those actually going on, and which, you may rely on it, will be done in conscience, and as accurately as if they were for myself.

I lay a stress on this circumstance, because, as I said before, I have some hopes of getting, at a future period, admission to the foreign department, and will perhaps furnish you with a list of the papers relating to Louisiana, which are to be found there, and which you were officially informed did not exist in the archives of that office; and I may, likewise, have access to a private collection of original papers, belonging to a descendant of one of the governors of Louisiana, among which there is, I am told, an excellent history of Louisiana, written in French, by a gentleman of the name of Senlis,\* in his own hand writing; being original, and never printed. The gentleman I allude to resides at Cuenca, and is now travelling in France. He is not expected till the end of the year; but when he does return, I will communicate with him, and ascertain whether he wants to part with the said papers, and what price he wants, and I shall not fail to inform Mr. Gayarre of the result. But should the owner of the papers refuse to part with them, and consent only to allow the perusal and copying of the same, I do not consider myself bound to incur any more expenses, or do any work, without an adequate remuneration. This being understood, I will finish what I have in hand, and if, on the 1st of September, I should find that all the papers are not yet transcribed, I will only give you what I have, trusting to another opportunity for the departure of the remainder.

My Account for the last quarter is 4021 reals—but as there only remains of the appropriated money in your hands 2641 reals, I must, of course, be contented with that. If my account of the sums received of you at different times be right, and I beg you

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\* In the margin of the printed copy we are following, the name Pontalba is written opposite this name.

to collate it, and rectify the mistake, if any. I will feel obliged by your remitting the said balance, whatever it may be.

I remain, etc.,

PASCUAL DE GAYANGOS.

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Washington, November 14, 1849.

To the Hon. Charles Gayarre, Secretary of State:

Dear Sir—I have the pleasure of informing you of my having shipped by the steamer Ohio, which sailed from New York on the 13th inst., a box containing the documents as collected by Mr. Gayangos. I flatter myself you will receive them in due time, and if they shall answer your expectations, I shall feel fully compensated for any trouble I may have had in procuring them. I forward a statement of the payments.

With great respect, etc.,

R. M. SAUNDERS.

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R. M. Saunders, in accounts, etc., etc.:

May, 1848. To bill on Baring Brothers & Co., received from Mr. Charles Gayarre.....	\$1,000.00
1849. Do. on J. L. Emmé & Co.....	1,000.00
	<hr/>
	\$2,000.00
May, 1848. By cash paid to Mr. Gayangos .....	250.00
August, do. ....	352.70
September, do.....	239.25
Loss of Exchange .....	3.15
November 8, By cash, do. ....	50.00
January, 1849, By cash .....	450.30
February 15. ....	50.00
March .....	272.70
April .....	200.00
July .....	125.00
	<hr/>
	\$1,993.10
By expenses on box .....	6.90
	<hr/>
	\$2,000.00

New Orleans, Nov. 26, 1849.

To R. M. Saunders, Esq., Washington City:

Dear Sir—It gives me pleasure to acknowledge the receipt of your letter of the 14th inst., and of the box containing the documents collected by Mr. Gayangos. Being busily engaged in the transfer of the seat of government, which must be removed this week to Baton Rouge, I have not had time to look into those documents. They shall be laid before the Legislature at its regular session in January next, and I have no doubt that your services will be fully appreciated by that body. I cheerfully tender you my thanks for the very courteous manner in which you have received my applications to you on behalf of the State, and for the ability and untiring zeal with which you have carried on the negotiations which it became necessary for you to have with the Court of Spain.

I am, etc.

CHARLES GAYARRE.

P. S. I shall be under obligations to you for informing me whether the box I have received contains all the documents I am to expect.





RECORDS OF THE SUPERIOR COUNCIL  
OF LOUISIANA

XII

- April 2, 1728. **Petition for Redress for Libel.** Mr. Estienne, charged with examining accounts of the former administration, found some shortage of provisions in the account of Mr. Lassalle, who retaliates by imputing irregular dealing to Mr. E. Let Mr. Lassalle be cited to meet this complaint, and to make due reparation unless he can prove his allegations.  
Action forward.  
2pp.  
No. 28<sup>37</sup>
- April 3, 1728. **Acknowledgment of Debt.** Cariton owes Mr. Voile the sum of 33 francs and promises to pay in seven weeks.  
Slip.  
No. 24<sup>38</sup>
- April 3, 1728. **Remonstrance.** Duval asks Mr. Rossard to answer for him in the suit brought by Madame Mortiere, that he never refused to pay but is ready to pay on due discharge from action of seizure.  
Slip.  
No. 28<sup>39</sup>
- April 3, 1728. **Petition to Recover Fees.** Mr. Lassus moves for citation of settlers who owe fees to him.  
lp. 4.  
No. 28<sup>40</sup>.  
(He was formerly Company Surveyor.)  
Action granted.
- April 4, 1728. **Money Order.** Mr. Lagarde asks Mr. de Chavannes to pay Mr. Bourbeau the sum of 207 francs, less what he owes to de Charmont grant.  
Slip.  
No. 28<sup>41</sup>.  
April 26. Subscribed by De Chavannes in favor of B.
- April 6, 1728. **Petition in Remonstrance.** Claude Trenaunay Chanfret, director of DuBuisson grant, having been cited at the instance of Mr. Francois DuBuisson, with reference to De Verteuil's accounting, objects that he, C. T. C., has nothing to plead with Mr. D. B., and protests at the loss of time and at other inconvenience thereby occasioned. Let Mr. D. B. be cited to pay costs and damages, and be non-suited in his demands.  
3pp.  
No. 28<sup>42</sup>.  
Approved and notice served. (Mr. C. T. C.'s case with De Verteuil has been submitted for arbitration.)  
See 27<sup>81</sup>, 28<sup>29</sup>,  
28<sup>31</sup>, 28<sup>45</sup>,  
28<sup>104</sup>.

- April 7, 1728. **Petition for Recovery.** Pierre Martinot claims 24  
1p.  
No. 2843.      francs for board furnished to St. Leger while he  
worked for the Company.  
Let St. L. be cited.  
Action allowed.
- See 2844.  
April 7, 1728. **Petition for Recovery.** Pierre Martinot further  
1p.  
No. 2844.      claims a debt of 36 francs contracted by St.  
Leger, but payable by one Nouet, seeing that  
St. L. gave N.'s note for 36 francs to P. M.  
Nouet refuses to pay; let him be cited, and  
and seized of said sum.  
Granted. Seizure at petitioner's risk.
- See 2843.  
April 9, 1728. **Petition in Remonstrance.** Mr. de Verteuil,  
3pp.  
No. 2845.      among other grievances adduced against Mr.  
Francois DuBuisson, pleads that D. B. made  
off with the only dugout of D. B. grant, thereby  
forestalling DeV. in lodging complaint at N. O.  
in good season for defending his cause at the  
time when he was deposed, besides entering suit  
for attack on himself and Madame DeV. by  
D. V. In sum, DeV. moves to render account,  
not on D. B.'s faulty basis, but according to  
inventories correctly prepared by DeV.  
Notice served to Mr. DuBuisson.
- See 2842, 2892.  
April 10, 1728. **Decisions Rendered in Cases of**  
No. 2944.      Etienne *vs.* Lasalle.  
Trenaunay *vs.* de Verteuil.  
Guenot *vs.* Raguet.  
Duval *vs.* Rossard.  
Signed: "Prr" "Del" paraph of Brusle.  
paraph of dausseville. "P."  
Document ink eaten and torn. 1½pp.
- April 12, 1728. **Power of Attorney** granted to Sr. Nicolas Henry by  
No. 295.      Sr. Trenaunay de Chanfret, Director of Du  
Buisson Concession. Passed in presence of  
Bernard Dargaray, sheriff of the Council.  
Signed: "Trenaunay Chanfret," "Droy",  
"Rossard" ntry, "Dargaray".  
1½pp. Edges torn.
- April 13, 1728. **Petition to Recover Court Dues.** Mr. Rossard  
1p.  
No. 2846.      moves to collect 80 francs from Mr. Dugue,  
due on a mattress (at sale of Mr. Dupuy  
Planchard's goods), and 20 francs on a marriage  
contract.  
Action allowed.

- April 14, 1728. **Petition of Recovery.** Langlois, tailor, claims the sum of 107 francs from Babaz, on a note which B. refuses to pay.  
1p.  
No. 2847. Action allowed.
- April 19, 1728. **Summons to Court.** At the instance of Madame Louise Jousset La Loire Manade, Sheriff Dargaray notifies Pierre De Manade to appear for hearing on Saturday next, 8 A. M.  
1p.  
No. 2848.  
See 2833, 2850.
- April 20, 1728. **Petition in Settlement of Estate.** Jean Baptiste Raquet, in view of his wife's decease, asks leave to take an inventory of their joint property; and he would also have a surrogate guardian appointed for their minor children.  
1p.  
No. 2849. Approved: Delachaise.
- May 1, 1728. **Summons to Testify.** At the instance of Mr. Claude Herpin, attorney for Mr. Perraut, Sheriff Dargaray notifies Messrs Perillaux, de la Renaudierre, Joseph Milon and Christophe Rozimond to appear tomorrow at 8 A. M. before Mr. Brusle, to testify concerning some concealed or harbored stolen goods of the Rottot estate.  
1p.  
No. 2850.  
See 2866.
- May 3, 1728. **Petition to Recover Court Dues.** Mr. Rossard claims residue account of 119 francs from Mr. Bimont and his wife for sundry fees.  
1p.  
No. 2851. Action allowed.
- May 4, 1728. **Petition for Recovery.** Babez moves to collect a board account of 60 francs and 13 sous from Sieur Langlois.  
1p.  
No. 2852. Action allowed.
- May 5, 1728. **Petition in Arbitration Proceedings.** Mr. Lalande Dalcour, sometimes Colonial Treasurer, moves for citation of Officer Dupuy Planchard, that he may witness the ratification of an arbitration sentence rendered between him and the petitioner by Messrs. de Coustillas and Broutin on April 19, 1727.  
1p. 4.  
Nos. 2853.  
See 27116, 2754.
- May 7, 1728. **Agreement to Arbitration Sentence.** Foregoing petition is first repeated, and then subscribed by Dupuy Planchard, to the intent that he consents to said sentence.  
1p. 4.  
No. 2854.  
See 2853.
- May 10, 1728. **Receipt for Hire of Slaves.** Lagarde has received of Mr. Senet the sum of 200 francs for hire of negroes to work on de Chaumont grant. Money to be used for Mr. L.'s passage to France.  
Slip.  
No. 2855.

- May 12, 1728. **Remonstrance.** Charles Droy, trustee of Millon minors, answers the objections proposed by Mr. Delachaise, and contends that the negro in question clearly belongs to the Abbe D'Arquevaux's estate, and therefore by bequest to Madame veuve Millon, deceased, and now to her heirs. Anyhow, the LeBlanc grant is indebted to Abbe D's estate to net sum of 1005 francs, irrespectively of negro.
- 2pp.  
No. 28<sup>56</sup>.  
See 27<sup>2</sup>, Feb. 20, 1727.  
28<sup>57</sup>, 28<sup>73</sup>.
- Closed. **Account Current.** Statement of Abbe D'Arquevaux's transactions with Le Blanc grant. His debit, 1045 (†) francs; credit, 2711†. Balance credit, 1665f.† (deduct value of disputed slave, 660 francs, and net credit stands 1005 francs.  
February 26, 1721 - August 14, 1722.
- May 15, 1728. 2pp. 4.  
No. 27<sup>57</sup>.  
See 27<sup>56</sup>.
- May 22, 1728. **Motion for Trial of Prisoner Bourguignon.** Attorney General Fleuriau reports on the persistent offences, and now recent crime, of one Melun alias Bourguignon, arrested for larceny of some bacon, and assault with knife, on one Winant, who caught him in the act of larceny at Coupart's.
- 1p.  
No. 28<sup>58</sup>.
- 28<sup>58a</sup>.  
See 28<sup>60</sup>.
- Trial allowed: Delachaise. Hearing before Councillor Brusle. Winant to be visited by the Surgeon Major.
- May 22, 1728. **Separation Suit Still Pending.** Council orders Madame Louise Jousset La Loire and Mr. Pierre Manade to produce their proofs before Councillor D'Auseville.
- 1p. 4.  
No. 28<sup>59</sup>.  
See 28<sup>33</sup>, 28<sup>78</sup>.
- Costs reserved.  
Notice served to P. M.
- May 22, 1728. **Summons to Testify.** Sheriff Dargaray notifies Coupard and his wife to appear "today at 2 P. M." for hearing in regard to the assault on one Vinante.
- 1p.  
No. 28<sup>58a</sup>.  
See 28<sup>58</sup>.
- May 24, 1728. **Surgeon's Report.** Surgeon Major Pouyadon De Latour certifies that he has visited one Vignant whom he found wounded on the left arm and on the lower abdomen, left side. Thus far no inflammation or fever.
- 1p. 4.  
No. 28<sup>60</sup>.  
See 28<sup>58</sup>, 28<sup>61</sup>.
- May 24, 1728. **Petition of Mercy.** Marie Fontaine, wife of Jean Melun alias Bourguignon, reminds the Council that nearly two years ago she lodged a request showing that unless her husband were sent back to France he might come to grief, being demented and also subject to strong drink. She urges
- 1p. 4.  
No. 28<sup>61</sup>.  
See 28<sup>60</sup>, 28<sup>67</sup>.

that his recent offence was moved by this two-fold infirmity. Not for his sake, since he is unworthy, but on her account, she begs the Council to waive condemnation and allow his return to France. She will pay the fare and also the medical bill and food bill of the wounded man.

No note by Court.

May 26, 1728. **Petition to Collect a Bequest.** Jacques Rozier, knocker, moves to collect an account owing to Jean Rozier by the Swiss Company. Jean's will is adduced showing that Jacques should receive the said account.

Attorney General Fleuriau sanctions this claim, and orders it paid, Seconded by Council. Costs divided.

May 28, 1728. **Petition of Recovery. Pitre Estate.** Jacques Chesnier, husband of Isabella Pitre, complains that his wife's mother, widow of one Pitre who

who died at Biloxi, refuses to fulfil her promise of giving a dowry to Jacques and his wife; and furthermore, now that the said mother-in-law, "Isabella the fat Fleming," has married again, with one Jacquet, she withholds their portion of inheritance in Pitre's estate, and keeps removing some of the goods. Let the goods be secured on inventory basis.

Action allowed.

May 28, 1728. **Petition for Prompt Settlement.** Joseph Lazou, executive for the late Francois Deserboy, has been obstructed in his accounting by Mr. Provost, bookkeeper. Let the withheld accounts be produced, and the terms of the will executed.

Attorney General Fleuriau authorizes due execution subject to a proviso in regard to "the negress."

May 29, 1728. **Decision in Marriage Settlement Suit.** Jacques Chesnier and his wife Isabella vs. Jacquet and his wife, Jacquet in default. Madame J. shall produce all goods belonging to herself and to her first husband, according to inventory thereof; and plaintiffs may seize all goods which have been diverted, that these may be listed and divided.

Notice served to Jacquet and his wife, May 29, 1728.

- May 29, 1728. **Petition to Prosecute for Embezzlement.** Claude Herpin, attorney for Mr. Perault, relates a long list of irregular dealings on the part of one Place, who had been empowered to act as alternate for one Rottot, massacred by the Foxes, in March, 1726, while trading in Missouri. Among other glaring instances of fraud, Place returned wage receipts for massacred companions of Rottot. The latter's goods, if Place's false reckoning were to be trusted, must have been dissipated to the sum of 25,000 francs in half a year; but it so happened that Rottot's account book (lacking some credit pages) was saved at the time of the massacre, and affords correct insight into his transactions. Procedure besought and granted.  
Document well written and intactly preserved.
- May 29, 1728. **Proposed Articles of Inquiry in Embezzlement Suit.** Councillor Brusle, commissioner in the case is requested to examine the witnesses on certain adduced articles, in addition to the facts enumerated in plaintiff's petition of May 29, 1728. Articles turn in various operations in buying and selling, and reflect sundry stock attributes of backwoods trade in those times.  
Well written and preserved intact.
- May 29, 1728. **Decision Against Bourguignon.** Attorney General Fleuriau finds Jean Melun alias Bourguignon convicted of "assault and excesses and stabbing"; and condemns him to be whipped at the crossings of this town by the public executioner, and thereafter to perpetual banishment.  
Costs on culprit.
- May 30, 1728. **Summons of Witnesses.** Sheriff Dargaray notifies twenty designated persons to appear tomorrow at 8 A. M. to testify before Councillor Brusle concerning the concealment and diversion of goods in Illinois, belonging to Rottot estate.
- May 30, 1728. **Summons in Embezzlement Suit.** Similar notice to that on preceding card, served to witnesses St. Laurent, (soldier), Sansfacon, Becquet and his wife.
- June 1, 1728. **Interrogatory of Sr. Langlois,** witness in the plot to go over to the English, and for that purpose stealing the long boat.  
Signed: "Langlois."
- May 29, 1728. 11pp.  
No. 28<sup>66</sup>.
- See 28<sup>50</sup>, 28<sup>66a</sup>,  
31<sup>85</sup>.
- May 29, 1728. 3pp.  
No. 28<sup>66a</sup>.
- See 28<sup>66</sup>.
- May 29, 1728. 1p.  
No. 28<sup>67</sup>.
- See 28<sup>61</sup>.
- May 30, 1728. 1p. 4.  
No. 28<sup>68</sup>.  
See 28<sup>66</sup>, 28<sup>69</sup>.
- May 30, 1728. 1p.  
No. 28<sup>69</sup>.  
See 28<sup>68</sup>.
- June 1, 1728. 2pp.  
No. 307.

- June 2, 1728. **Interrogation of Baron de Hombourg**, witness  
2½pp. in the plot to go over to the English.  
No. 308. Signed: "Baron de Hombourg", "Brusle,"  
(paraphe), "Rossard," (paraphe), clerk.
- June 2, 1728. **Interrogation of Vincent Woman**, named Jeanne  
3½pp. Carroy, accused of being in the plot to go over  
No. 309. to the English.  
Signed: "Brusle," (paraphe); "Rossard,"  
(paraphe), clerk.
- June 2, 1728. **Interrogation of Langlois**, accused of being in the  
2½pp. plot to make away with the long boat and go  
No. 313. over to the English.  
Signed: "Langlois," "Brusle," (paraphe);  
"Rossard," (paraphe), clerk.
- June 2, 1728. **Interrogation of Marmilliau**, soldier, witness in  
1½pp. case of plot to steal the long boat and go over  
No. 310. to the English side.  
Signed: "Rossard," (paraphe), clerk; "Brusle."
- June 2, 1728. **Interrogation of Claude Babaz**, accused of being  
1½pp. in plot to steal the long boat and go over to the  
No. 311. English side.  
Signed: "C. Babaz," "Brusle," (paraphe),  
"Rossard," (paraphe), clerk.
- June 2, 1728. **Interrogation of Baptiste** concerning plot to steal  
2pp. long boat and go over to the English side.  
No. 312. Signed: "Brusle," (paraphe), "Rossard,"  
(paraphe), clerk.
- June 3, 1728. **Interrogation of Kelly** in criminal prosecution of  
1½pp. those concerned in plot to steal the long boat  
No. 314. and go over to the English side.  
Signed: "Brusle," (paraphe); "Kelly," "Ros-  
sard," (paraphe), clerk.
- June 3, 1728. **Interrogation of Jacques** accused of being in plot  
2pp. to steal the long boat and go over to the English  
No. 316. side.  
Signed: "Jacques," (paraphe); "Rossard,"  
clerk.
- June 3, 1728. **Interrogation of Vincent**, sargeant of the guard,  
2½pp. brought to the registry by four fusilleers, ac-  
No. 317. cused of participating in plot to steal the long  
boat and go over to the English.  
Signed: "Vincent," "Brusle," (paraphe),  
"Rossard," (paraphe), clerk.

- June 3, 1728. **Interrogation of Bonn, an Englishman, in the**  
 2pp. service of Sr. de Castillon, accused of participat-  
 No. 315. ing in plot to steal long boat and go over to the  
 English side.  
 Signed: "Rossard," (paraphe), "Brusle,"  
 (paraphe).
- June 3, 1728. **Petition to Restrain Spendthrift Husband.**  
 3pp. Marie Magdelaine de La Tour shows that her  
 No. 2870. dissolute husband, unless restrained by Court,  
 will waste all their joint property. She has been  
 obliged to take refuge with one Robert and his  
 wife, and urges the Council to intercept her  
 husband (Jean Antoine Maslon) from control of  
 certain sale proceeds: 1800 francs for cattle  
 sold to Mr. D'Auseville. Madame is at pres-  
 ent enciente, and she also claims an allowance of  
 600 francs a year.  
 Action forward.
- June 4, 1728. **Summons of Witnesses.** Notice served to Pierre  
 1p. 4. Schmit and to Schmit his brother, and to one  
 No. 2811, Bidat, to appear before Councillor Brusle to  
 testify concerning "the facts of desertion,  
 plots and rioting."  
 See 2875.
- June 4, 1728. **Petition to Recover Bond.** Bourbeau had left  
 1p. with Mr. Morisset an order for four jugs of olive  
 No. 2872. oil, signed by Bonneau, guard of stores, But  
 Mr. M.'s papers came to be put under seal, and  
 are still sealed. Let Bourbeau recover his  
 aforesaid order.  
 Note by Court.
- June 5, 1728. **Decision in Case of Disputed Slave..** Attorney  
 2pp. General Fleuriau pronounces that the alleged  
 No. 2873. will of Abbe D'Arquevaux is void, because un-  
 signed, and hence the Abbe died intestate be-  
 fore the law. In any event, it is clear that the  
 Le Blanc grant has no right to the slave in  
 question. Let the slave be sold at auction and  
 the proceeds be held by attorney of vacant  
 estate, for benefit of heirs if any present them-  
 selves. Hire of slave shall also be collected from  
 time of the Abbe's death.  
 On the statement of Mr. Delachaise that said  
 slave was sold to the grant, Council awaits re-  
 port of such sale.  
 Costs reserved.
- June 5, 1728. **Sentence for Selling Alcoholics to Slaves.**  
 2pp. No. 2874. Formal repetition of the ruling announced on  
 See 2875. succeeding card.



- June 5, 1728. **Fine Imposed for Selling Intoxicants to Slaves.**  
 1p. On the testimony of Indian slaves Guillory,  
 No. 2875. Jean Baptiste and Bontemps, the Attorney  
 General recommends further procedure to as-  
 certain precise facts of the case. Fine of 20  
 francs in favor of Hospital, if accused retailers  
 Lemaire and Ozaune are found guilty.  
 Council after due procedure, imposes the said  
 fine on each delinquent, and orders the ruling  
 published.
- June 5, 1728. **Law Forbids the Sale of Alcoholics** to slaves, ex-  
 See 2874. cept on order from owners.
- June 7, 1728. **Summons to Testify.** Sheriff Dargaray notifies  
 1p. Mr. Pellerin guard of Company stores, and Mr.  
 No. 2876. Trudeau, settler on the River, to appear at 8  
 See 2871, 2875. A. M. before Mr. Brusle for hearing in regard to  
 the desertion of Indian slaves, and robbery by  
 the same.
- June 14, 1728. **Capital Sentence on Indian Slave.** In review of  
 1p. criminal procedure against Indian slave prison-  
 No. 2877. ers Guillory, Bontemps and Jean Baptiste,  
 See 2875, 2876. Attorney General Fleuriau finds Bontemps con-  
 victed of aggravated desertion and robbery, and  
 condemns him to be hanged and strangled:  
 being first appraised by two reputable inhabi-  
 tants. Guillory, for twice deserting, shall be  
 publicly flogged, and shall attend Bontemps to  
 the gallows.
- June 16, 1728. **Adjournment in Separation Suit.** Sheriff Dar-  
 1p. No. 2878. garay notifies Pierre de Manade that the de-  
 See 2859, 2879. layed hearing will still be adjourned one week.
- June 18, 1728. **Remonstrance in Separation Suit.** Pierre de  
 1p. Manade answers "that it is not necessary for  
 No. 2879. the honor and reputation of the one and the  
 See 2878, 2880. other, to make the respective inquiries." He  
 consents to separation of goods, but insists on re-  
 taining dowry; being zealous for the general  
 morals of matrimony. Were dowry surrendered  
 and board allowance granted, then plenty of  
 other wives might desert their husbands and  
 live possibly in disorder. Let Madame be non-  
 suited, and her dowry mortgaged in security of  
 the debts they have incurred in common or at  
 least for a part of the same.  
 No note by Court.
- June 19, 1728. **Judgment Rendered in Suit of Mrs. de Manade**  
 No. 324. vs. her husband for separation of property.  
 Signed: "Perier," "Del," "Dlle."

- June 22, 1728. **Summons to Attend Hearing.** Sheriff Dargaray notifies Mr. Dalcourt, Madame Trudeau, Captain Dutisne and Madame Raquet to appear in the proceedings moved by Madame de Manade, in separation suit.  
1p. 4.  
No. 28<sup>80</sup>.  
See 28<sup>79</sup>, 28<sup>81</sup>.  
Notice likewise served to Pierre de Manade.
- June 24, 1728. **Inquiry Made at Request of Mrs. de Manade.**  
No. 321.  
Signed: "Morisset." "Dausseville." "Rossard," clerk.
- June 28, 1728. **Pierre Dargaray, Sheriff, Serves Notice of Citation** on Pierre Manade in person, at his domicile.  
Signed: "Dargaray."
- June 25, 1728. **Notice in Separation Suit.** At the instance of Madame Louise Jousset La Loire, Sheriff Dargaray notifies her husband Pierre de Manade of the names, surnames, age, status and domicile of the witnesses heard on Madame's behalf. Let him challenge now, if he will, or else lose his plea.  
1p.  
No. 28<sup>81</sup>.  
See 28<sup>80</sup>, 28<sup>85</sup>.
- July 6, 1728. **Petition of Recovery.** Director de Loire, of Destinsas grant, claims a debt of 150 francs against one Tiedor, formerly hired by said grant. Acknowledgment dates back to Feby. 21, 1719. Let T. be cited. He contracted this debt in exchange for his former service.  
1p.  
No. 28<sup>82</sup>.  
Approved, and notice served.
- July 7, 1728. **Remonstrance and Rejoinder.** Jacques Roman came to this country under contract with Du-Buisson grant, and finds himself interdicted by Mr. Trenonnay de Chanfret, director. Let Mr. T. be cited to justify so serious an impeachment.  
2pp.  
No. 28<sup>83</sup>.  
Approved and notice served.  
Mr. T. answers that he not only has full powers of interdiction, but that J. R. proved negligent and merited such action. Besides, Mr. T. has other objections and grievances against J. R., which he will transmit to proprietors of the grant.  
Notice given to J. R.
- July 8, 1728. **Renunciation of Community** between Sr. de Manade and his wife by the said wife, Louise Jousset de la Loire.  
No. 326.  
Signed: "Louise La Loire," "Rossard," clerk.

- July 8, 1728. **Petition of Recovery.** Sieur Alexandre, surgeon  
1p.  
No. 28<sup>84</sup>. Major of this town, claims 298 (deux cents nonante-huit) francs from Ste. Reine grant, duly avouched, but refused by Mr. de Kolly. Let the latter be cited.  
Approved and notice served.
- July 9, 1728. **Notice of Impending Judgment.** Sheriff Dar-  
1p.  
No. 28<sup>85</sup>.  
See 28<sup>81</sup>, 28<sup>84</sup>. garay notifies Pierre de Manade that judgment will be rendered in the pending separation suit moved by his wife, on the morrow, whether he be absent or present.
- July 10, 1728. **Motion of Trial of Rebellious Negro Slave.** At-  
1p.  
No. 28<sup>86</sup>. torney General Fleuriau reports that a negro, Bevan, belonging to Mr. Soubagne, seized the latter's gun and would have used it, perhaps, against the owner, had not Mr. S. and his other slaves interfered. Lest the Colony come to suffer from disorderly negroes, let the culprit be tried.  
Approved: Delachaise.
- July 12, 1728. **Petition of Recovery.** Adrien Gilbert, master car-  
1p. 4.  
No. 28<sup>87</sup>. penter, claims a residue account of 112 francs against Mr. Kolly, proprietor succeeding the late Mr Ceard, for whom A. G. once shingled a house.
- July 12, 1728. **Petition to Recover Letters of Exchange.** Jean  
3pp. 4.  
No. 28<sup>88</sup>. Baptiste Massy, formerly associated with the late Pierre and Philippe Vincent Guenot de Trefontaine and with Joseph Guenot, revives his veteran complaint in relation to a certain slave transaction with Mr. de St. Martin Jauri Qui Bery (earlier editions named him Jaurequibery). St. Martin was permitted to take back the slaves in question, but he fails to surrender the receipted draft as he should. Let him be sentenced to do so, with its duplicate and triplicate, as now covered; together with copy of contract of sale, dated August 11, 1720.
- July 14, 1728. **Remonstrance (of Needle in a Haystack).** St.  
4pp.  
No. 28<sup>89</sup>. Martin de Jaurequibery distrains abstruse objections against Massy and Quenot. Drafts by late Ceard on Kolly were deposited in recorder's office, June 6, 1726. St. Martin is willing for for Massy to withdraw them, provided he give technically fortified full discharge, and let St. M. have a copy. With reference to releasing contract of sale, receipted on August 11, 1720,  
See 28<sup>88</sup>, 29<sup>35</sup>, 1.

such was already given provisionally, on February 23, 1722, receipted (to Massy) provided drafts were met. They were not: hence procedure to recover slaves. a copy of this contingent receipt will be furnished if original be lost; but not the receipt and the drafts together, lest new claims were to arise on score of drafts.

Notice served to Massy and Quenot.

July 14, 1728. **Petition to Recover a Bull.** Antoine Malon, tailor, had charge of Mr. Delaye's cows for a month, when Mr. Brusle, tenant of D.'s took back the cows for a time, but then turned them over to De la Vigne, who was to look after them, but suffered them to go astray. Next Delaye authorized Bourbeau to recover the cows, but B. has included a bull which A. M. claims as his property. Let Delaye be cited in cause of restitution.

Approved, and notice served.  
Outer edge worn and notched.

July 17, 1728. **Petition to Obtain Legacy.** Jean Roussin and his wife, settlers at Natchez, moved to gain possession of the property which the late officer Cazeneuve willed to their son Jean Baptiste Roussin when he should be of age; his parents meanwhile to enjoy the usufruct. Executor, Major Desnoyers, restricts himself to settling debts. Let Council order full execution, and grant possession to J. R. and his wife, who offer to give due security for payment of debts concerned.

Attorney General approves on given condition.

July 19, 1728, **Petition for Extension of Time.** Claude Tre-naunnay Chanfret, director of DuBuisson grant, having been cited to pay 4538 francs to Mr. De Verteuil in 24 hours, cannot meet this demand so soon, and Mr. DeV. has refused a temporary offer of 450 francs; Mr. T.'s limit at present. Let more time be allowed.

Notice served to Mr. DeV.

This claim represents residue of a total sum of 6500 francs, awarded by arbitrators to DeV.

July 27, 1728. **Acknowledgment of Debt.** Charles Lenee, native of Chinon in Touraine, owes 500 francs to Claude Fontaine of New Orleans and promises to pay on arrival in France.

March 19, 1738  
1p.  
No. 3845.  
See 3896.

Mortgage security.

Rossard, Recorder.

March 19, 1738; Judge Salmon attests that Mr. Rossard's signature is genuine.

July 28, 1728. **Plea of Recovery.** Senet, Port Captain, claims 1p. 4. 2213 francs of Bourbeau, besides 400 francs payable in kind or in specie, according to notes which Senet holds. Let B. be cited.  
No. 28<sup>93</sup>.  
Approved and notice served.

July 31, 1728. **Petition in Separation Suit.** Madame Louise 2pp. Jousset La Loire de Manade, seeing that the Council failed to find conclusive evidence in support of her demands, reports that she has additional witnesses in her favor; but meanwhile she moves to receive 1000 francs for board allowance, and asks that this sum be paid by Mr. Baschemin.  
No. 28<sup>94</sup>.  
28<sup>30</sup>.  
See 28<sup>85</sup>, 28<sup>98</sup>.  
Notice served to Pierre de Manade.

Aug. 5, 1728. **Assault Case Reported.** Antoine de Joye de la 2pp. Goublaye and Demoiselle his wife Francoise Martin lodge complaint against Madame Coupard, who rushed in "like a fury," on the pretext that she was "robbed" in a matter of buying some sugar, by return of wrong change. Abusive words were accompanied by violent actions: as of tearing Madame de la Goublaye's hair, and of cuffing her till blood flowed. Later, Madame C. recovered the missing bill, given by mistake to a soldier; but offered scant apology for her assault on unoffending Madame de la G. Legal action besought.  
No. 28<sup>95</sup>.  
See 28<sup>96</sup>.  
No note by Council.  
Document charred.

Aug. 6, 1728. **Petition in Assault Case.** Repeating the sub- 1p. No. 28<sup>96</sup>. stance of the matter on preceding card, and beseeching action. See 29<sup>95</sup>, 28<sup>97</sup>, 28<sup>99</sup>.  
Approved, and notice served to Madame Coupard.  
Charred and rent.

Aug. 7, 1728. **Assault Case Adjourned.** Antoine de Joye de la 1p. 4. Goublaye and his wife Demoiselle Francoise Martin vs. Dame Coupard.  
No. 2897.  
Since Madame C. contests the charges, and holds that Madame de la G. did the insulting, parties will bring their proofs before Councillor Prat a week later.  
See 28<sup>96</sup>.  
Costs reserved.

- Aug. 7, 1728. **Separation Suit Further Pending.** Madame de Manade shall be allowed a new hearing before Councillor Prat a week later; Pierre de Manade having failed to appear; he, too, may plead anew at same hearing. Meanwhile, Madame is allowed 500 francs, to be paid by Baschemin.  
2pp.  
No. 28<sup>98</sup>.  
See 28<sup>94</sup>, 28<sup>101</sup>.  
Costs reserved.  
Notice served to P. M. and to B.
- Aug. 9, 1728. **Summons to Testify.** Sheriff Dargaray notifies one Larche to appear at 2 P. M. for hearing in regard to the assault charged against Madame Poupard.  
1p. 4.  
No. 28<sup>99</sup>.  
See 28<sup>96</sup>, 28<sup>100</sup>.
- Aug. 9, 1728. **Summons to Testify.** Sheriff Dargaray notifies Larche, Senior; "Le Veuf" (Le Veuf) and his wife; Dizier, wigmaker, and his wife; Sansoucy, and Femme Larose, to appear at 2 P. M. today, for hearing in charges against Madame Poupard.  
1p. 4.  
No. 28<sup>99a</sup>.  
See 28<sup>99</sup>, 28<sup>100</sup>.  
Notice also served to Femme Poupard.
- Aug. 11, 1728. **Summons to Witnesses.** Sheriff Dargaray notifies Sergeant Francoeur, the soldiers Protest and La Forest, Sieur Galte and Madame St. Pierre, to appear at 2 P. M. to testify before Councillor Prat in regard to certain abuse and assault by Dame La Goublais in encounter with Dame Poupard. (Exactly reversing the charges first brought by Madame de La Goublaye).  
1p. 4.  
No. 28<sup>100</sup>.  
See 28<sup>99</sup>, 28<sup>103</sup>.  
Notice also served to Madame de La G.
- Aug. 11, 1728. **Summons to Attend Hearing.** At the instance of Demoiselle Louise Jousset La Loire de Manade, Sheriff Dargaray notifies Monsieur Coustillas, Mr. Bonneau and Mr. (passage torn), to appear before Councillor Prat at 2 P. M. today, to testify in the pending separation suit. Notice likewise served to Pierre de Manade.  
1p. 4.  
No. 28<sup>102</sup>.  
See 28<sup>101</sup>, 28<sup>112</sup>.  
Partly torn.
- Aug. 11, 1728. **Procedure in Separation Suit.** Madame de Mande *vs.* Pierre de Manade. Swearing in of witnesses Henry de Louboy, Jacques Coustillas, Arnaud Bonnaud and Louis — for telling the truth at the impending new hearing.  
2pp.  
No. 28<sup>101</sup>.  
See 28<sup>98</sup>, 28<sup>102</sup>.  
Notice served to Pierre de Manade.  
Charred and crumbling.

- Aug. 11, 1728. **Witnesses Sworn. Assault Suit:** Namely, Pierre Barbier alias Francoeur, Andre Vidal — La Forest, Jacques Galtier, surgeon; Philippe Protais.  
2pp.  
No. 28<sup>103</sup>.  
See 28<sup>100</sup>, 28<sup>105</sup>.
- Mr. and Madame de La Goublaye are notified to challenge these witnesses if objectionable.  
Charred and crumbling into dissolution.
- Aug. 11, 1728. **Petition for Nonsuiting.** Claude Trenaunay Chanfret, confiding in the common presumption that tedious argument implies correct litigation, aims to refute certain demands of Francois DuBuisson in the matter of the DuBuisson grant's accounts. In particular C. T. C. shows that accountants ought never to be the sole controlling party, irrespectively of the rights of the other party affected. C. T. C. cannot implicitly take over (unaudited) accounts of others, as D. B. would compel him. Let D. B. be non-suited in all his demands, and bear costs of delay which he causes for C. T. C.  
4pp.  
No. 28<sup>104</sup>.  
See 28<sup>42</sup>, 28<sup>106</sup>.
- Transmitted to D. B.
- Aug. 13, 1728. **Objections to Witnesses in Assault Case.** Madame Coupard protests against Femme LeVeuf, a "prejudiced" party, constantly at odds with Madame C. Likewise she challenges Dame Dizier.  
1p.  
No. 28<sup>105</sup>.  
See 28<sup>103</sup>, 28<sup>108</sup>.
- Communicated to Mr. and Madame de La Goublaye.  
Charred and crumbling.
- Aug. 13, 1728. **Remonstrance.** Joseph Guenot, having been cited on motion of Mr. Kolly with reference to some transactions back in April, 1722, and charged, it appears, exorbitantly, urges that Mr. Kolly be nonsuited unless he supply satisfactory vouchers.  
3pp.  
No. 28<sup>107</sup>.
- Notice served to Mr. K.
- Aug. 13, 1728. **Summons to Produce Accounts.** At the instapce of Cluade Trenaunay Chanfret, director of DuBuisson grant, Sheriff Dargaray notifies former director De Verteuil to turn over to Mr. T. C. T. certain specified inventories, dated March 12, 1725; February 20, 1726; March 8, 1726; April 20, 1726; March 21, 1727.  
1p.  
No. 28<sup>106</sup>.  
See 28<sup>104</sup>.
- Aug. 14, 1728. **Decision in Assault Case.** Antoine de Joye La Goublaye and his wife in encounter with Marie Isabelle, wife of Jean Coupard.  
1p. 4.  
No. 28<sup>108</sup>.  
See 28<sup>105</sup>.
- Attorney General Fleuriau orders that Dame C. be bound to make honorable amends before

- one of the Councillors, and forbidden to misbehave in future, and find 30 francs in favor of Hospital, together with 10 francs for "bread of the prisoners." She shall be imprisoned until satisfaction be complete.  
Costs on Madame C.
- Aug. 16, 1728. **Petition for Loan.** Clairfontaine beseeches Mr. Slip. Ozanne to lend him 3 Spanish dollars, and promises to pay them back within ten days.  
No. 28<sup>109</sup>.
- Aug. 17, 1728. **Summons in Estate Suit.** Sheriff Dargaray notifies Mr. Rossard, recorder, to appear with reference to the execution of certain sentence in moved by Jean Francois Hubert, guardian of the late Provincial Officer Hubert's minor children.  
Charred and torn.  
No. 28<sup>110</sup>.
- Aug. 19, 1728. **Petition of Recovery.** Antoine Aufrere claims of Adrien — the sum of 97 francs (less five jugs of bear's grease at 2 francs a jug).  
Action allowed, and notice served on Adrien Gilbert.  
1p. 4.  
No. 28<sup>111</sup>.  
See 28<sup>117</sup>.
- Aug. 20, 1728. **Summons in Separation Suit.** Sheriff Dargaray notifies Pierre de Manade to appear on the morrow, when judgment will be rendered between him and his wife.  
In default, the case will be pleaded anyhow.  
1p.  
No. 28<sup>112</sup>.  
See 28<sup>102</sup>, 28<sup>114</sup>.
- Aug. 20, 1728. **Summons to Attend Hearing.** Sheriff Dargaray notifies Chevalier de Mandeville and Mr. Kolly that the case between Mr. Dumanoir and themselves will be pleaded on the morrow. Matter of some expert accounting is implied; if they fail to appear, procedure will go on without them.  
1p.  
No. 28<sup>113</sup>.
- Aug. 21, 1728. **Notice in Separation Suit.** Sheriff Dargaray leaves word with Pierre de Manade that the appertaining papers are to be reviewed before Councillor Prat on Saturday next. If P. de M. fails to respond, the papers will be judged without him.  
Charred and slurred.  
1p.  
No. 28<sup>114</sup>.  
See 28<sup>112</sup>, 28<sup>115</sup>.
- Aug. 23, 1728. **Inventory of Documentation.** Statement of technical demands filed by plaintiff in separation suit, Madame Louise Jousset La Loire wife of Pierre de Manade. Chief article appears to be recovery of her marriage portion, 10476 francs which she contributed as dowry, by marriage contract dated at Mobile, March 10, 1720.  
2pp.  
No. 28<sup>115</sup>.  
See 28<sup>114</sup>, 28<sup>118</sup>.



Further, she claims the allowance of 500 francs, awarded from her husband's credit with Baschemin.

Signed: Louise La Loire.

Communicated to Pierre de Manade.

Aug. 27, 1728. **Sale of Real Estate.** Preamble shows how the vendor, Mr. de Merveilleux, first acquired a certain site of 20x20 fathoms, at Bienville and and Royal streets former barrack ground. He now conveys a lot and appurtenances, 10x10 fathoms, to Pasqual B—— for 600 francs; 200 paid cash, residue payable in two months, mortgage security. Small house with shingle roof and a little stake dovecote.

Torn, and not intact.

Aug. 28, 1728. **Petition in Remonstrance.** Adrien Gilbert, who has been cited to pay a debt of 97 francs to Mr. Aufrere, objects to Mr. A.'s "inattention" to the fact that the balance turns the other way, leaving A. debtor to the sum of 103 francs. Particulars adduced. Let Aufrere be nonsuited and subject to costs.

No note by Court.

Sept. 4, 1728. **Decision in Separation Suit.** Interview of the case between Madame de Manade and her husband, Council grants the desired separation of goods, and orders Pierre de Manade to pay back the sum of 10476 francs, Madame's heritage from her parents. (Remaining substance of the decision is charred away.)

Costs are on P. de M.

Communicated to P. de M.

Apparently some claims of the Company are still to be settled by Madame de Manade.

Sept. 4, 1728. **Judgment Rendered in Suit** of Louise Jousset de la Loire vs. Pierre de Manade.

1p.  
No. 342.

Signed: "Delachaise," "Prat," "D'ausseville."

Sept. 7, 1728. **Lease of Slaves.** Terms of contract whereby Antoine De La Goublaye hires two negroes to Adrien Gilbert for one year for 600 francs, payable quarterly in installments. A. G. will care for said negroes like a good paterfamilias; if they run away, La G. will make due allowance to A. G. If crippled in service A. G. shall bear costs of treatment. Ordinary sick bill chargeable to La G.

Signatures of A. G. and De La G.

- Sept. 7, 1728. **Marriage Contract.** Parties: Claude Chardon, native of Dauphine, and Marianne veuve Valot. 2pp. Partly torn.  
No. 28<sup>120</sup>.
- Sept. 13, 1728, **Contract of Service.** Dame Marguerite Le Foure, wife of Mr. Kolly, and now acting for him, agrees to pay the expenses of Pierre de La Hogue, engaged as clerk to Mr. K., from Paris to Louisiana, board and lodging while there employed, and salary of 400 francs a year, to date from time of his leaving Paris. Increase of salary in prospect, if service be approved. Pierre also agrees to serve with the utmost fidelity and painstaking. Provisos in case of Mr. K.'s dissatisfaction, or of Pierre's with Mr. K.  
Paris. 1p. 4.  
No. 28<sup>121</sup>.
- Sept. 15, 1728. **Petition of Recovery.** Aufrere claims 88 francs on a note due by Mr. Aubuchon. Action allowed.  
1p. 4.  
No. 28<sup>122</sup>.
- Sept. 15, 1728. **Petition to Recover Slave.** Mondreloir, attorney for Mr. D'Apres de Biangy, moves for the citation of Mr. De Verteuil, that he may give back a negro named Jean Baptist Maneville, whom Mr. A'D. consigned to De V. for sale. Action allowed.  
1p. 4.  
No. 28<sup>123</sup>.
- Sept. 16, 1728. **Memorandum of Account.** Messrs. De Chavannes and Senet submit to Mr. Rossard, attorney of vacant estates, their account with the late Michel Bagorry. Total, 316 francs. Balance credit in favor of M. B., 116 francs. Paid to Mr. Rossard and by him receipted.  
1p.  
No. 28<sup>124</sup>.
- Sept. 17, 1728. **Sale of Slaves, and Memorandum of How Acquired.** Councillor Antoine Brusle had bought some slaves with a view to farming, but owing to distance of his plantation, he has changed his plans and sold the slaves to Mr. Chauvin De Lery, with Council's consent, for 11420 francs. Let Mr. C. D. assure Mr. B.'s obligations to the Company by crediting the said sum to Mr. B. on Company's books. The debt to be paid in three equal annual installments. Approved. There follows a "statement of the negroes and negresses whom I have sold to Mr. Chauvin De Lery."  
3pp.  
No. 28<sup>125</sup>.
- Sept. 18, 1728. **Petition of Recovery.** Jean Francois Le Bercher, soldier of De Gauvrit Company, furnished a lot of buttons, about ten months ago, to one Duclo, a carpenter, who was crushed by a tree (vn habre), while working on Mr. Chavannes'  
2pp.  
No. 28<sup>126</sup>.

plantation. Duclo being honest, Jean Francois took no precautions in writing but can produce witnesses if the claim be disputed. Let Mr. Rossard be cited to answer for vacant estate.  
Action allowed.

- Sept. 18, 1728. **Judgments Rendered in Suits of**  
1p. Delachaise *vs.* De Verteuil.  
No. 343. Aufrere *vs.* Aubusson.
- Sept. 20, 1728. **Letter of Perrinet to Mr. La Fresniere.** Acknowledging receipt of a pickaxe, an axe, a tomahawk and fly-wheel (volland), and bespeaking a miscellany of new supplies: Shoes, shirts, ammunition; also dwelling on business personal to themselves.  
3pp. No. 28<sup>127</sup>.  
Faded.  
Addressed to Monsieur  
Monsieur de La Fresniere aux Chapitoula.
- Sept. 21, 1728. **Contract for Medical Attendance.** Arnaud Bonnaud, inspector of the land grants of Mr. Dasfeld and his associates, and Pierre Francois Dejoux, surgeon, sign a contract whereby Dejoux agrees to attend all the negroes who are now on the Chauachats grant (71 adults and four children), for yearly ten francs a head in case of the negroes and the French; five francs a head in case of case of the children; visits to be rendered every day. Provisos in the event of absent negroes or of new arrivals.
- Sept. 22, 1728. **Petition of Recovery.** Francois Trudeau claims 238 francs and 19 sous from Ste. Catherine grant, due on a note of Mr. Dumanoir's dated May 4, 1726; besides a note of 77 francs for biscuit.  
1p. 4. No. 29<sup>128</sup>.  
Action allowed, and notice served to Mr. de Mandeville, director.
- Sept. 24, 1728. **Petition of Recovery.** Raymond Amyault Esquire D'Auseville claims 140 francs from Langlois, tailor and moves to collect the debt from de Nolan estate, debtor to Langlois. Mr. Rossard, attorney, objects, and refers claim to L. directly.  
2pp. No. 28<sup>130</sup>.  
Notice to L., October 12, 1728.  
Charred and partly torn.
- Sept. 25, 1728. **Judgments Rendered in Suits of**  
No. 344. Bercher *vs.* Rossard.  
Dausseville *vs.* Rossard.  
Signed: "Perior," "Del," (paraphe of Brusle), "P.," "Dausseville."

- Oct. 6, 1728. **Memorandum of Supplies.** List of articles "which I received from Mr. Manade, which are entered in the statement which he had furnished when he sold me his plantation."  
2pp.  
No. 28<sup>131</sup>.  
Rice, corn and beans, ironwork, locks and hinges, timber, various tools and implements, a dugout and slaves.  
Signed: Baschemin Corbin.  
Note of items missing.
- Oct. 9, 1728. **Judgments Rendered in Following Suits:**  
No. 345.  
Dudeau *vs.* Demandeville.  
Signed: "Prr," "Del" paraphe de "Brusle," "Dauville."
- Oct. 21, 1728. **Petition of Recovery.** Antoine Malon seeks to collect a debt of 112 francs from Rivard, a settler at the Bayou.  
1p.  
No. 28<sup>132</sup>.  
Action allowed.
- Oct. 22, 1728. **Petition of Recovery.** Mondreloir moves for the citation of Sieur Malad and his wife, to pay 369 francs due on a note of theirs; and in default of payment, let their funds in Company's treasury be attached to said amount.  
1p. 4.  
No. 28<sup>133</sup>.  
See 28<sup>138</sup>, 28<sup>1771</sup>.  
Action allowed and notice served to Pierre de Manade and his wife.
- Oct. 22, 1728. **Petition of Recovery.** Raymond Amyault, Esquire D'Auseville seeks to collect 152 francs and 7 sous from Sieur Bourbeau, still due in balance of his note dated August 21, 1727.  
1p. 4.  
No. 28<sup>134</sup>.  
Action allowed.
- Oct. 22, 1728. **Petition to Oust Unruly Tenants.** Councillor D'Auseville lodges complaint against one Joffre alias La Liberte and his wife, because of their lawless depredations on the property which they were authorized to sell, but which they refuse to surrender in full. Let them be ordered to vacate and to remove their goods, or else be evicted. Also, let the petitioner institute inquiry concerning the said depredations (cattle killing, a chief point at issue). Madame Joffre demanded a bonus of 300 francs to restrain herself from cutting the throat of the cattle.  
2pp.  
No. 28<sup>135</sup>.  
See 29<sup>31</sup>.  
Action approved and forward.

Oct. 26, 1728. **Petition to Recover Damages.** Darby has incurred much loss from ravages of Malot's cattle on Darby's "desert"; let alone the time consumed in warding them off by the help of his negroes.

Let M. be cited, and the damages appraised.  
Granted.

Oct. 27, 1728. **Petition of Recovery.** Officer De Coustillas, of the local garrison, moves to collect 180 francs from one Risquener, as shown by his bond dated November 27, 1726.

Action allowed.

Oct. 30, 1728. **Petition for Allowance of 500 Francs.** Madame Louise Jousset de La Loire, who returned to live with her husband, shows that he is too constantly obliged to meet his debts, to provide for her; nor has she been able to draw what the the Council allowed her, on separation of goods, Moreover her health has been poor these past three months. She therefore beseeches to draw 500 francs from the Baschemin funds.

Since the sale of De Manade plantation secured the Company, Attorney General Fleuriau grants this request.

Nov. 1, 1728. **Receipt.** Mr. Rossard has received from Mr. de Marsilly, and on behalf of Mr. Massy, the sum of 72 francs, 11 sous, 5 farthings, for tax on the negroes to him belonging.

Blurred.

Nov. 2, 1728. **Promise to Pay Mortgage.** Pierre Clairfontaine promises to pay Mr. Tesson the sum of 600 francs which he is to hold as mortgage on Lot No. 54, belonging to P. C. (This provided, Mr. T. goes to France before P. C., otherwise, if P. C. go to France before T., the house and lot shall belong to him on payment of said 600 francs). If P. C. dies, he cedes all rights to T. Ditto, conversely. T. may enjoy free use of house as long as here domiciled; necessary repairs his only charge.

Nov. 6, 1728. **Judgments Rendered in Suits of**

Tellier *vs.* Kolly.

D'Ausseville *vs.* Jaffre.

Demondreloy *vs.* de Manade.

Signed: "Perier," "Delachaise," (paraphe of of Prat), "Pellerin," "Erusle."

Nov. 7, 1728. **Marriage Contract.** Parties: Francois LeMesle alias Bellegrade, native of Paris, and Demoiselle Marie Louise Marsille, daughter of Surgeon Major Louis Marsille, of the Saillan regiment, and of Margurite Le Zelle, native of Traves, Germany.

1728-1737. Labbe, farmer in account with the Company of the Indies for negroes and advances of money, amounting to 7520?. Verified by vouchers and calculations made in New Orleans, November 19, 1737.

Nov. 9, 1728. **Petition of Recovery.** Jacques Ozenne, Cooper of the Company, seeks to collect a debt of 80 francs and 16 sous from estate of the late Francois Court, sometimes warehouse clerk.

Nov. 28, 1728. Attorney General Fleuriau nonsuits this demand for lack of vouchers.

Nov. 9, 1728. **Petition of Recovery.** Mr. Rossard, recorder, moves for the citation of Sieur De La Renaudiere, to pay the sum of 99 francs, outstanding on a bill of sale.

Notice served on Sieur De La Renaudiere.

Nov. 10, 1728. **Petition of Recovery.** Francois Duval, cashier general for the Company, holds a note of Mr. Kolly's for sum of 3533 francs, dated May 7, 1727.

Let Mr. Kolly be cited.

Approved, and notice served.

First part charred, as though held over fire to dry.

Notice intact and unscorched.

Nov. 10, 1728. **Memorandum of Goods.** "Statement of what I have brought to the house of Messrs. Le Cour and Tesson, by way of my property." To-wit, a small iron-hooped bucket, seven pewter plates, two dishes ditto, six earthenware plates, a fire shovel, two copper candlesticks, and other household sundries. Mr. Douville is requested to lay claim to said goods when seals are removed in house of the late Le Cour; the goods belonging to the undersigned Meynard.

Nov. 13, 1728. **Judgments Rendered in Suits of**

1p. Duval *vs.* Kolly.

No. 349. Langlois *vs.* Buchon.

Signed: "Prr," "Del," "Br." (paraphe)  
"D'auville," (paraphe).

Nov. 13, 1728. **Promissory Note.** Jean Mengo, English free negro, Slip. No. 28<sup>141</sup>. promises to pay Mr. Darby 700 pounds of good See 27<sup>11</sup>. marketable tobacco, of first cutting.

(Nov. 28, 1727.) Largely faded.

Nov. 14, 1728. **Petition to Recover Slave or Value.** Jean Francois Pasquier claims possession of a negro belonging to Decodere estate, or else the proceeds from sale of the negro at auction. Jean Francois paid the price, or was correspondingly credited in his account against Ducodere; but now the negro is held in order to satisfy Company's demands. Petitioner would substantiate his claim by two letters of the late Ducodere, dated May 3 and 14 Nov., 1728.

No note by Court.

Nov. 17, 1728. **Petition for Discharge from Claim.** Arnaud Bonnaud, sometimes guard of stores for "Company of the Occident" at Isle Dauphine, seeks release from accountability for some missing iron, imported by ships La Dauphine, Le Neptune and La Vigilante from La Rochelle.

(1721)  
See 28<sup>149</sup>.

A. B. never saw the said lot of iron, and can produce witnesses to show that it stayed on shipboard and went down with the Neptune and La Vigilante. The Neptune was lost at at N. O.; La Vigilante at Mobile.

Attorney General Fleuriau orders hearing of witnesses.

Nov. 18, 1728. **Summons of Witnesses.** At the instance of Arnaud Bonnaud, Sheriff Dargaray notifies Mr. Beranger, Captain of La Baleine, Cashier Duval, and Recorder Rossard, to appear today at 2 P. M. before Mr. Brusle, to testify in the proceedings moved by said A. B. Notice also served to Mr. Durand, and to a sailor, Jean Bellemar alias St. Jean.

1p. 4.  
No. 28<sup>149</sup>.  
See 28<sup>148</sup>, 28<sup>150</sup>.

Stained and blurred.

Nov. 18, 1728. **Testimony on Missing Iron.** Examination of witnesses Jean Beranger, Charles Durant, Jean de Bellemer, Michel Rossard, and Francois Duval. Evidence turns mainly on the point that the iron was carried as ballast, and went down with ships. Neptune perished in a hurricane at N. O.; La Vigilante sank in a muddy bayou at Mobile.

4pp.  
No. 28<sup>150</sup>.

- Nov. 20, 1728. Attorney General Fleuriau decides the evidence valid, and orders Mr. Bonnaud discharged from account in question.  
See 28<sup>149</sup>, 28<sup>162</sup>.  
(Decision formally repeated.)
- Nov. 19, 1728. **Memorandum of Accounts.** Statement of the late Sieur Court's debits to Jozenne (J. Ozenne.)  
1p. No. 28<sup>151</sup>. Items of brandy, wine, sugar (5 lbs.—3 francs.)  
See 28<sup>148</sup>. Trading shirts and a loan of 10 francs.  
Total, 80 francs and 16 sous.
- Nov. 19, 1728. **Petition of Recovery.** Francois Haville seeks to collect 27 francs from Robert, a tailor.  
1p. 4. No. 28<sup>152</sup>. Action allowed.
- Nov. 19, 1728. **Petition of Recovery.** Francois Haville claims 33 francs due on a note by Sieur Cariton.  
1p. 4. No. 28<sup>153</sup>. Action allowed.  
See 28<sup>177</sup>.
- Nov. 19, 1728. **Petition of Recovery.** Florent Douville lent 52 francs and 15 sous to the late Court, and seeks to collect from estate funds.  
2pp. No. 28<sup>154</sup>.  
See 28<sup>168</sup>. Attorney General Fleuriau reduces F. D.'s claim to 26 francs net, to be paid on return of note.
- Nov. 19, 1728. **Petition of Recovery.** Servois, clerk in the warehouse claims a residue debt of 110 francs and 2 sous from estate of the late Court.  
1p. No. 28<sup>155</sup>.  
Attorney General Fleuriau nonsuits this claim for lack of voucher.
- Nov. 19, 1728. **Petition of Recovery.** George Tesson shows that his former intimate friend and fellow countryman Francois le Courtouxdeux died without settling his affairs in order. Some of G. T.'s goods are now sealed with goods of the deceased; let these be recovered; and if G. T. should happen to be received as heir, he will pay the debts of deceased.  
2pp. No. 28<sup>156</sup>.  
G. T. may recover his goods on due proof, but he is non suited as heir, for lack of written support.
- Nov. 20, 1728. **Petition to Recover Iron Boiler.** Denis Fausse left an iron boiler in the house of the late Court, and the boiler being now listed with C.'s property, let the owner have it back.  
1p. No. 28<sup>157</sup>.  
Attorney General approves on petitioner's affirmation.



- Nov. 20, 1728. **Petition to Recover Goods.** Maynard moves to recover a lot of his belongings which were included in inventory of the property of the late Court. Attorney General nonsuits this claim because Meynard fails to show how the said belongings are his property.
- 1p.  
No. 28<sup>158</sup>.  
See 29<sup>32</sup>.
- Nov. 20, 1728. **Memorandum of Account.** Statement of "work done for late Sieur Le Court." Items of carpentry and cabinet-making. Total bill, 90 francs.
- 1p.  
No. 28<sup>159</sup>.  
See 28<sup>160</sup>.
- Very neatly written; no signature, but the writing resembles that of Jacques Du Pre, joiner.
- Nov. 20, 1728. **Petition of Recovery.** Jacques Du Pre, joiner, did some work for the late Le Court, as noted on separate memorandum; but shortly afterwards Le Court died. Since the Lord has thus disposed, let the claim be paid from estate assets.
- 1p.  
No. 28<sup>160</sup>.
- Attorney General approves, under cautionary provisos.
- Fort Chartres, **Letter of Teresse de Ternan to Rossard.** Preliminary pleasantry turns doubtless on the Council chamber, likened to "chapter" gravity, and refreshed with convivial flasses? Writer will send some onions, and later about 30 hams, by dugout. Mr. R. will be so good as to attend some commissions for T. de T., who will reciprocate on occasion.
- Nov. 20, 1728. **Decisions in Civil Suits:**
- 3pp.  
No. 28<sup>161</sup>.  
See 29<sup>64</sup>.
1. Too blackened and blurred for convenient elucidation outside a laboratory. Indications of claims against vacant estates, as in the records filed under antecedent dates of November, 1728.
2. See 28<sup>150</sup>.
- Nov. 22, 1728. **Petition to Sell and Move.** Denis Ferandon, settler near Cannes Bruslees, is too short of labor to meet the Company's claim in rice; but if he were allowed to sell and move to his property at Baton Rouge, he might pay in tobacco.
- 1p.  
No. 28<sup>163</sup>.
- Sales permitted, on condition of his consigning the proceeds to the treasury.
- Nov. 23, 1728. **Memorandum of Pig Transaction.** Bonnaud certifies that he bought a pig of Mr. Tixerant in 1725 for 60 francs; one of the three pigs of Tixerant's; the other two were sold to Mr. Durivage.
- Slip.  
No. 28<sup>164</sup>.

- Nov. 26, 1728. **Petition to Sell Plantation.** Jean Baptiste Bourbeau asks the Council to authorize the sale of his plantation to Mr. Trudeau; proceeds to be credited on his account with Company.  
1p.  
No. 28<sup>165</sup>.
- Nov. 27, 1728. Approved on this condition.  
Note below: 4000 francs payable in 15 months from date; 18 acres in the name of Messrs. Trudeau and Dalcour.
- Nov. 26, 1728. **Petition of Recovery.** Pieron alias Vendome claims 100 francs from Surgeon Baldicq, due on a horse which V. sold to B.  
1p.  
No. 28<sup>166</sup>.  
See 28<sup>1772</sup>.  
Action allowed.  
Edges torn above and below.
- Nov. 28, 1728. **Promissory Note.** Malon promises to pay Mr. de la Chaise or order, 500 francs in rice and corn at current market price, for value received in merchandise.  
Slip.  
No. 28<sup>167</sup>.  
Payable one month from date.  
Endorsed by Delachaise in favor of Mr. Prat.  
Dec. 1, 1728.
- Nov. 29, 1728. **Memorandum of Account.** Statement of transactions between Monsieur de Cour and the Douvillers.  
1p.  
No. 28<sup>168</sup>.  
See 28<sup>154</sup>.  
Balance due to D., 52 francs and 15 sous.
- Nov. 29, 1728. **Acknowledgment of Debt.** Clairfontaine owes 143 francs to Sieur Ozenne, value received, and promises to pay him or his order.  
Slip.  
No. 28<sup>168</sup>.
- Dec. 4, 1728. **Inventory. Village des Tonicas.** List of articles found in the cabin of one "Perinet," found suddenly dead without known cause or illness. Personal effects in the main.  
3pp.  
No. 28<sup>169</sup>.  
Item of 13 bearskins.
- Dec. 7, 1728. **Proceedings of Attachment.** At the instance of Mr. Provost, bookkeeper, Sheriff Dargaray seizes Mr. Rossard, attorney of vacant estates, of 247 francs, charged against estate of late Sieur Lasalle.  
1p.  
No. 28<sup>170</sup>.  
See 29<sup>33</sup>.
- Dec. 8, 1728. **Memorandum of Account. Aux Bayagoulas.** Claude Chardon's transactions with DuBuisson grant. Debit, 201 francs; credit, 200 francs.  
2pp.  
No. 28<sup>171</sup>.  
Balance due by C. C., 1 franc.  
Torn.

- Dec. 8, 1728. **Petition of Recovery.** Daniel Kolly claims of one  
1p. 4. Bonvilain the sum of 136 francs, due on goods  
No. 28<sup>172</sup>. furnished by Mr. Perraut, manager of Ste.  
See 28<sup>174</sup>. Reine grant, together with a blacksmith's  
bellows.  
Action allowed.
- Dec. 9, 1728. **Petition to Sell Vacant Property.** Attorney Ros-  
1p. 4. sard moves to sell a certain site and two small  
No. 28<sup>173</sup>. houses left by the late Sieur Pierre Morel de  
See 28<sup>181</sup>. Clairfontaine; in the interest of creditors.  
Action allowed.  
Torn and blurred.
- Dec. 17, 1728. **Reception of Sr. Baron** as a member of the Superior  
1p. Council, his appointment dating from July  
No. 354. 24th, 1727, registered November 24, 1728.  
Signed: "Perior," "Delachaise," "Brusle,"  
"Prat," "D'ausseville." On demand: "Fleuriau."
- Dec. 19, 1728. **Judgments Rendered in Suits of:**  
No. 353. Arnaud Bonnaud *vs.* Sr. Kolly.  
Morandot *vs.* Coupas.  
Rossard *vs.* Tesson.  
Signed: "Perior," "Delachaise," "Brusle,"  
"Prat," in abbreviation and paraphes, not one  
name in full.
- (Date torn off). **Judgment Rendered in Suit of:** Deslongrais *vs.*  
No. 355. Roussin.  
Signed: "Prr," "Del" (paraphe of "Brusle,") "P."
1730. **Letter of DuBuisson.** Correspondent not named  
Aux Buisson, save as "mon cher camarade." After some  
4pp. New Year's compliments, the letter turns  
January 31. chiefly on a certain suspected party's dishonest  
No. 30. act of using Mr. DuBuisson's seal on the wrong  
wine. Writer was obliged to part with two  
negroes (on their way to N. O., it would appear,  
as though for sale).
- Jan. 2, 1730. **Medical Bill. Aux Chaouachats.** "Statement of  
2pp. what is due to Sieur Dejoux by the landgrant of  
No. 30<sup>1</sup>. Messrs. Dasfeld and Co. for treatment and care  
of the sick and wounded of Chaouachats plan-  
tation, from 21 Sept., 1728 to June 1, 1729."  
(Entries also extend to latter part of year 1729.)  
Reckoning by days and months at rate of 10  
francs a year for each adult patient; children  
at rate of 5 francs. Total account, 880 francs.  
Provisos appended to show what shall be de-  
ducted.  
Very neatly written.

- Jan. 9, 1730. **Inventory of Kolly Estate. (First Card).** Thus far the amplest budget of detailed information discovered among records of the early French regime, for its direct insight upon the Colonial equipment on land grant sale. The proceedings herein embodied covered nearly a week at the Ste. Reine grant, January 9-12; several days at New Orleans (January 16-18), for examination of the papers and correspondence; and the latter examination was finally resumed on August 4, 1730. The said grant lay three leagues from town and reached from the Mississippi to Lake Pontchartrain. Except first torn leaf, the document is fairly intact (some notched edges also excepted), and legibly copied. Among notably civilized adjuncts, there is mention of backgammon board, a small library containing 60 volumes 8°, 11 4°, 14 folios and several antiquarian books; 20000 pins; a lot of nutmegs, cloves and cinnamon valued at 60 francs; not to speak of a chapel outfit, although the sacred vessels are described as badly damaged. About 200 pairs of pigeons in the dovecotes. Roman-cers on the Fenimore plan would find this inventory a full storehouse of background material for the life and manners of Louisiana Province a dozen years from N. O. founded.
- Jan. 9, 1730. Chapitoulas, 5pp. No. 30<sup>2</sup>.  
See 29<sup>186</sup>, 30<sup>13</sup>, 30<sup>21</sup>, 30<sup>125</sup>.
- Jan. 13, 1730. **Petition to Seize Kolly Consignment.** Sieur Le Maire holds a note of 716 francs, given by the late Mr. Kolly, "unfortunately found enveloped in the Natchez massacre." Let that consignment in Mr. Pellerin's hands be seized in satisfaction, and Mr. Rossard be summoned for sale of goods.  
Approved, "at risks and perils of the petitioner."  
D'Auseville.
- Jan. 13, 1730. **Attachment of Goods.** Sheriff Daragay seizes in favor of Sieur Le Maire the same articles already attached on motion of Messrs. Perrier and Delachaise. Mr. Pellerin, storekeeper, is summoned to appear at first audience.
- Jan. 13, 1730. **Summons in Seizure Proceedings.** Mr. Rossard, attorney for vacant estates, is notified to appear at next audience with reference to meeting the claim of Sieur Le Maire against Kolly estate.
- Jan. 13, 1730. 1p. No. 30<sup>3</sup>. See 29<sup>187</sup>, 30<sup>4</sup>, 30<sup>20</sup>.
- Jan. 13, 1730. 1p. No. 30<sup>4</sup>. See 30<sup>3</sup>, 30<sup>5</sup>.
- Jan. 13, 1730. 1p. No. 30<sup>5</sup>. See 29<sup>188</sup>, 30<sup>4</sup>.

- Jan. 13, 1730. **Decisions in Two Suits.**  
1p.  
No. 20<sup>6</sup>.  
1. Rossard *vs.* Lemonnet. Defendant shall see to building a brick fireplace, and prevent rain water from overflowing premises in question.  
2. Rossard *vs.* St. Germain. Note to be paid.  
Signed: Macmahon.  
Brusle.  
Prat.  
D'Auseville.
- Jan. 14, 1730. **Petition of Recovery.** Surgeon Brosset claims 50 francs from Cariton, tailor.  
1p. No. 30<sup>7</sup>.  
See 20<sup>207</sup>.  
Action allowed.
- Jan. 14, 1730. **Petition of Recovery.** Surgeon Brosset claims 150 francs from Larche, due on his note of May 25, 1729.  
1p. No. 30<sup>8</sup>.  
See 30<sup>206</sup>.  
Action allowed.
- Jan. 14, 1730. **Decision in Attachment Suit.** Perrier and Delachaise *vs.* Rossard and Pellerin. R. shall pay plaintiffs 5000 francs in cash and receipts, from proceeds of seized consignment; some further provisos on sale of goods and recovery of R.'s expenses.  
1p.  
No. 30<sup>9</sup>.  
See 29<sup>188</sup>.  
Partly torn.
- Jan. 15, 1730. **Petition to Obtain Legacy.** Jean Robin shows that he was named sole legatee of late Nicolas Lemoine, on condition of Jean's paying testator's debts to Company. He is ready to do so, and begs to come into the peaceable enjoyment of his rights in question.  
2pp.  
No. 30<sup>10</sup>.  
See 30<sup>2011</sup>, 30<sup>27</sup>.  
No note by Court.
- Jan. 16, 1730. **Petition of Recovery.** Corporal Beausejour sold a house and appurtenances to Langlois, locksmith, who is remiss in fulfilling contract. Let L. be cited to return keys and possession to B., and to pay 200 francs with interest and costs.  
1p. 4.  
No. 30<sup>11</sup>.  
See 30<sup>2010</sup>.  
Action allowed.  
Partly stained.
- Jan. 16, 1730. **Petition of Recovery.** Francois Dieudonne Fonder, guardian of the minor child of the late Sieur Doubaignie, seeks action against Madame de Ste. Hermine for appropriating some cattle and a house that are not hers, but his wards'.  
2pp.  
No. 30<sup>12</sup>.  
See 30<sup>201</sup>.  
Notice served to Madame.  
Duplicated.

- Jan. 16, 1730. **Inventory of Goods.** List of articles in a house  
8pp. 4. belonging to Mr. Delery, but formerly occupied  
No. 30<sup>13</sup>. by Mr. Kolly, deceased. Proceedings were  
continued on February 9. The document is in  
See 30<sup>2</sup> Mr. Rossard's running scrawl; and unless the  
matter were of unusual importance the said  
scrawl hardly justifies labor of deciphering.  
Signed: Prat.  
De La Hogue.
- Jan. 17, 1730. **Petition of Recovery.** De Moran, attorney for  
1p. Monsieur de St. Martin, claims 100 barrels of  
No. 30<sup>14</sup>. rice from Mr. de La Prade, as due by his note  
See 30<sup>205</sup>. of August 30, 1729.
- Jan. 17, 1730. **Petition of Recovery.** De Moran claims 95 francs  
1p. of Mr. de Manade, debtor to Mr. de St. Martin,  
No. 30<sup>15</sup>. for whom petitioner acts as attorney.  
See 30<sup>394</sup>. Notice served to Mr. de Manade.
- Jan. 17, 1730. **Petition of Recovery.** De Moran, attorney for  
1p. Mr. de St. Martin, claims 50 barrels of rice  
No. 30<sup>16</sup>. from Joseph Larche.  
See 30<sup>18</sup> 30<sup>19</sup>. Action allowed.
- Jan. 17, 1730. **Examination of a Delinquent Steward.** Jacques  
8pp. Charpentier, alias Le Roy, steward of Amyault  
No. 30<sup>17</sup>. D'Auseville, is overhauled before Councillor  
See 30<sup>83</sup>. Prat on charges of fraudulent management,  
cruelty to slaves, and the suspicious death of  
one or more of them. His answers generally  
deny the charges, and he also professes ignorance  
in many articles.  
Possibly this document is incomplete, as  
there is no formal conclusion. Snakes, inci-  
dentally, are mentioned as destroying pigeons,  
and weasles the poultry.
- Jan. 20, 1730. **Petition for Adjournment of Hearing.** Jacques  
1p. Larchevesque pleads for a week longer in which  
No. 30<sup>18</sup>. to "deduce his reasons" of defence in the suit  
See 30<sup>16</sup>, 30<sup>19</sup>. moved by Mr. Morand.  
No note by Court.
- Jan. 21, 1730. **Decision Between Morand and Larchevesque.**  
1p. No. 30<sup>19</sup>.  
See 30<sup>18</sup>.  
See 30<sup>16</sup>.  
1. L. shall pay 961½ francs, 124 Spanish dollars  
and 27 barrels of rice.  
2. Item, between Morand and Joseph Larche.  
J. L. shall pay 50 barrels of rice.

- Jan. 21, 1730. **Decisions in Sundry Suits.**  
 2pp.  
 No. 30<sup>20</sup>.
1. Francois Dieudonner Fonder *vs.* Madame de Ste. Hermine. Deferred. See 30<sup>12</sup>.
  2. See 30<sup>191</sup>.
  3. See 30<sup>192</sup>.
  4. Morand *vs.* Bimond. Deferred.
- See 30<sup>14</sup>.  
 30<sup>8</sup>.
5. Morand *vs.* De Prade. Deferred.
  6. Brosset *vs.* Jacques Larchevesque. Judgment for B.
- 30<sup>7</sup>
7. Brosset *vs.* Cariton. Deferred.
  8. Augustin Gouy de Bidal *vs.* Trenonnay. Deferred.
- 30<sup>8</sup>.  
 30<sup>11</sup>.
9. Le Maire *vs.* Rossard. R. to meet claim.
  10. Beausejour *vs.* Langlois. L. to pay. (Passage torn.)
- 30<sup>10</sup>.
11. Robin *vs.* ——. Deferred.
- Jan. 23, 1730. **Sale of Kolly Property.** Auction of goods listed in inventories of January 9 and 16, save what has been left for use of the Ste. Reine grant. Total proceeds not stated. They rest, for the present, with Mr. Rossard, attorney for vacant estates.
- 18pp.  
 No. 30<sup>21</sup>.
- See 30<sup>2</sup>, 30<sup>13</sup>,  
 30<sup>60</sup>.
- Document in Mr. R.'s hand, but more carefully and legibly written than much of his writing is, when slurred and hasty.
- Jan. 25, 1730. **Petition of Recovery.** Madame de Manade complains that she can get no satisfaction from the Baschemin debt. In so far as the Company claims right of preference. Madame shows that her dowry was duly secured at a time (March 10, 1720) when she owed nothing to the Company; neither did her father, from whose estate her dowry derived. Let the Attorney General be cited to release Company's distraint on funds at issue.
- 2pp.  
 No. 30<sup>22</sup>.  
 See 29<sup>46</sup>, 30<sup>26</sup>.
- Notice served to A. G. and to Baschemin and wife.
- Jan. 26, 1730. **Petition to Confirm Sale.** Joseph Blanpain moves for the citation of Joseph Chesnay, to secure J. B. in his possession of the lot adjoining Mr. De Chavanne, who claims right of preference.
- 1p.  
 No. 30<sup>23</sup>.  
 See 30<sup>844</sup>.
- Action allowed.
- Jan. 30, 1730. **Petition of Recovery.** Pierre François Desjoux, formerly surgeon at the Chaouachas grant, claims 170 francs of one Marsilly, and 50 francs from Chaperon.
- 1p.  
 No. 30<sup>24</sup>.
- Action allowed.

- Jan. 30, 1730. **Inventory of Property.** Goods of the late Sieur Mesplet, brought down from Avoyelle. First item is 1163 lbs. of tobacco. Miscellany of clothing, bedding, nine deerskins, tools, glassware, various utensils.  
4pp.  
No. 30<sup>25</sup>.  
See 30<sup>77</sup>.  
No value affixed. Book of travel. "Voyage of the South Sea," with prints.
- Feb. 4, 1730. **Remonstrance.** Mr. and Madame Baschemin object to being cited at nearly every audience to pay Manade and wife. All the petitioners want to pay their debt in question, but they have been disappointed in regard to some funds which were expected by way of France.  
1p.  
No. 30<sup>26</sup>.  
See 30<sup>22</sup>, 30<sup>33</sup>.  
They dispute the right of M. and wife to recover the plantation; and in short, this entire defence amounts to a rigmarole of idle squirming to explain their creditor's thwarted efforts at cash collection. They blow hot and cold in the same breath: professing zeal to pay, demanding license to dodge payment.  
No note by Court.
- Feb. 5, 1730. **Petition to Receive Legacy.** Jean Robin, sole legatee of late Nicolas LeMoine, shows that he is opposed by Langlois, Senior, who claims a debt against the vacant property. If so, let L. produce his papers in proof, or else be nonsuited.  
2pp.  
No. 30<sup>27</sup>.  
See 30<sup>342</sup>,  
30<sup>396</sup>.  
30<sup>43</sup>.  
Action allowed.  
Postscript, March 4, 1730, by Attorney General Fleuriau, sustaining Jean and ordering execution of the will.
- Feb. 6, 1730. **Petition of Recovery.** Voisin claims 142 francs and 5 sous from Bonvillian, due on his note of August 22, 1729.  
1p.  
No. 30<sup>28</sup>.  
See 30<sup>345</sup>.  
Action allowed.
- Feb. 6, 1730. **Petition of Recovery.** Voisin claims 100 barrels of rice from Joseph Carriere, due on his note of October 27, 1729.  
1p.  
No. 30<sup>29</sup>.  
See 30<sup>341</sup>.  
Action allowed.
- Feb. 6, 1730. **Seals Placed.** On the death of First Councillor Delachaise, Councillor Brusle fulfils the formalities of sealing the goods on the premises of the deceased.  
3pp.  
No. 30<sup>30</sup>.  
See 30<sup>31</sup>, 30<sup>281</sup>.  
A35<sup>18</sup>.  
Signed: Prat,  
Bizolon (son-in-law of deceased.)  
Delachaise.  
Brusle.  
Delanobilliere.  
Fleuriau.  
Rossard.



Feb. 7, 1730. **Petition for Appointment of Guardian.** Councillor Prat, a son-in-law of the late First Councillor Delachaise, moves for the election of a guardian and surrogate guardian for the surviving minor children: Jacques, Jean Jacques, Alexandrine, Felicite.  
1p.  
No. 30<sup>31</sup>.  
See 30<sup>30</sup>, 30<sup>32</sup>,  
30<sup>42</sup>, 30<sup>46</sup>.  
Madame veuve Delachaise is absent.  
Approved<sup>2</sup> Brusle.  
Partly torn.

Feb. 10, 1730. **Inventory of Delachaise Estate.** both movables and real estate herein detailed: item, papers. Document in several sections according to time and place.  
14pp.  
No. 30<sup>32</sup>.  
See 30<sup>30</sup>.  
Partly blackened; slurred, in the main (Rossard scrawl) and charred at some spots.

Feb. 11, 1730. **Company's Credit First.** Attorney General Fleuriau defines the true bearings of the case between Manade and wife, Baschemin and wife, and French Company. Letters patent of August, 1717 grant "this Colony" to the Company of the Indies in full sovereignty. Whatever the Company advances to settlers is like first mortgage security, Manade plantation grew from such advances; if Manade wasted his wife's dowry, that is a detached issue nor can it obstruct the Company's first preference. Baschemin debt to Manade and wife should be first paid to Company and only the surplus, if any, revert to Madame de Manade.  
4pp.  
No. 30<sup>33</sup>.  
See 30<sup>28</sup>, 30<sup>343</sup>,  
30<sup>38</sup>.  
No note by Court.

Feb. 11, 1730. **Decisions in Sundry Suits.**  
1p. No. 30<sup>34</sup>.  
See 30<sup>27</sup>.  
30<sup>33</sup>.  
1. Voisin *vs.* Joseph Carriere. For Voisin.  
See 30<sup>29</sup>.  
2. Jean Robin *vs.* Langlois. Deferred.  
3. Madame de Manade *vs.* Baschemin and Attorney General. Adjourned.

Feb. 13, 1730. **Petition of Recovery.** Pierre Dargent claims 300 francs of François Aville "for having stopped a raft belonging to him," the petitioner.  
1p.  
No. 30<sup>35</sup>.  
See 30<sup>392</sup>.  
Action allowed.

Feb. 13, 1730. **Petition of Recovery.** De Morand, attorney for St. Martin, claims 8 barrels of corn from Sieur Jarry, due on his note of August 4, 1729.  
1p.  
No. 30<sup>36</sup>.  
See 30<sup>385</sup>.  
Action allowed.

- Feb. 18, 1730. **Petition to Rescind Contract.** Pierre François Desjoux, sometimes surgeon at the Chaouachat grant, moves for the citation of Sieur Bonnaud, inspector thereof, with a view to cancelling a certain bargain between them, dated September 21, 1728; for as much as the said bargain happens to be contrary to law and custom.  
Signed: Dejoux.  
Action allowed.  
Handsome sorbonne script.
- Feb. 18, 1730. **Company's Credit Again Upheld.** Attorney General Fleuriau reinforces his antecedent argument against Madame de Manade and her dowry plea. Plantation was not her heritage, but was acquired while she and her husband lived as joint possessors. Even so, the husband was authoritative disposer, not the wife. Moreover, every sale is subject to Council's consent and implies the clause of securing Company's claim. Neither, as Madame contends, was her dowry inalienable: the law provides leave to alienate in some provinces, of which this is one. Let Madame recover where she will, but not at the expense of Company's first rights. Baschemin should pay price of purchase to Company's treasury. Surplus, if any, to Madame M.
- Feb. 18, 1730. **Decisions in Sundry Suits.**  
1p.4. No. 30<sup>39</sup>.  
See 30<sup>35</sup>.
1. Dejoux *vs.* Chapperon. For Dejoux.
  2. Pierre Dargent *vs.* François Aville. F. A. must pay.
  3. Jean Du Buisson *vs.* François Aville. J. D. referred elsewhere.
  4. De Morand *vs.* de Manade. For Plaintiff.
  5. De Morand *vs.* Jarry. For Plaintiff.
  6. Jean Robin *vs.* Langlois. L. allowed a week at most for bringing proof.
  7. Madame de Manade *vs.* Baschemin and Attorney General. Council sustains Attorney General's construction; execution in favor of Company.
- See 30<sup>15</sup>.  
30<sup>36</sup>.  
30<sup>27</sup>.  
30<sup>583</sup>.  
30<sup>33</sup>.  
30<sup>38</sup>.
- Feb. 24, 1730. **Petition of Recovery.** Dutisne, Junior, on behalf of his father seeks to collect 1500 francs from Mr. Raquet, due on two notes.  
Action allowed.
- Feb. 25, 1730. **Petition to Sell Estate Goods.** Heirs of late Monsieur Delachaise ask leave to sell a quota of estate goods in order to pay for current supplies beer, meat, vegetables and other articles of subsistence.  
1p.  
No. 30<sup>42</sup>.  
See 30<sup>31</sup>, 30<sup>46</sup>,  
30<sup>55</sup>.

Attorney General approves (a limiting clause is torn away) and Council assents. Proceeds to be consigned to Mr. Prat guardian of the minor children.

Feb. 25, 1730. **Receipt.** Barbaud has received 702 francs from Slip. Jacques La Croix on account of what he owes No. 30<sup>41</sup>. to the Company.

Feb. 25, 1730. **Renouncement of Opposition.** Langlois has not 1p. cared to appear in his defence, for the reason No. 30<sup>43</sup>. that a supposed sale which indebted the late See 30<sup>27</sup>. Le Moine to him was fictitious, in sum, there was no contract, and hence there is no opposition.

Feb. 28, 1730. **Petition of Recovery.** Jean Baptiste Massy 4pp. strains out, like a drop of cider from half a ton No. 30<sup>44</sup>. of dried apples, a plea to extract 6699 francs See 29<sup>92</sup>. erroneously credited by the late Roger to the 30<sup>45</sup>1, Company's operations, for Massy and his land 30<sup>49</sup>. grant associates. Money was bonded by late Mr. Kolly. Let Attorney General and Mr. Rossard be cited to authorize withdrawal of Mr. Kolly's bonds from Company's accounts and let the petitioner's claim be met from Kolly estate assets.

Action allowed.

Duplicated, and documents vile script.

March 4, 1730. **Decisions in Sundry Suits.**  
1p. 1. Massy *vs.* Attorney General and Rossard.  
No. 30<sup>45</sup>. Bond may be withdrawn on condition of  
See 30<sup>44</sup>, 30<sup>49</sup>. Massy's paying 99 francs, in order to redeem  
his part of the transactions.  
30<sup>40</sup>. 2. Dutisne Junior *vs.* Roquet. For D. Jr., first  
item claimed under total sum; second item  
payable when matured.  
30<sup>37</sup>. 3. Pierre François Desjoux *vs.* Bonnaud. Con-  
tract cancelled as desired.

Mar. 10, 1730. **Petition in Behalf of Slave Sale.** Councillor 1p. Louis Prat, guardian of Delachaise minors, and surrogate guardian Droy, lack funds for living expenses of said minors. It seems advisable to sell a negress Fanchon and her children, if relatives and friends concerned will approve.

A meeting of relatives and friends may be called.

Brusle.

Mar. 10, 1730. **Receipt.** Baucour has received 100 francs from Slip. Lassus de Manilly on account of the bargain No. 30<sup>47</sup>. between them at —.

- Mar. 10, 1730. **Statement of Court Account.** Mr. Rossard's memorandum of the costs and fees due to him (recorder) by the estate of late Mr. Desfontaine. Total, 216 francs, 10 sous.  
1p.  
No. 30<sup>48</sup>.  
See 26<sup>21</sup>.
- Mar. 11, 1730. **Petition of Recovery.** Jean Baptiste Massy has paid the balance due by himself, 99 francs, in order to withdraw copy of Mr. Kolly's bond in favor of the Company to sum of 2,789 francs. Mr. K. gave this bond only on condition of securing Company for like indebtedness of Massy and his associates to the Company; but the contrary situation holds: Company being debtor to M. and his associates for amount of bond. Let the attorney for vacant estates be cited to pay this claim.  
2pp.  
No. 30<sup>49</sup>.  
See 30<sup>792</sup>, 30<sup>44</sup>,  
30<sup>451</sup>.  
Action allowed.
- Mar. 13, 1730. **Petition in False Witness Charge.** Antoine Milon, carpenter and calker, has been accused by one Marchand of robbery on his premises by night. A. M. was not in this town at that time, and can produce witnesses to such effect. Let Marchand be cited to make due amends.  
1p.4.  
No. 30<sup>50</sup>.  
Action allowed.
- Mar. 13, 1730. **Petition of Recovery.** Raymond Amyault D'Auseville claims 439 francs and 17 sous from Jacques Judice, due on two notes, and a further debt of 300 francs.  
1p.  
No. 30<sup>51</sup>.  
Let J. J. be cited.  
Approved, and notice served.
- Mar. 13, 1730. **Petition of Recovery.** Jean Baptiste Beaupre seeks to collect a wage account of Councillor Prat for two months' labor on a certain mill site, and one month on plantation; less what has been received on account.  
1p.4.  
No. 30<sup>52</sup>.  
See 30<sup>581</sup>.
- Mar. 20, 1730. **Petition of Recovery.** Antoine Lowe, alias Langlois, moves for the citation of Sieur Fonder, guardian of Soubaigne minors, to pay 1000 francs in tobacco at Company's price, as due by note.  
1p.  
No. 30<sup>53</sup>.  
See 30<sup>582</sup>, 30<sup>101</sup>.  
Action allowed.
- Mar. 23, 1730. **Inventory of Papers.** List of documents found in a portfolio after the death of Mr. de Lorme.  
4pp.  
No. 30<sup>54</sup>.  
Papers are consigned to Madame veuve de Lorme, who promises to deliver them on due occasion.

Mar. 27, 1730. **Sale of Delachaise Goods Movable.** Items include a lot of silverware, with marginal note paid, and memorandum stating that these articles amount to 21 marcs in weight. (Silver marc 8 ounces).  
 6pp.  
 No. 30<sup>55</sup>.  
 See 30<sup>42</sup>.

Proceeds of sale, 5751 francs.  
 Responsibility of collection devolves on Mr. Prat.

Signed: Prat.  
 Bizoton.  
 Rossard.

Mar. 28, 1730. **Petition of Recovery.** Guillaume Bousquerard claims eight barrels of rice from Cariton, tailor, due on his note dated 3 September, 1729.  
 1p.  
 No. 30<sup>56</sup>.  
 Action allowed.

Mar. 28, 1730. **Petition of Recovery.** Raymond Amyault D'Auseville claims 50 barrels of rice in straw, which Antoine Malon was also to deliver in past November, whereas the petitioner was also to pay 200 francs, due on a note of June 1, 1729.  
 1p.  
 No. 30<sup>57</sup>.  
 See 30<sup>797</sup>.  
 Action allowed.

Mar. 29, 1730. **Decisions in Sundry Suits.**  
 1p. No. 30<sup>58</sup>  
 See 30<sup>52</sup>.  
 30<sup>53</sup>.  
 30<sup>101</sup>.  
 30<sup>396</sup>.

1. Jean Baptiste Beaupre *vs.* Prat. Settlement ordered.
2. Antoine Lowe *vs.* Francois Dieudonne Fonder.  
 Claim allowed.
3. Jean Robin *vs.* Langlois. J. R. shall stay possessed of the property bequeathed to him by late Nicolas Lemoyne, subject to responding to just claims on occasion. The will shall therefore be carried out.

Mar. 30, 1730. **Sale of Goods from Kolly Store.** Items include dry goods, articles of apparel, snuffboxes, buttons, firearms; but especially dry goods and clothing. Proceeds left blank; they stay with Attorney for Vacant estates pending further application.  
 9pp.  
 No. 30<sup>60</sup>.  
 See 30<sup>21</sup>, 30<sup>61</sup>.  
 Partly duplicated.

Mar. 30, 1730. **Petition for Clear Possession.** Jean Baptiste de Chavannes, settler near Chapitoulas, has been disturbed for a month past in regard to the ownership of a lot of land which the petitioner holds by ruling of the King's Council of State, under date of August 10, 1728.  
 2pp.  
 No. 30<sup>59</sup>.  
 See 30<sup>67</sup>.  
 Let the disturber, one Blanpin, be cited.  
 Action allowed.  
 Duplicated.

- Mar. 30, 1730. **Memorandum of Sale Returns.** Tabulated figures alone, corresponding to items detailed in document 30<sup>60</sup>.  
2pp.  
No. 30<sup>61</sup>.  
See 30<sup>60</sup>.  
Aggregate reckoning (net), 6039 francs 8 sous.
- April 4, 1730. **Promissory Note.** Lacroix promises to pay or order Bellevue the sum of 20 francs in a month from date.  
Slip.  
No. 30<sup>62</sup>.  
(Lacroix is also known as Jacques Flourien.)
- April 5, 1730. **Mr. Rossard's Memorandum of Account.** "Statement of what I have paid to Mr. de Tronquidy and for him to sundry individuals."  
1p.  
No. 30<sup>63</sup>.  
Item, a subjoined note signed by De Tronquidy, showing settlement between them as regards a certain estate account.
- April 6, 1730. **Letter of de Manade to D'Auseville.** Complaining, in very illiterate script for a surgeon, of obnoxious acts on the part of one Roy. The writer admits that he does not suit "those Canadian gentlemen." He would avoid all dealings with Roy, and means to ask the "Religious Ladies" to send their sick slaves to town, where the surgeons will attend to them and leave fees to the Nuns' discretion. (Roy, presumably, was an overseer).  
2pp.4.  
No. 30<sup>64</sup>.  
Rent in last page.
- April 6, 1730. **Petition to Evict.** Dumont Demonsigny complains that Nicolas Dartet alias Francoeur has occupied petitioner's town house for a year gratis, and even tries to expel the owner when he comes to town and seeks lodgment. Let Nicolas be cited instrumentally to eviction.  
1p.4.  
No. 30<sup>65</sup>.  
See 30<sup>796</sup>.  
Action allowed.
- April 8, 1730. **Promissory Note.** Nicolas Pieron will pay to the order of Mr. Herpin 290 francs in three months, for value received in a cask of wine.  
Slip.  
No. 30<sup>66</sup>.
- April 8, 1730. **Remonstrance.** Blanpin denies that he would "usurp" a certain lot claimed by Sieur De Chavanne. The latter has no title thereto, whereas B.'s occupancy was by order of Commander General, De Perier, after survey by Mr. Broutin in petitioner's name. Blanpin has had wood felled and consumed, built a house, planted rice, corn and sweet potatoes, and employs four negroes and a Frenchman. Lately De  
1p.  
No. 30<sup>67</sup>.  
See 30<sup>59</sup>, 30<sup>795</sup>,  
30<sup>844</sup>.

Chavanne's horses and pigs have ruined the crops.

Action besought.

No note by Court.

Good script.

April 12, 1730. **Contract of Wooden Shoemaker.** Charles Pradel Erzerche, Lower Limousin. 1p. No. 30<sup>68</sup>.  
de Lamase, Royal Councillor and Lieutenant General of the Seneschal of Ezerche, agrees with Jean Galiard, wooden shoemaker, from village of Bouillaguet, for the shoemaker to serve three years in Louisiana, under Infantry Captain Pradel, the aforesaid Councillor's brother. Terms 540 francs besides maintenance and traveling expenses both ways. Time on voyage will not count with three years of contract. Accessory provisos, and contingencies comprised.

April 14, 1730. **Letter of Terisse de Ternan to Rossard.** Dugout Fort Chartres. 3pp. No. 30<sup>69</sup>.  
of Messrs. Perier and Delachaise has brought word of massacre of the French at Natchez and Yazoo posts and on the river. Illinois Indians thus far quiet, but never to be trusted. They were approached by Chicachas last summer to join in conspiracy. Fortunately the onions reached N. O. in advance of massacre in transit. Writer will send 36 choice hams. He hears that some English silverware has found its way to the store, correspondent will please bear his friend in mind and secure some of the silver. It is rumored that Mr. Delorme succeeds the late Mr. Delachaise. Send news "of your capital."

April 15, 1730. **Report on Sick Slave.** Populus (surgeon) certifies Slip. that the negro named Alphonse fell ill while working at Company's ditch of the circuit (or the town rampart) on February 4, 1730, and was carried to the Hospital on same day. Negro belonged to Mr. Petit. Stained.

April 15, 1730. **Petition to Recover Value of Slave.** Petit de Endorsed memorandum. 1p. No. 30<sup>71</sup>. See 30<sup>70</sup>, 30<sup>71a</sup>.  
Livilliers, on behalf of his brother Petit de Coulanges, moves to obtain indemnity for a negro of his brother's whether in the form of another slave or in money. On past December 15, the slaves of Petit de C. were put to work, all in good condition, on the town rampart. Alphonse, the slave here concerned, fell ill and was taken to the Hospital, where he died on

April 10. Since this happened in the Company's service, restitution is reasonably in order. Memorandum on last page, 15 April, 1730.

Mr. de Coulanges, substitution for a negro, deceased in Company's service.

- April 15, 1730. **Mortuary Certificate.** Grace (surgeon) certifies that a negro belonging to Mr. Petit came to the Hospital on February 4, and died on April 10, in the Company's service.  
Slip.  
No. 307<sup>1a</sup>.  
See 307<sup>1</sup>.
- April 18, 1730. **Petition of Recovery.** Infantry Captain Dautrive claims 67 francs from Coupard, carpenter, due on his note of January 13, 1730.  
1p.  
No. 307<sup>2</sup>.  
See 308<sup>43</sup>.  
Action allowed.
- April 18, 1730. **Petition of Recovery.** La Violette claims 50 francs from Mr. Rossard as attorney for estate of late Mr. Roger. Petitioner attended Roger during illness.  
1p.  
No. 307<sup>3</sup>.  
See 307<sup>98</sup>.  
Action allowed.
- April 18, 1730. **Petition of Recovery.** Tourgangeau, gardener for the Reverend Fathers S. J., claims 131 francs from Sieur Bimond, due on his note of December 12, 1729.  
1p.  
No. 307<sup>4</sup>.  
See 307<sup>93</sup>.  
Action allowed.
- April 20, 1730. **Petition of Redress.** Henry Buquoy alias Plaisance bought a negro at auction for 1000 francs, payable in six months to Mr. D'Auseville. A bad bargain for H. B., as the negro is always ill and unfit for service. Let the contract be cancelled.  
1p.  
No. 307<sup>5</sup>.  
See 307<sup>8</sup>.  
Notice served to Mr. D'Auseville to appear on Monday next.
- April 21, 1730. **Motion for Trial.** Attorney General Fleuriau reports that one Andre, free negro employed by Mr. Bellair, was trying to arrest a fugitive negro belonging to Mr. Pasquier, and shot into the water, and has not appeared since. Let Andre now in prison, be brought to trial.  
1p.  
No. 307<sup>6</sup>.  
No note by Court.
- April 21, 1730. **Inventory of Goods.** Surgeon Jean de Reydet, of Natchez region, has brought down two trunks belonging to the late Mr. Mesplet, together with tobacco and other sundries, which have been unsealed by order of Council, and are here listed in detail.  
2pp.  
No. 307<sup>7</sup>.  
See 302<sup>5</sup>, 301<sup>08</sup>.



April 22, 1730. **Remonstrance.** Councillor Amyault D'Auseville argues forcibly and virtuously away from the main issue, but leaves that untouched, namely, that Buquoy's slave is unfit for service, and should therefore be returned. Councillor D'A. seems to imply that B. took his chances, and ought to bear the consequence. (It rather strengthens B.'s case for the Councillor to admit that B. has offered him 20 quarters of rice if he would take back the negro.) Let B. be non-suited.

No note by Court.

April 22, 1730. **Decisions in Sundry Suits.**

2pp.

No. 3079.

See 3074.

301034.

3067.

3065.

3057.

3073.

3078.

1. Cancelled. See 3049.
2. J. B. Massy *vs.* Rossard. Bond to be paid by R.
3. Tourangeau *vs.* Bimont. For T.
4. Sansfacon *vs.* Cariton. Rice to be paid.
5. De Chavanne *vs.* Blanpin. Further in process.
6. Dumont de Monsigny *vs.* Francoeur. F. evicted.
7. D'Auseville *vs.* Malon. For D'A.
8. La Violette *vs.* Rossard. Adjourned and contingent.
9. Buquoy *vs.* D'Auseville. B. to pay his note.

April 22, 1730. **Superior Council.** Regulation directing restitution of slaves unlawfully detained from their owners.

April 25, 1730. **Arbitration Ordered.** Jacques Larchevesque *vs.* De Perier and Lange his attorney. Claim of 2178 francs, ten sous, and other demands. Messrs. DuBreuil and Raquest will arbitrate. Notice served. Ragged edges.

April 29, 1730. **"To Sieur Roy."** A severe arraignment, apparently in the writing of Councillor Amyault D'Auseville, of his brutish overseer. A main charge is that of causing frequent abortion among the slave women by corporeal punishment in pregnancy. There is also the damaging insinuation that Roy is especially vindictive to those women slaves who repel his lust in the open field. Again, Roy slights the Black Code in its prohibition of Sunday taskwork, and he stints the slaves of necessary provisions. He is also unsparing of horse life. Send the rest of threshed rice.

Writer forwards six bags marked AD.

- April 28, 1730. **Petition of Recovery.** Jean Cariton claims 177 francs for supplies furnished to the late Mr. Delachaise. Let Prat, guardian of D. minors, be cited.  
Action allowed.
- April 28, 1730. **Petition of Recovery.** Captain Renaut D'Haute-rive claims 1069 francs and 5 sous from Mr. Prat, guardian of Delachaise minors; due on a certain consignment or commercial package.  
Action allowed.
- April 29, 1730. **Decisions in Sundry Suits.**  
2pp.  
No. 30<sup>84</sup>.  
See 30<sup>72</sup>,  
30<sup>87</sup>,  
30<sup>23</sup>,  
30<sup>28</sup>.
1. Rossard *vs.* Prat. P. to pay 3474 francs on sales.
  2. Jean Cariton *vs.* Prat. P. to pay 130 francs.
  3. Dauterive *vs.* Coupard. Claim allowed.
  4. Blanpain *vs.* C. B. is declared rightful owner and shall enjoy full possession.
  5. Voisin *vs.* Bonvillain. For V.
  6. J. B. Faucon Dumanoir *vs.* Charles Droy.  
Adjustment of a landgrant suit by scrawl.
- April 30, 1730. **Petition of Recovery.** Balcour claims 90 francs from Mr. Prat, guardian of Delachaise minors, due on a piece of print (dry goods).  
Action allowed.
- May 2, 1730. **Petition of Recovery.** Genevieve Boyer claims 30 francs from Mr. Prat, guardian of Delachaise minors, for making a fine shirt for late Mr. D.  
Action allowed.
- May 2, 1730. **Petition of Recovery.** R. P. Petit, Superior S. J., claims 228 francs from Mr. Prat, guardian of Delachaise minors, for some wrought iron furnished by the Society's blacksmith for use on D. plantation.  
Signed: Le Petit S. I.  
Action allowed.
- May 3, 1730. **Petition of Recovery.** Caron, butcher, claims 500 francs from Mr. Prat, guardian of Delachaise minors, for meat supplied to the house of deceased Mr. D.  
Action allowed.  
Torn.
- May 4, 1730. **Petition of Recovery.** Captain Renaud D'Haute-rive, having married Dame Charlotte Bottra, widow of the late Sieur François Duval, Company Cashier, seeks to collect the aggregate amount of 7675 francs and 6 sous from Mr. Prat,

guardian of Delachaise minors, for notes due by late Mr. Delachaise to the Company's treasury. Details given, and figures summed up on left margin.  
Action allowed.

May 4, 1730. **Petition of Recovery.** Sieur Voisin claims 800 francs of Mr. Prat, guardian of Delachaise minors, for beer furnished to the house of late Mr. D. while he lived. Item, 262 francs due on store goods.  
Action allowed.  
Right edge notched.

May 4, 1730. **Complaint of False Witness.** Joseph Lamy, settler aux Chaouachats, reports that one Robin has been accusing him of robbing nine barrels of rice. Legal action besought.  
No note by court.

May 6, 1730. **Petition for Allowance.** Mr. Prat, guardian of Delachaise minors, requests a prudential allowance from goods of the estate for support of his wards. There are sufficient means available now, but many claims await settlement, and it seems well to make timely provision.  
Attorney General approves and allowance of 500 francs for Demoiselle Felicite Delachaise, minor; the other children being now of age.

May 6, 1730. **Petition of Recovery.** Councillor Antoine Brusle paid 60 francs on account of the Mr. DeLorme for two pigs, bought of Mr. Morand. Mr. De Lorme died on the return trip from France, and his goods were sold by Captain de Vouberey of ship La Baleine. Let the latter settle.  
Action approved by D'Auseville and seconded by Attorney General Fleuriau, May 13, with due proviso that the claim be affirmed by Mr. Brusle.

May 6, 1730. **Decisions in Sundry Suits.**  
2pp.  
No. 30<sup>94</sup>.  
See 30<sup>90</sup>.  
30<sup>87</sup>.  
30<sup>91</sup>.  
30<sup>88</sup>.  
30<sup>85</sup>.  
30<sup>86</sup>.

1. Renaud D'Hauterive *vs.* Prat. Revised settlement ordered.
2. R. P. Petit *vs.* Prat. Claim allowed.
3. Voisin *vs.* Prat. Claims allowed.
4. Cresemanne *vs.* Prat. Claim allowed.
5. Caron *vs.* Prat. Claim allowed.
6. Balcour *vs.* Prat. Claim allowed.
7. Genevieve Boyer *vs.* Prat. Claim allowed.  
Torn.

- May 9, 1730. **Petition in Libel Suit.** Joseph Lamy, settler at Chaouachas, complains that one Robin has been accusing J. L. of robbing nine barrels of rice. Let R. be cited.  
Action allowed.
- May 9, 1730. **Decisions in Sundry Suits.**
1. Aufreere *vs.* DuBuisson. Arbitration sentence of March 28 to be carried out.
  2. Robin Senet *vs.* Rossard. Note to be paid.
  3. Voisin *vs.* Dubreuil. For V.
  4. Guillaume Bousquerat *vs.* Beaupre. For G. B.
  5. R. P. Raphael *vs.* Rossard. For R. P. R. Worn and soiled.
- May 13, 1730. **Proposition to Free Negroes for Military Merit.** Attorney General Fleuriau, moved by the inhuman massacre at Natchez, urges recourse to every corrective measure, and suggest the plan of freeing those negroes who by report of the officers in charge proved loyally useful to the upper French posts. He would have a military company organized among the like elect negroes for instant call against the Indians on occasion. Freedom has already been promised to certain negro volunteers in wake of Natchez affair; let the promise be fulfilled, subject to appertaining clauses of the Black Code. Appended list of names; those, presumably, of candidates for emancipation.
- May 13, 1730. **Decision Between Brusle and Vaubery.** Council orders Messrs. Vaubery and Touffreville, Captain and clerk of La Baleine, to pay plaintiff his claim of 60 francs, on his affirming the debt valid.  
Signed: Perier.  
D'Auseville.  
Baron.
- May 15, 1730. **Petition to Receive Legacies.** R. P. Raphael reminds the Council of his request in the matter of certain pious legacies, which have not been paid, although he has complied with his obligations as defined in the wills. Let Mr. Rossard, attorney for vacant estates, be cited to settle without new delay.  
Action allowed.  
Notched border.

May 15, 1730. **Money Order. Chapitoulas.** John Chrystof Kayser, surgeon, asks Mr. Rossard to pay Mr. De Lafreniere the sum of 300 francs on the surgeon's account. J. C. K. will credit Kolly estate for like sum reckoned on his salary. Labored signature, as though Dr. Johan Chrystof, Chyrurgien, were not very versatile in Roman script.

After  
May 12, 1730.  
1p.  
No. 30<sup>100</sup>.  
See 30<sup>99</sup>.

**Memorandum of Account.** Statement of Lafreniere's credits with Mr. Rossard, attorney for vacant estates. Against Perrinet, who died aux Thonicats, 23 francs. Note of Quidort, settler at Natchez, 108½ francs. St. François, or François Vivard, settler at Natchez, 129¼ francs. Kolly estate, 300 francs. Against Mesplet of Avoyelles, 8 francs for an axe. Total, 589 francs.

May 16, 1730. **Petition of Recovery.** Antoine Lowe, alias Langlois, had an allowed claim of 1000 francs against Sieur Fonder, then guardian of Soubaigne minors. Let the same claim be collected of present guardian, Sieur Rousseau. Notice served.

May 16, 1730. **Petition of Recovery.** Castelnau claims 104 francs from Bordelon, due on a note. Action allowed.

May 20, 1730. **Petition of Recovery.** Arnaud Bonnaud, sometimes Company storekeeper, is creditor to Bourbaut estate for some sheep. Let Mr. Rossard be cited, as attorney, to satisfy this claim. Action allowed.

May 20, 1730. **Decisions in Sundry Suits.**

1p. No. 30<sup>103</sup>.  
See 30<sup>101</sup>.

1. Antoine Lowe *vs.* Rousseau. A. L. shall take his place in line with other creditors.
2. Blanpin *vs.* Sautier. Out of Court.
3. Castelleau *vs.* Bordelon. Claim allowed.
4. Bimond *vs.* Tourangeau. B. non-suited. Judgment to stand and execution ordered.
5. Lamy *vs.* Robin. Further in process. Torn.

May 22, 1730. **Inventory of Goods.** List of personal effects, an Indian slave among them, belonging to the late Mr. Chassin, chief clerk at Natchez post. Major Benan, who prepared the inventory, took charge of a silver seal, and trunk keys. A

trunk filled with papers was not overhauled. Witnessed by D'Artaguiette, Pasquier, and Jean De Reytet.

De Reytet also retained an old gun and a copper sword with silver hilt and silk belt.

May 23, 1730. **Petition for Settlement of Estate Business.** Mr. Rossard cannot comply with R. P. Raphael's demand as regards de La Salle bequest (330 francs). There is very little movable property, and chief asset due on four slaves that were sold to Mr. De Chavannes for sum total of 4400 francs, has not been realized. Let Mr. DeC. be cited to settle, or else give back the four slaves. Action allowed, and notice served to M. DeC.

2pp.  
No. 30<sup>105</sup>.  
See 29<sup>181</sup>.  
30<sup>98</sup>.  
30<sup>120</sup>.

May 23, 1730. **Letter of Terisse de Ternan to Rossard. Fort Chartres.** Reporting the death of Mr. Dutisne on May 15, and forgiving, though bewailing his machinations against the writer. Another black mark on the character of the deceased was his exaction of a bonus from a fur trader, whereby the latter might carry peltries to Canada contrary to the law (or public orders of the Council). Writer is threatened with dismissal; in such event, he will have the pleasure of seeing his friend Rossard.

3pp.  
No. 30<sup>106</sup>.  
See 30<sup>69</sup>.  
30<sup>216</sup>.  
31<sup>85</sup>.

May 27, 1730. **Petition of Recovery.** Councillor Louis Prat holds a bond for 1260 francs payable in tobacco, against the late Arnaud Maudet, settler at Natchez, who was killed before discharge of matured bond. Let the deceased's negroes be sold in satisfaction of this debt after Company's claims are squared.

1p.  
No. 30<sup>107</sup>.

Approved: Perier, Brusle, D'Auseville, Baron. Torn.



**INDEX**  
**TO**  
**THE LOUISIANA HISTORICAL QUARTERLY**  
**Volume 4, 1921**

	Page
ARCHIVES LOUISIANA. See Louisiana.	
BOOTH, A. B. Confederate Military Records of Louisiana.....	369
BAR, THE LOUISIANA, by T. C. W. Ellis.....	81
BILOXI BI-CENTENNIAL, by Andre Lafargue.....	459
CABILDO ARCHIVES. See Louisiana.	
CENTENARY OF SUPREME COURT OF LOUISIANA, 1913.....	5
Invocation, Rev. J. D. Foulkes, S. J.....	7
Opening Address, Joseph W. Carroll.....	9
Address of Welcome, Gov. Luther E. Hall.....	12
The History of the Supreme Court of Louisiana, Henry Plauche Dart.	14
The Jurisprudence of the Supreme Court of Louisiana, Charles Payne Fenner.....	71
The Louisiana Bar, T. C. W. Ellis.....	81
The Centennial Year, Joseph A. Breaux.....	106
Prayer, Rt. Rev. Davis Sessums.....	109
The Justices of the Supreme Court, William Kernan Dart.....	112
COURTS AND LAW IN COLONIAL LOUISIANA, Henry P. Dart.....	255
CHARITY HOSPITAL FIRST IN NEW ORLEANS (1736).....	359
DART, HENRY P. Courts and Law in Colonial Louisiana.....	255
History of Supreme Court of Louisiana.....	14
Indian Titles to Land in French and Spanish Periods.....	134
Mazureau's Oration on Mathews.....	149
Servinien's Case—1752.....	290
DART, WILLIAM KERNAN. The Justices of the Supreme Court of La.	113
ELLIS, T. C. W. The Louisiana Bar.....	81
FENNER, CHAS. PAYNE. Jurisprudence of Supreme Court Louisiana..	71
GAYARRE, CHARLES. Report on Louisiana Archives in Spain, 1850.....	466
HART, W. O. Rights of Women in Louisiana.....	437
INDIAN LAND TITLES.....	134
JURISPRUDENCE SUPREME COURT LOUISIANA. Chas. Payne Fenner.	71
KING, GRACE. Selections from Her Scrap Book.	
Fossils, Interesting, of Louisiana.....	130
St. Louis Hotel, Old.....	128
Slaver, Last Captured.....	132
Ye Olden Tyme.....	125
LAFARGUE, ANDRE. Biloxi Bi-Centennial.....	459
LOUISIANA.	
Cabildo Archives, VI, Supplement to Emancipation of Marie Aram, 3.551.....	366
Cabildo Archives, VII, Supplement to First Charity Hospital, 3.554....	359

## INDEX—Continued

	Page
Cabildo Archives, IX, Passport to Ship "Apollo".....	216
Confederate Military Records, by A. B. Booth.....	369
Courts and Law, Colonial, by Henry P. Dart.....	255
Dart, Henry P., Courts and Law in Colonial Louisiana.....	255
Indian Land Titles.....	134
Servinien's Case—1752.....	290
Dart, Henry P., Editor. See Cabildo Archives, Records of Superior Council.	
Gayarre Report on La. Archives in Spain, 1850.....	466
Gov. Unzaga's Fire Ordinance.....	201
Indian Land Titles.....	134
Mathews, George, President Louisiana Supreme Court,	
by Etienne Mazureau.....	154
Mazureau's Oration on, by H. P. Dart.....	149
Watts' Discourse on.....	189
New Orleans Fire Protection, Spanish Period.....	201
Records of Superior Council. (See below.)	
Servinien's Case—1752, Henry P. Dart.....	290
Spain, Allegiance to, Oath of.....	205
Superior Council, Records of, Edited by H. P. Dart:	
XI 1727-1728 .....	218
XI 1728-1730 .....	324
XII 1728-1730 .....	483
Supreme Court of La., Centenary of.....	5
MATHEWS, GEORGE, Panegyric on, by Etienne Mazureau.....	154
MAZUREAU'S ORATION ON MATHEWS, by Henry P. Dart.....	149
MAZUREAU, ETIENNE, Panegyric on George Mathews.....	254
NEW ORLEANS, Charity Hospital First in, 1736.....	359
Fire Protection in Spanish Period.....	201
PARSONS, EDWARD A., Stones of Reims.....	425
RECORDS OF SUPERIOR COUNCIL.....	218
REIMS, STONES OF, by Edward A. Parsons.....	425
SERVINIEN'S CASE, 1752, by Henry P. Dart.....	290
SPAIN, OATH OF ALLEGIANCE, by People of Illinois and Louisiana....	205
SLAVER, LAST CAPTURED, Miss King's Scrap-Book.....	132
SUPERIOR COUNCIL OF LOUISIANA, Index to Records. See Louisiana.	
SUPREME COURT OF LOUISIANA, CENTENARY, 1913.....	5
UNZAGA, GOVERNOR OF LOUISIANA, Fire Ordinance for New Orleans.	201
WATTS, CHARLES, Discourse on George Mathews.....	189













