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The New Orleans Bee.

NEW ORLEANS, TUESDAY MORNING, JUNE 14, 1853.

RATES OF ADVERTISING.
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☞ Advertisements inserted at intervals will be charged one dollar for every TEN lines for each language for each insertion.
☞ The privilege of Annual Advertisers is limited to advertisements strictly with the line of their business, and to extent in one column every other day.

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THE DAILY BEE.

Tuesday Morning, June 14, 1853.

NOTICE.

With a view of enabling those of our citizens who pass the Summer across the Lake, to receive the Bee, we have established Agencies at the Bay of St. Louis and Pass Christian, in the stores of Messrs. Elliott & Co. From and after the 15th instant, these gentlemen will receive regularly a supply of our daily paper, and are authorized by us to take subscribers at the rate of one dollar per month—single copies may be obtained at the same place.

☞ The Northern Mail came through yesterday, with the latest dates.

THE RAILROAD TAX.

We have the pleasure of presenting this morning to the readers of the *Bee*, the decision in full rendered by the Judges of the Supreme Court yesterday, in the appeal taken by the Opelousas Rail Road Company from the judgment of the District Court, on the question of the Constitutionality of the Railroad tax. The Court below having given judgment *pro forma* for the defendants in the suit, the case was carried first before the highest judicial tribunal of the State, for the express purpose of hearing full argument on the question, and of obtaining a decision and unbiassed decision. After thorough discussion lasting several days, the merits of the cause were taken under advisement by the Judges, and yesterday Chief Justice SLIDELL read an elaborate decision sustaining the entire constitutionality of the Tax. The universal interest felt in relation to the subject—involving as it does the prosperity and welfare of our city; the magnitude and importance of the decision, which may settle the cause it to be cited as a safe legal precedent, and the immense pecuniary consideration connected with the mooted points now settled, induce us to believe that the full report will be generally acceptable. Accordingly, we have surrendered a large share of our disposable space to this document, and bespeak for it the dispassionate attention of the community.

It will be seen that the learned Judge who rendered the decision, reviewed every argument raised by the opponents of the tax and swept them away. While, in sustaining the constitutionality of the tax, the particular case before the Court was not determined, and the suit was remanded, on account of irregularities to the tribunal before which it had been originally brought, Judge OGDEN read an opinion maintaining the jurisdiction of the Court in the case, as it was presented. Only we likewise publish. We feel strongly inclined to add a few words of congratulation at this fortunate termination of a suit of such vital moment to our growing enterprise, but space fails us and we must pause.

The political millennium is certainly at hand, and the period cannot be far distant when the Lion and the Lamb shall lie down together, and a little child shall lead them. The Washington *Union* copies and glorifies over an endorsement by the Albany *Atlas*, of the foreign appointments of President PIERCE, and speaks of the "frank and manly language of that paper" as indicating that the portion of the united Democratic party, of which it is a leading organ, are now finally resolved, without reference to past causes of dissatisfaction, to rally in earnest to the administration of President PIERCE, upon the comprehensive national principles to which it is irrevocably committed.

Some of our readers may not perhaps be aware that the Albany *Atlas*, which the *Union* eulogizes so warmly, is the abolition Democratic organ of the New York Barbarossa. It plays the same part in Albany that the *Examiner* plays in New York. It is anti fugitive slave law, anti compromise, and anti slavery. It is one of those Northern papers which swore last year that Gen. SCOTT had sold himself to the South and slavery, and which published the affidavits of HOOD and FOLEY respecting Gen. PIERCE's former abolition sentiments, considering the excellent arguments in his behalf. And even now, the Albany *Atlas* has not abated one iota of its abolition virulence, nor diluted a single drop of its anti slavery venom. It is precisely now what it ever was, and is only satisfied with the Executive, because he has given at least an equal share of patronage to its abolition friends and allies.

This, be it known, is Democracy's infallible specific for maintaining concord and unity in the party. The mouths of the clamorers are stifled with pap, so that they can no longer bawl. The principle adopted is easy and expeditious. Abolitionists may thunder against slavery, and Democrats may denounce abolitionists, provided they agree to vote the Democratic ticket, and praise President Pierce. This is all that is required, and for this, a fair supply of federal bounty is allotted. Meanwhile we do not perceive that Abolition has lost any of its zeal, and dissension only broods in silence over its past because the party cannot afford to allow a chance for renewed agitation. It bides its time.

POINTCHARTRAIN RAILROAD COMPANY.—The Stockholders of this Company are reminded that today is the day appointed for taking the vote on the accepting or rejecting the amended charter of the Pontchartrain Railroad. The manifest importance of a decision should secure a full attendance.

LOUISIANA ITEMS.

THE CROPS.—The St. Mary's *Banner* says:—The crops, both of cane and corn, with the exception of those in a few favored portions of the parish, are very backward for the season, and their growth is very much retarded at present by the obstinate drought. The corn crop, particularly, will be very short unless soon relieved by rain. The weather is hot and sultry.

We take the following from the Concordia *Intelligencer*:

Twelve bright weather, with an occasional shower, gives a fine impetus to the cotton plant, which is now, on an average, more than knee high, with an excellent stand. The low, which was located in last week's report, has since been overcome by dashing rains and the rapid growth of the plant.

The best planters say that it is a most excellent time to hill the weeds, to make cotton, and to cultivate. The least wound, from an axe or hoe, is fatal to the plant, even if it is not killed.

The Catahoula *Advocate* has the following:

So far as our information goes, and we met with gathers from every part of the parish at Harrisburg last Monday, there is no blight nor disease in the crop where a timely stand was obtained.

The Police Jury of the Parish of Iberville have appropriated ten thousand dollars for building a Levee Road.

FROM THE RIO GRANDE

By an arrival from Brownsville, we have received still later news from Rio Grande to the 1st instant. The papers contain little news. The only item we find is the following:

By the arrival of the steamer Comanche, from above, we learn that Rio Grande City, Roma, and in fact all the towns along the Rio, have become remarkably quiet since the recent arrests on the frontier. Many of the restless spirits which have so long kept the frontier in an uproar, have removed for the U. S. and others, having seen the error of their ways, have entirely ceased to utter and more honorable pursuits.—Maj. Brown and Captain Hardee are still on the trail of border marauders. The project lately entertained, and the crisis of "oppression" and "tyranny," were well calculated to arouse the people. We have every reason to believe that none of our countrymen there boasted, and others died, under an honest conviction that they were serving a double purpose, viz: a service to their independence, instead of making a party of traitors, political and mercantile speculators to the detriment of Virginia, and fraudulent gain at a neighboring and a friendly nation. The transaction at Reynosa, however, has serves to remove the scales from the eyes of the D. H. Honest men can now see that it is all its honor, dishonesty. It has had the effect to effectually kill the movement, and we may now look for a resumption of that prosperity which we enjoyed before that unfortunate occurrence.

THE SUGAR INTEREST.

A meeting of Sugar Planters was held at Baton Rouge a few days ago for the purpose of taking into consideration certain alleged frauds in the importation of Sugar, and the manufacture of Molasses and Maizola. The following resolutions were adopted:

Whereas information has been received that large quantities of sugar are being imported from foreign ports by the Messrs. Belcher & Brother, of St. Louis; and whereas, it has been attempted by the aforesaid gentlemen to evade the duty imposed for the protection of the sugar interests, by designating the articles thus imported by them as concentrated molasses and syrup; and whereas, if this sugar is permitted to be imported as molasses, or maizola, it must be destructive to the interest of the Louisiana sugar planter. Therefore,

Be it resolved, That in the opinion of this meeting, it is a duty demanded of every sugar planter, by every consideration of self preservation, to use all lawful means to prevent this evasion of the revenue laws, and to aid the Government in maintaining its legal rights.

For the purpose of devising means more effectually to carry out the views expressed in the foregoing resolution—

Resolved, That this meeting recommend a general meeting of the sugar planters of this State, to be held at the town of Donaldsonville, on Saturday, the 18th day of June instant, and that the sugar planters throughout the State be invited and earnestly requested to attend the same.

Resolved, That all newspapers published in this State, be requested to publish a notice of said meeting, to be held at Donaldsonville, in accordance with the second resolution.

The Erie Canal tolls for the fourth week of May were $21,141 in excess of the same week last year, and the aggregate receipts are more far $47,912 in excess of the tolls to same date in 1852.

☞ We call the particular attention of dealers to a catalogue sale of Dry Goods in the auction room of F. H. Pettigrew, Nos. 90 and 92 Bienville st., which will take place THIS DAY at 10 o'clock.
The goods offered will be sold without reserve.

NEWS OF THE DAY.

The election for a Collector of Taxes, Register, Surveyor and Assessors of the city of Washington, on the 6th inst., resulted in the success of the anti-license candidates by a large majority. The Democrats had a regular ticket in the field, and the working-men another.

On Tuesday night last, the passenger car on the Macon & Western Road was thrown off the track near Van Valkenberg's, by running over two cows, and was precipitated down an embankment and broken to pieces. One person attached to the train was killed instantly, and five passengers were seriously hurt. Among the passengers was the Hon. Alexander H. Stevens, who was much injured. He received a severe contusion on the head, his left shoulder was knocked out of joint and his right arm broken. At first Mr. Stevens was insensible, and it was supposed he was fatally injured, but at the last accounts he was somewhat better, and strong hopes are entertained of his recovery. There were seventeen passengers, more or less injured—the ladies (of whom there were several on board) suffering most. One lady had both arms broken.

There has been an arrival at New Bedford from Cape Town, with advices to the 10th of April. The steamship Sarah Sands from Australia for Liverpool, had put into Cape Town with 100,000 ounces of gold. The accounts from the mining districts of Australia were highly favorable.

A large spotted shark, measuring 11 feet 4 inches, was harpooned and captured by a party of gentlemen in Charleston, on the 9th instant. After being landed, she was delivered of twenty-two young ones, and after she was cut open, was found to contain twenty-one more.

An adjourned meeting of the Smithsonian Institute was held at the Smithsonian Buildings on the 8th instant. President Pierce, ex officio president of the Institute, the Secretaries of State, War, and Interior, the Post-master General, and the Attorney General, the Commissioner of Patents and Professor Henry were present.

The only business of special interest transacted was the election of Professor Parker Cleveland, of Maine, as an honorary member of the Institute. The meeting adjourned *sine die*.

The President has appointed Samil Pumphrey and H. Lindsey, of Washington, and Rebd. Jones, of Georgetown, Inspectors of the Penitentiary for the District of Columbia.

Rio Janeiro dates of the 21st of April, have been received at New York. The following vessels were in port: U. S sloop Vandalia, to sail for Japan in two days; ship Sartelle, from Richmond in distress, to sail in 8 days for Australia; barks Baltimore, discharging, and Roanoke loading for Baltimore.

The steamers *Georgia* and *Union*, both for Aspinwall, sailed on the 6th, full of passengers.

John Tyler, an opulent and well known aut[illegible] of Boston, died at his residence on the 6th inst., after a brief illness. He was one of our most enterprising and esteemed citizens.

There was a very severe storm or hurricane at Cheraw, S. C., on Friday last, and much damage was done to property in the vicinity—losses were in some instances blown down, unroofed, &c., trees uprooted, and other damage done. The instruments of the telegraph at Cheraw, were completely melted by electricity.

About 230 Whig clerks and other officers of the Departments have been removed since the fourth of March, and 4 0 more are to be turned out before the first day of July. Those whose appointments are to take effect on the first of July, are to be subject to examination under the new law. The examinations have commenced, clerks are now undergoing examination. It is required that they should be able to read, write and cypher, as far as the rule of three. The application of this rule will turn out many who are in office, and will include a number of the applicants.

In a letter to the citizens of Springfield, Mass. Col. Benton speaks to the following number of sorts of the appointments of Pierce:

"The President was deceived by false representations, to give offices to scamps whose logs were never seen crossed under a gentleman's table—who were the scum and dregs of all parties—who were fugitives from routed fields, or deserters from pledges given to the people, who in their obtained these appointments.

The Eastern District, in Louisiana county, has chosen a *lady* for Register of Deeds, in place of Hezekiah Coons, deceased, over Sylvester, the regular Democratic candidate, and the redoubtable "Mr. Scattering." The meeting was held on Monday last. The returns show the election of Miss Olive Rose, of Thomaston, formerly an assistant to Mr. Coombs.

The editor of the New York National Democrat thus speculates:—"In a hundred years, we shall have two hundred and thirty two millions in a hundred and fifty years, or in the year 2000 we shall have over seven hundred millions!" Our soil produced last year over a hundred and fifty millions of bushels of breadstuffs, to say nothing about the rice and fruit crops. And yet we have a population of twenty millions of acres, more than five times the whole territory of England and Wales, which the spade and plough never touched.

Mr. Stubbs, Mayor of Norfolk, consents to become again a candidate, with the express unterstanding, however, that his salary must be raised to $2000. He quotes the price current of Mayors in various other cities, and very pertinently remarks that he cannot disparage his own qualifications by taking less than the market rate.

Formerly, it was the custom to place a large number of attendants in the bed chamber of the Queens of England, during their accouchement. It was imputed to James II—the infant after wards known as the Pretender—that it had been introduced into the Queen's bed as a warming pan, and passed off as a royal child.—All through the reign of George III, the indelicate practice of filling the royal bed-chamber with male witnesses was maintained. Queen Victoria turned them out, and they now collect in an adjacent chamber, the door of communication being slightly open. Prince Albert, the accoucheur, Dr. Locock, and the monthly nurse, are now the only persons actually about the royal person during parturition. In the next room were the Queen's mother and her lady, two medical men, the Prime Minister, Lord Chancellor, and eight more noblemen, members of the Government.

The quarterly returns of the births, marriages and deaths in England and Wales, show that during the first six months many more weddings have taken place than were ever known to have occurred before during the same period in England. It establishes one most satisfactory fact—that with the growth of general prosperity the number of marriages increases, and that as people grow older they marry. In 1,416 persons were married in England and Wales during the last quarter of 1852. The number of births registered during the quarter endue March 31, 1853, was 161,598. The deaths during the same period were 116,241. The number of emigrants who left the country during the same time was 58,729.

The Hon. Mr. Paris have put the shopkeepers upon their guard against being victimized by the perpetration of the "give me my change" trick. This is performed as follows: A well dressed man—things have come to such a pass that it is always safe to be suspicious of well dressed men) purchases some insignificant article, and stands waiting. To a few minutes, with an air of vexation, he asks if they are not going to give him his change. "You have not paid, I think, Sir." "Why, yes, I did. I gave you a five franc piece, with a scratch on one side of it." The till is searched, and the coin is, of course, found. Upon such overwhelming evidence the change is given. The scratched coin was taken a few moments before from one of the gang, who had made some trivial acquisition on purpose to get into the drawer. An adroit thief has been known to make the sum of fifty francs a day in this way, by the perpetration of the rendezvous.

DEAD MEN WASHED ASHORE—THE SYBILS CAVE—REMINISCENCES.—Early yester day (Sunday) morning the body of a man was seen gently about thirty five yards of ace was found floating in the river near y opposite the Sybil's Cave, but so far advanced in decomposition as to make recognition impossible. An inquest was held, and the jury, in rendering their verdict of "found drowned," added that they were unable to say whether the deceased came to his death by fair means or foul, something like a wound in the back part of his head, however, seemed to give color to the suspicion of violence. The corpse had the appearance of having been in the water three or four months, Justice Crane informs us.

This is the second or third body that has been washed ashore near the Cave within the few days past, and we think instances could be recalled of sundry others having been found at occasional intervals, before now, near by or at the very same spot. We do not know why the romantic spot, yet so near the city, should be deserted could speak out, they could tell tales that should be

"Howled on to deep despair,
Where hearing should not latch the air."

The Sybil's Cave is remembered for many years past as the scene of at least one myterious tragedy, which will long live in public remembrance. We mean the murder of Mary Rogers. It was the cliff that overhangs the grotto over which it is thought the hapless girl met her fate, fragments of her clothing, well identified as hers, having been found on the rocks and shrubbery a day or two subsequent to the murder. We have every reason to believe received impression; but there are some who believe that the woods of Weehawken, and not the cliffs of Castle Point, witnessed the deed. Be that as it may, however, the popular mind has always invested the cave with an atmosphere of death; and certain it is the frequent visitors, despite we refer to above, some how does not much help to dissipate the superstition.—*Brooklyn Advertiser.*

SUPREME COURT.

THE RAILROAD TAX.

OPINION OF THE COURT DELIVERED BY CHIEF JUSTICE SLIDELL.

Police Jury Right Bank, &c. vs. The Succession of John McDonogh—On the 19th March, 1852, an act was passed by the Legislature of this State entitled, an Act providing for the subscription by the parishes and municipal corporations of this State to the stock of corporations undertaking works of internal improvements, and for the payment and disposal of the stock so subscribed. It is in these words:

Section 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana, in General Assembly convened, That it shall be lawful for the police juries and municipal corporations of this State to subscribe to the stock of corporations undertaking works of internal improvements, under the laws of this State, on complying with the provisions of this act.

Section 2. And be it further enacted, &c., That all ordinances passed for such subscriptions shall contain the following provisions, to wit: 1st, A statement of the number and amount of the shares proposed to be subscribed; 2d, the levy of a tax on the landed estate situated in the parish or municipal corporation, sufficient to pay the amount of said subscription and specifying the rate of the taxation and the period of its payment, which shall be payable

Section 3. Be it further enacted, &c., That no ordinance passed under the provisions of this act shall be valid or take effect, until it shall have been approved and ratified by a majority of the voters on whose property the tax is proposed to be levied, at an election to be held specially for that purpose, by order of the police jury or municipal corporation passing the ordinance, and said police jury or municipal corporation shall prescribe the manner of holding such election, and shall cause to be furnished to the commissioners of the same, a properly certified list of the authorized voters, and such election shall be preceded by a notice of thirty days published in one or more newspapers in the parish or municipal corporation where such election shall be held; Provided, however, that if such ordinance shall be rejected by the majority of the voters, it shall be lawful, at any subsequent period, again to take the sense of the voters, in the same manner as in the first election, and at intervals of not less than six months.

Section 4. Be it further enacted, &c., That if any subscription be made under the terms of this act, the stock so subscribed shall not belong to, nor be administered by the parish or municipal corporation by which the subscription shall be made, but said stock shall belong to the tax payers who shall have paid therefor, and the tax receipts of such tax payers shall entitle him to a certificate, transferable by delivery from the corporation to which subscription has been made, for an amount equal to the amount of his tax paid; Provided, however, that said Police Jury or Municipal Corporation shall be empowered to require such bond and security, and in such sums, from the sheriffs or collectors of said tax as they may deem necessary.

The present suit is brought by the Police Jury of the right bank, to enforce the amount of the tax assessed on lands within its jurisdiction, to meet its subscription to the stock of the New Orleans, Opelousas and Great Western Railroad Company, under an ordinance adopted on the petition to have been approved and ratified pursuant to the statute, after an election and other proceedings in conformity therewith.

The answer of the defendant raised the question of the constitutionality of the statute and ordinance. The parts alleging divisions to speed the final decision of the case, and an engagement that judgment *pro forma* should be entered in favor of defendants, reserving to the plaintiffs their right of appeal. The joint agreement the cause was submitted in the court below, and the court considering the argument of the plaintiffs, adjudged and decreed that there be judgment for the defendants, and that the plaintiffs pay the costs of suit. On motion of the plaintiffs an appeal was ordered on the usual conditions, and the transcript being returned to this court, an early hearing was asked under the statute providing for summary hearing in certain cases.

The argument here has been confined to the question of the constitutionality of the statute and ordinance, which we have considered with the care due to the great public importance of the subject.

The right of the Legislature to delegate the power of taxation to the Municipal authorities in subdivisions of this State, and in our sister States, by an uninterrupted train of judicial precedents and political decisions, has been asserted and properly not doubted or questioned. The Supreme jurisdiction has not essay or information to take cognizance of, and make, all the matters of local and particular locality. The interests of a particular town or county are best understood, and can best be administered by the inhabitants or persons of their choice selected under legislative authority. Our own statute books and those of our sister States are filled with acts creating those political corporations, and conferring on them taxation on the legislative will, and subject to be changed or curtailed by that will from time to time, as the wisdom of the Legislature may dictate.

But it is said that in the present case the Legislature has attempted to delegate to Municipal bodies a power to tax for a purely private end, that the Constitution intended to confine the raising of money from the people for general purposes to one body, the Grand Council of the State, and that body can not evade the performance of the duty and shift the responsibility upon others.

This makes it proper to enquire what is the local purpose, and how far the particular interest which this taxation was intended to aid, could, as regards the Municipal corporation which is plaintiff in this cause, be considered as concerning its local interests and welfare.

This question is not a new one. On the contrary, it has been frequently subjected to rigorous judicial investigation, and its answer may be satisfactorily found in the illustrations which are presented in decided cases.

Thus in the case of Goddin vs. Crump, 8 Leigh, a Virginia reports, the improvement of the James and Kanawha rivers was considered, as regards the city of Richmond, a local purpose, by reason of its connection with the commercial prosperity of that city, and therefore it was held that the Legislature had not violated the Constitution of Virginia in authorizing the city of Richmond to subscribe to the James River and Kanawha Company, to borrow money where with to make the subscription, and to levy a tax for the purpose of paying the interest and redeeming the principal.

In the consideration of the question Tucker, J observed: "In the case of water-works, though the source be ten miles off, the act for introducing the water into the city, a corporate act, because the want is experienced in the heart and through all the wards of the corporation, and the benefit is experienced within the limits, though the operations by which it is introduced, can not be done without. So, too, the removal of the bar in James River, above Warwick, would be fairly a corporate act, since it would greatly enhance the value of the property of Richmond, would benefit its trade and diminish the charges which now encumber and embarrass it. For though the work would be done beyond the limits of the city, the consequences or effects of it would be felt throughout its borders."

If then the test of the corporate character of an act is the probable benefit of it to the community within the corporation, who is the proper judge whether a proposed measure is likely to conduce to the public interest of the city? Is it this court, whose avocations little fit it for such enquiries? Or is it the mass of the people themselves—the majority of the corporation acting as they must do, if the act shall under the sanction of the legislative body? The latter, assuredly.

In the case of Nichol vs. the Mayor of Nashville, the precise purpose in question was considered, and it was held that the Legislature of Tennessee had the constitutional power to authorize the corporation of Nashville to take stock in the Nashville and Chattanooga Rail Road, that the making of the road was a legitimate corporate purpose, and that the subscription was legally authorized to pay for its subscription to the stock of the road in either of the modes pointed out in the statute.

In the subsequent case of Talbot vs. Dent, 9, B. Monroe 526, the main question in the cause was, whether the Legislature could constitutionally, authorize the public authorities of Louisville, with the consent of the majority of the voters of the city, to subscribe for stock in the Louisville and Frankfort Rail Road Company, and to pay for it by increasing a tax upon the citizens. In the discussion of that question, one of the incidental points of enquiry was, whether, in that instance, the power was delegated and exercised for a purpose properly local, or within the legitimate objects of the local corporation. The court considered the point as not requiring any laborious argument. Substantially the same question, it said, had been discussed and decided by the Supreme Courts in the States of Virginia, Connecticut and Tennessee, and each of those courts had affirmed the power of the Legislature in their respective States, to authorize a subscription of stock, involving the power of taxation for its payment, by the corporate authorities of a city, under special legislative sanction, for the construction of a public local improvement by which the facility of access and transportation to and from the city is to be increased.

A signal exercise of this legislative power was established in a statute enacted in 1848, authorizing the city of Philadelphia, the county of Allegheny, the cities of Pittsburg and Allegheny, and the municipal corporation of Philadelphia county, to subscribe for shares of the capital stock of the Pennsylvania Railroad Company, to borrow money to pay therefor, and to pay the principal and interest so borrowed. The exercise of this authority was certainly entitled additional taxation upon the inhabitants of the places designated. Before that statute, the right of a municipal corporation to subscribe for stock was thoroughly controverted in the bar, acting upon the invitation which was made by this court, to the profession, to afford us assistance in the important constitutional question before us, has favored us with an opinion, prepared with his characteristic ability, by a jurist whose reputation is national. It is an opinion well worthy of perusal by those who desire to know the just limits of municipal power, when not aided by express legislation. But we are told by the Supreme Court of Pennsylvania, that after the enactment, no one has contested the right of these municipal corporations to subscribe for the stock, and on its faith, millions of dollars have been subscribed. (See Common wealth vs. Williams, 1 Jones, 71.)

If the decisions cited be true exponents of the law, as we think they are, their application to the present case is obvious. The contemplated railroad passes through the territorial limits of this corporation, and has one of its termini here. If the Corporation is accustomed to complaining tax payers it was insisted, just as here, that the portion of the charter of the corporation which authorized the trustees of towns to subscribe stock, upon the vote of a majority of the electors, was opposed to section 4 of article 8 of the constitution of Ohio, which declares that private property ought and shall never be held inviolate, but always subservient to the public welfare, provided a compensation in money be made to the owner; that it took from the minority their property without their consent and without compensation, and also compelled them to become stockholders in a corporation against their consent to all its liabilities. For the respondents it was contended under such a state of legislation, a judicial question. We take it to be a well settled principle, that if the Legislature can constitutionally exercise a power, it is to be presumed by the Judiciary, in just deference to a co-ordinate branch of the Government, that in the particular case it was exercised discreetly and with a deliberate and just regard to the interests of its citizens. (See the opinion of Chief Justice Shaw, in Norwich, vs. the County Commissioners. 13 Pick, 62.)

The peculiar nature of this work certainly can make no difference in the question of constitutional power. A few years ago, railroads were unknown. But if the Legislature, in former years, had authorized the construction by a private corporation of an ordinary road traversing the State, and had given permission to the Police Juries through whose territorial limits it passed, to contribute to its completion by taking stock and by local taxation, if they thought it advantageous, we question whether any one in the community would have disputed such a grant of power, upon the ground that such a road did not involve a local purpose—Surely, the principle cannot be affected by the magnitude of the outlay; the extent of the enterprise, or the peculiar means by which transportation is effected. The principle is the same in the constitution prohibiting the exercise of the power of taxation in the mode adopted, to effect the attainment of it. We may say that the power of taxation is a sovereign attribute, and that it is the duty of the Legislature to exercise it for the benefit of the State, and that it can not evade the performance of the duty and shift the responsibility upon others.

This makes it proper to enquire what is a local purpose, and how far the particular interest which this taxation was intended to aid, could, as regards the Municipal corporation which is plaintiff in this cause, be considered as concerning its local interests and welfare.

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In the subsequent case of Talbot vs. Dent, 9, B. Monroe 526, the main question in the cause was, whether the Legislature could constitutionally, authorize the public authorities of Louisville, with the consent of the majority of the voters of the city, to subscribe for stock in the Louisville and Frankfort Rail Road Company, and to pay for it by increasing a tax upon the citizens. In the discussion of that question, one of the incidental points of enquiry was, whether, in that instance, the power was delegated and exercised for a purpose properly local, or within the legitimate objects of the local corporation. The court considered the point as not requiring any laborious argument. Substantially the same question, it said, had been discussed and decided by the Supreme Courts in the States of Virginia, Connecticut and Tennessee, and each of those courts had affirmed the power of the Legislature in their respective States, to authorize a subscription of stock, involving the power of taxation for its payment, by the corporate authorities of a city, under special legislative sanction, for the construction of a public local improvement by which the facility of access and transportation to and from the city is to be increased.

A signal exercise of this legislative power was established in a statute enacted in 1848, authorizing the city of Philadelphia, the county of Allegheny, the cities of Pittsburg and Allegheny, and the municipal corporation of Philadelphia county, to subscribe for shares of the capital stock of the Pennsylvania Railroad Company, to borrow money to pay therefor, and to pay the principal and interest so borrowed. The exercise of this authority was certainly entitled additional taxation upon the inhabitants of the places designated. Before that statute, the right of a municipal corporation to subscribe for stock was thoroughly controverted in the bar, acting upon the invitation which was made by this court, to the profession, to afford us assistance in the important constitutional question before us, has favored us with an opinion, prepared with his characteristic ability, by a jurist whose reputation is national. It is an opinion well worthy of perusal by those who desire to know the just limits of municipal power, when not aided by express legislation. But we are told by the Supreme Court of Pennsylvania, that after the enactment, no one has contested the right of these municipal corporations to subscribe for the stock, and on its faith, millions of dollars have been subscribed. (See Commonwealth vs. Williams, 1 Jones, 71.)

If the decisions cited be true exponents of the law, as we think they are, their application to the present case is obvious. The contemplated railroad passes through the territorial limits of this corporation, and has one of its termini here. If the Corporation is accustomed to complaining tax payers it was insisted, just as here, that the portion of the charter of the corporation which authorized the trustees of towns to subscribe stock, upon the vote of a majority of the electors, was opposed to section 4 of article 8 of the constitution of Ohio, which declares that private property ought and shall never be held inviolate, but always subservient to the public welfare, provided a compensation in money be made to the owner; that it took from the minority their property without their consent and without compensation, and also compelled them to become stockholders in a corporation against their consent to all its liabilities. For the respondents it was contended

under such a state of legislation, a judicial question. We take it to be a well settled principle, that if the Legislature can constitutionally exercise a power, it is to be presumed by the Judiciary, in just deference to a co-ordinate branch of the Government, that in the particular case it was exercised discreetly and with a deliberate and just regard to the interests of its citizens. (See the opinion of Chief Justice Shaw, in Norwich, vs. the County Commissioners. 13 Pick, 62.)

The peculiar nature of this work certainly can make no difference in the question of constitutional power. A few years ago, railroads were unknown. But if the Legislature, in former years, had authorized the construction by a private corporation of an ordinary road traversing the State, and had given permission to the Police Juries through whose territorial limits it passed, to contribute to its completion by taking stock and by local taxation, if they thought it advantageous, we question whether any one in the community would have disputed such a grant of power, upon the ground that such a road did not involve a local purpose—Surely, the principle cannot be affected by the magnitude of the outlay; the extent of the enterprise, or the peculiar means by which transportation is effected. The principle is the same in the constitution prohibiting the exercise of the power of taxation in the mode adopted, to effect the attainment of it. We may say that the power of taxation is a sovereign attribute, and that it is the duty of the Legislature to exercise it for the benefit of the State, and that body can not evade the performance of the duty and shift the responsibility upon others.

This makes it proper to enquire what is a local purpose, and how far the particular interest which this taxation was intended to aid, could, as regards the Municipal corporation which is plaintiff in this cause, be considered as concerning its local interests and welfare.

This question is not a new one. On the contrary, it has been frequently subjected to rigorous judicial investigation, and its answer may be satisfactorily found in the illustrations which are presented in decided cases.

Thus in the case of Goddin vs. Crump, 8 Leigh, a Virginia reports, the improvement of the James and Kanawha rivers was considered, as regards the city of Richmond, a local purpose, by reason of its connection with the commercial prosperity of that city, and therefore it was held that the Legislature had not violated the Constitution of Virginia in authorizing the city of Richmond to subscribe to the James River and Kanawha Company, to borrow money where with to make the subscription, and to levy a tax for the purpose of paying the interest and redeeming the principal.

In the consideration of the question Tucker, J observed: "In the case of water-works, though the source be ten miles off, the act for introducing the water into the city, a corporate act, because the want is experienced in the heart and through all the wards of the corporation, and the benefit is experienced within the limits, though the operations by which it is introduced, can not be done without. So, too, the removal of the bar in James River, above Warwick, would be fairly a corporate act, since it would greatly enhance the value of the property of Richmond, would benefit its trade and diminish the charges which now encumber and embarrass it. For though the work would be done beyond the limits of the city, the consequences or effects of it would be felt throughout its borders."

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in the Supreme Court of the United States, the law is well settled that no appeal, or writ of error can be prosecuted, except from a final judgment, and yet they have entertained and decided appeals from interlocutory orders, when no motion was made to dismiss the appeal. The right of appeal to this Court, by the Constitution, extend to all civil cases, when the matter in dispute shall exceed three hundred dollars; if the matter in dispute is less than three hundred dollars, consent of parties would not confer jurisdiction, but where the amount is sufficient and a judgment has been rendered by a court from such an appeal lies, the parties may consent to bring the case before us without the observance of all the technical rules prescribed by law, this Court having always the right to insist on the observance of such forms as they may deem requisite for the proper hearing and determining of the cause.

The appeal in this case is taken from a final judgment of an inferior court, and in a case where the matter in dispute exceeds three hundred dollars; and our jurisdiction is complete, unless it can be made out that we are assuming original jurisdiction. A judgment has certainly been rendered in the court below, which has been in its nature, and unless reversed on appeal, will be conclusive between the parties. That judgment was rendered in favor of the defendant, on