



Terms of Advertising. Advertisements will be accepted for insertion in this Daily Flag...

Each additional insertion. Monthly, or yearly advertisements upon the usual terms of other city dailies.

Thursday Morning, January 8.

In consequence of the meeting of the new City Council, at the Council Chamber this evening, we are requested to state, for the benefit of all true and faithful Evangels...

More ORIENTAL.—We understand that at friend Wagon is about putting an Accommodation Line of Coaches and Omnibuses on the Flemingburg route...

A TREAT.—SAMUEL TREAT, Esq., editor of the St. Louis Globe, has been presented with a fine gold watch, by the citizens of that place...

The Cholera.—So many exaggerated rumors are afloat in reference to the progress of the Cholera in New Orleans...

The Cholera, no doubt, exists in New Orleans in an epidemic form; rendered more violent by the extraordinary weather...

The deaths for a week have been confined almost exclusively to the population of this city, which yearly congregates in levees, cabarets and gumbo shops...

We have been permitted to make an extract from a letter, written by U. H. Kellogg, of New Orleans, to his brother, S. I. Kellogg of this city...

Now, the query is—if the editor of the Mayville Morning Herald had been in that crowd, would he have remained, or abandoned, at the close of the editor's exclamation?

WONDERFUL.—The editor of the Herald has been "assured, by one or two witnesses," that a correspondence over the signature of Fair Play, in that paper...

At New Orleans the disease seems to be abating also, and we have strong hope that the present cold weather will not only arrest its devastating progress...

CHOLERA IN NEW YORK.—The latest advices from New York are, that the cholera is on the decrease. The quarantine officers report only two cases in the Marine Hospital, both old cases...

LARGE LAND SALE.—The "Atrelando Treat" of land in Florida, containing 240,000 acres in the hands of the State Court of that State, is to be sold in public auction on the 21st day of February next.

A firm in Birmingham are now engaged in manufacturing magnificent glass doors, seventeen feet by ten. What a comfort for the jealous and a pleasure to the inquisitive!

A little orphan boy, in Troy, has recovered a verdict of \$1000, of a man who ran over him with a wagon.

The New York Mirror calls the comet that will, the last day of this year, cross the orbit of the earth, a "quagmire" My ears! Look out for a libel suit.

REMOVED DEATH.—The Cincinnati papers have a report that a son of Gen. Lane, present Governor of Oregon, had died of the prevailing epidemic at New Orleans...

Important Opinion—The Ohio Difficulties

This morning we lay before our readers the legal opinion of Emory M. Stanton, Esq., in relation to the difficulties which have existed, and still exist as to the Ohio Legislature...

The rumors, alluded to below, reached their city some days ago, and our readers have now a fair opportunity of judging of the correctness of the statements which they daily hear made upon the subject.

THE CHOLERA.—So many exaggerated rumors are afloat in reference to the progress of the Cholera in New Orleans, that we have taken the pains to ascertain what we have taken out by the truth. We have seen and conversed with passengers by the Pegasus, which sailed for New Orleans on the 21st inst.

Well, what of that? Is not the Courier a Taylor paper, and were not all 24 Taylor papers, including the Mayville Herald, opposed to Mr. Clay for the Presidency? If so, is it not plain that they will, one and all, oppose his election to the Senate...

Give HIM CREDIT!—The Herald is now "down upon" the Lexington Observer and Reporter, for copying the brilliant editorials which appear "every morning annually" in that paper...

A "Cot" is a weight of 4 grains used by the legislators, and in reference to the gold mass is supposed to weigh 22 parts pure gold, and 1 of alloy...

The Arres of the United States is now nearly 4,000,000 square miles, equal to the support of 200,000,000 of population, leaving the country less thickly settled than the State of Massachusetts.

Gold.—Absolutely pure gold is 24 carats. The gold coin of England is not all 24 of 11 parts gold and one copper. One lb Troy is now coined into 46 29-40 sovereigns.

Col. B. Taylor, of Ohio, who has recently defied his legal profession and entered the corps theatrical, seems to be fast winning his way to popular favor on the stage.

At New Orleans the disease seems to be abating also, and we have strong hope that the present cold weather will not only arrest its devastating progress in places where it has made its appearance.

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The Ohio Difficulty

From the Washington Observer. We have received the following legal opinion on this subject from a gentleman of high character and intelligence in this city...

THE OHIO DIFFICULTY.—The difficulty respecting the organization of the lower branch of the Ohio Legislature has assumed a very important character all over the country...

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- List of names and titles, including Hamilton Gray, Editor, and various other individuals mentioned in the text.

The Cholera.

It is truly astonishing that mankind are more disposed to lead an ease to horrors and frightful truths than to listen to the plain and simple truth. There are daily examples of this kind in the progress of the cholera and fatality of the cholera, which are calculated to create alarm and dismay unnecessary, and it should be the duty of the press to quiet rather than excite the fears of the people, in relation to it.

The rumors, alluded to below, reached this city some days ago, and our readers have now a fair opportunity of judging of the correctness of the statements which they daily hear made upon the subject. We find the article in the Cincinnati Enquirer of Sunday last, and have implicit confidence in the truth of its statements. That excellent paper says:

The Cholera.—So many exaggerated rumors are afloat in reference to the progress of the Cholera in New Orleans, that we have taken the pains to ascertain what we have heard by the truth. We have seen and conversed with passengers by the *Pegonia*, which left New Orleans on the 21st inst. By a Telegraphic despatch in yesterday's paper, from Louisville, we had a highly colored account of the news brought by its arrival. The steamer *St. Cloud* was reported as lying at Vicksburg, totally deserted by her crew—her Captain, Clerk, Mate and Pilot having died.—With whom we have conversed, and state that the *Pegonia* arrived at the *St. Cloud* in the Ohio; and a telegraphic despatch from her Clerk to the Agents here, dated Louisville, states that Capt. Smith had died on the 21st inst. at New Orleans, which is just what we believe on rumors, which have their birth only in the excited imaginations of the terror-stricken.

The *Pegonia* passed several boats on their way; among others the *Sowk America* and *Pennsylvania*. It was reported along the way, that these boats had a number of men on board who were violent in their extraordinary wrath or rage, and that they never have seen such weather as existed for two or three weeks previous to and since the cholera broke out at Vicksburg, totally desolating and miasmatic.

The deaths for a few days have been confined almost exclusively to the population of this city, which yearly congregates in levees, cabarets and gumbo shops. Any person acquainted with New Orleans, will recognize at a moment the population, as it is now, and that it is a mass from their dissipated habits and systematic exposure. This kind of population generates miasmata at this season of the year, 10 or 15,000,000.

We have been permitted to make an extract from a letter, written by U. H. Kellogg, of New Orleans, to his brother, S. I. Kellogg of this city, at New Orleans. He says: "I have a great deal to say about this cholera, but I have not time to do so now. It is a very dangerous disease, and it is spreading rapidly. It is a very dangerous disease, and it is spreading rapidly. It is a very dangerous disease, and it is spreading rapidly."

Now, the query is—if the editor of the *Mayville Morning Herald* had been in that crowd, would he have remained, or abandoned it, at the close of the crisis? exclamation?

WONDERFUL!—The editor of the *Herald* has been "assured," by one or two witnesses, that a correspondence over the signature of *F. H. W.* in that paper, and the Editor, had produced the result of the late city election, in which the democrats obtained a majority of one member in the City Council; and he reiterates that he merits the thanks of the democracy for his efforts in their behalf. We have no doubt the ill-timed and ill-advised articles in that paper contributed, more or less, to bring about the result; but, at the same time, we are far from believing that it was intentional, upon his part, or that he was aware that the people were fully capable of managing their own affairs in their own way, previous to having made the grand discovery at the polls on Monday last.

At New Orleans the disease seems to be abating also, and we have strong hope that the present cold weather will not only arrest its devastating progress in places where it has made its appearance, but that it will produce results in other points, which have not yet been visited by the direful scourge.

Success to HIM!—Our ancient friend, Col. B. B. Taylor, of Ohio, who has recently defied his legal profession, and entered the corps *thraconis*, seems to be fast winning his way to popular favor on the stage. He appeared to the character of Dan, at the Theatre in Columbus, a few nights ago, and played his part most successfully. Success to him—he is a noble fellow.

WATER AT LAST.—Yesterday was what might be called a real winter's day. The morning was cold, clear, and the snow falling briskly. It was the first day of the season, which could really be called winter.

REMOVED DEATH.—The Cincinnati papers have a report that a son of Gen. LANE, present Governor of Oregon, had died of the prevailing epidemic at New Orleans, and that his body had been brought to Cincinnati, on board the *John Hancock*, on its way to the General's residence in Indiana. There is evidently some mistake about this, as the residence of Gen. Lane is near Evansville, near which the *Hancock* came on her way up. We hope that there is no truth in this report.

Important Opinion.—The Ohio Difficulties.

This morning we lay before our readers the legal opinion of EWING M. STANTON, Esq., in relation to the difficulties which have existed, and still continue to exist, in the Ohio Legislature, in the hope that our friends will profit by its perusal. Mr. S. has long occupied an eminent position, as a man of profound legal attainments, and is said to be one of the best Constitutional lawyers in the West. He was for many years a citizen of Ohio, but has changed his residence to Pittsburg. No man is more capable to give a sound and correct opinion upon such questions than he, and we have no doubt the Legislature of Ohio will so consider it, when the Legislature comes to act upon the matters in issue.

The QUEER FISH of the *Mayville Fish* has had his present to him a stove, a patent chair, and is daily expecting a "come"—*Can you give it?* But the latter does not seem to "come up" and the inference is that she will "lay out" until she "goes dry," and we shall then have no milk to *cow*.

The Louisville Courier of Monday, in an editorial article, avows its opposition to the election of Mr. Clay to the U. S. Senate.—*Herald.*

Well, what of that! Is not the *Courier* a Taylor paper, and were not all the Taylor papers, including the *Mayville Herald*, opposed to Mr. Clay for the Presidency? If so, is it not plain that they will, one and all, oppose his election to the Senate, lest, like the *immortal* Boyl, he might attempt to *head* Taylor, in the event of taking a seat in that body? If the *Courier* is opposed to the election of Mr. Clay to the Senate, the *Herald* is in the same category, if its editor had the independence to avow his sentiments.—*Birds of a feather.*"

GIVE HIM CREDIT!—The *Herald* is now "down upon" the *Lexington Observer and Reporter*, for copying the brilliant article which appears every morning *annually* in that paper, without giving the proper credit. Shame on you, friend Wickliff! Do you not know that our neighbor is the only energetic and enterprising publisher in this city, and that his paper is replete with all that is new and interesting?

A "Cot" is a weight of 4 grains used in weighing diamonds, but in reference to gold the mass is supposed to weigh 20 grains, 12 grains of it is called a "fine" means, there are 22 carats of pure gold, and a carat is alloy, and this 22 carats is about the fineness of our gold.

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GOLD.—Absolutely pure gold is 24 carats. The gold coin of England is not all 17 parts gold and one copper.—One lb Troy is now coined into 46 28-40 sovereigns. Our gold coin contain 21 parts pure gold, and 1 of alloy composed of silver and copper. Our eagle contain 270 grains of standard gold, of which 247 grains are pure gold and 23 alloy.

VIRGINIA AS CALIFORNIA.—The Richmond Whig has been shown fourteen bars of gold from the late mines of Virginia. They are the product of two months' work, with twelve hands. The value is \$2,408.58, or a little more than \$200 to the hand.

PARIS.—The population of the city, including the suburbs, is one and a half millions. In New York the population is 400,000, and she has two hundred churches. Paris has only forty-two, and some of these vacant on the sabbath.

LARGE LAND SALE.—The "Arrendo Treas" of land in Florida, containing 200,000 acres in all, was sold by the Circuit Court of that State, to be sold in public auction on the 21st day of February next.

A firm in Birmingham are now engaged in manufacturing magnificent glass doors, seventeen feet by ten. What a comfort for the jealous and a pleasure to the inquisitive!

A little orphan boy, in Troy, has recovered a verdict of \$1000, of a man who ran over him with a wagon.

The New York Mirror calls the comet that will, the last day of this year, "our grand old earth, a *rehabilitant*!" My ears! Look out for a libel suit.

Gen. Wood, who greatly distinguished himself at the late battle of Antietam, is now on a visit to some friends at Taunton.

The city authorities of St. Louis have purchased Great West Island for \$4,000. Our readers will take notice that it is not the Island of Cuba which they have purchased.—*Boston Herald.*

The editor of the *Sioux Falls Courier* publishes marriage notices under the head of "Legal Resolutions."

The Ohio Controversy.

We have received the following able legal opinion on this subject from a gentleman of high character and intelligence in this city, who states that his authority is of the highest character, and has been published in the country. He was for some years reporter to the Supreme court of Ohio, and stood in the first rank of the legal profession in that State. He is now twice in, and removed to Pittsburg, where he now resides, and where he is regarded as one of the able constitutional lawyers of the country. We commend his opinion to the careful perusal of our readers:

Opinion upon the Hamilton County Case before the Ohio Legislature.

BY EDWIN M. STANTON.
"THE OHIO DIFFICULTY."—The difficulty respecting the organization of the lower branch of the Ohio legislature has assumed a very important character all over the country, and a great deal has been said and written concerning it, even by persons who are not familiar with the details of the legal profession in that State. Mr. Stanton, Esq., a few days since, and requested him to prepare the facts of the case for our readers, and to submit, over this proper signature, a legal opinion upon those facts. He promptly consented to do so. We publish below the communication for the public—which, as well as democrats, Mr. S. for many years past has been one of the leading members of the Ohio bar, and is thoroughly acquainted with the constitution and laws of the State. His opinion, therefore, is of great value, and it is removed from the scene of the difficulty, he may be regarded as a disinterested spectator.

The Ohio Controversy.

Editor of the Post: In reply to your inquiry as to my opinion respecting the legislative controversy now pending in the State of Ohio, I can only give you my views of the case.

Statement of the case.
The Ohio constitution, article 1, provides that the legislative authority shall consist of a Senate and House of Representatives, both to be elected by the people; that every four years the number of representatives shall be fixed by the legislature, and not exceeding one for every five hundred of white male inhabitants in each. (Section 2.)

At the last session the period for appointment arrived, the judges having a majority in both branches of the Assembly. A bill appropriating 5 members to Hamilton county, but at the same time dividing the county into two districts, so that the five members should be elected by one district comprising the city of Cincinnati, was introduced and passed the Senate. The House refused to concur in the bill, and the Governor could not assign any other district which was largely whig, and the county largely democratic. The democrats, therefore, are now contending against the measure as a violation of the constitution for party purposes. Some slight amendments being made in the bill, the House, on the 21st of the Senate, and thereupon the democratic senators seceded, so that there was no longer a constitutional quorum to do business in the Senate. It is in this manner that the resolution of the House, rescinding its amendments; whereupon the bill was signed by the Speaker as a law.—The democrats insist that this resolution of the House is an assumption of legislative power; that the bill was in the Senate, and therefore could not be rescinded by the House; and an action could be had by the State against the House for this purpose.

Here the matter rested until the election of the democrats elected five members by vote of the whole county at large. The whigs elected two members in the city district. The clerk of the court refused to elect any more members, and ultimately by the House when organizing, they are the sole judges, and must decide upon the propriety of seating the members so elected, and views of the constitution. No member who considers the law unconstitutional can ever consent to exercise legislative functions under their present claim. The only way to maintain the constitution requires the rejection of those who manifestly claim unconstitutional power.

The people have passed their judgment by electing members for the whole county; they have followed the law, so far as it is in their power to do so. It is the point to the law appointing five representatives to Hamilton county, and exhibiting certificates by the returning officer, showing themselves to have been elected by the people for the whole county. The democratic members are, therefore, by the constitution, entitled to their seats. And no law can be construed in such a manner as to deprive the plain letter of the constitution, or of the law-making power those to whom it has not been delegated by the constitution. The House, therefore, in electing the members, it is impossible to see how the matter is to terminate, since the rejection of the free-soil proposition, that neither of the claiming party, nor the question of their membership. That proposition is a fair, and was agreed to by the democrats. In any event, it is to be understood that the democrats will not be considered as having taken any consideration will be taken to see how the matter is to terminate.

EDWIN M. STANTON.
C. H. Bontrich was married for the third time at Indianapolis, on the 22d ult.

Hamilton County Case.

The bill practically by the constitution is geographical, not political, and was fixed by the legislature, and appointed according to the several counties according to the census return of white male inhabitants above twenty-one years of age, and shall never be less than thirty-two. (Art. 1, Sec. 2.) Upon a well settled maxim, the expression of the law is to be construed in favor of being equally expressed, they are equal by law. The geographical county limit is therefore as absolute as the limit of counties, each county having the same power to reduce the whole number of representatives to 10, or increase it to 100, that they have to reduce the election district below a county. Upon the personal basis is the enumeration of white male inhabitants in each county, this further demonstrating the absolute geographical limit. It is for the basis, as it is to substitute any other than county bounds. An assembly composed of members representing any part, but not the whole, of a county, has no right to make laws for the State than a body composed of only ten members, or representing black inhabitants. To such the constitution has delegated no legislative authority, and it can exercise none except by usurpation. If analogies were sought to illustrate what is clear by the plain letter, and the spirit of the constitution, and that is, indivisible, in respect to its political and judicial organization. Can a judge of the court of appeals divide jurisdiction of one or only part of a county? His jurisdiction may well be divided as that of a representative, both being defined by the same law, and both being elected by the people. If a representative be elected by part only of a county? Yet their powers have the same limit as is defined by the constitution for him who is to exercise the legislative power.

- Now, the legislature has no authority, except what is expressly delegated by the constitution, or may be necessary for the execution of what is expressly delegated. Beyond these limits its action is void, having no more force than that of any other twenty-two men, assembled in any other part of the State, or in any other place where they sit, but only the constitution can give validity to their acts. And hence no one can exercise legislative authority in the State, unless it be in the manner prescribed and in accordance with the constitution. The two representatives who claim to be elected by a portion of Hamilton county having no right to exercise the legislative power, and exercise the law-making power, than any other two citizens of the State.

- It is said, however, that the whig claimants have a certificate which ought, *prima facie*, to give them seats.
- But that certificate disclosing that they were not elected by a whole county, and that they do not claim to represent a whole county, establishes on its face that they can have no constitutional seat, and therefore cannot elect members to the Senate. It does not stand on the same ground as the other whig members, who are ineligible by reason of holding the office of sheriff, or other office, or holding any other office, the holders may, *prima facie*, be entitled to seats. But the Cincinnati claimants produce a paper which of itself discloses their constitutional disability.

- It is said, however, that they are elected under the law, which should be respected. The whigs are ineligible by the constitution, and by the proper tribunal. Now it happens that there is no judicial tribunal to decide this question. It must be settled by the House in the first instance, and ultimately by the House when organizing. They are the sole judges, and must decide upon the propriety of seating the members so elected, and views of the constitution. No member who considers the law unconstitutional can ever consent to exercise legislative functions under their present claim. The only way to maintain the constitution requires the rejection of those who manifestly claim unconstitutional power.

- The people have passed their judgment by electing members for the whole county; they have followed the law, so far as it is in their power to do so. It is the point to the law appointing five representatives to Hamilton county, and exhibiting certificates by the returning officer, showing themselves to have been elected by the people for the whole county. The democratic members are, therefore, by the constitution, entitled to their seats. And no law can be construed in such a manner as to deprive the plain letter of the constitution, or of the law-making power those to whom it has not been delegated by the constitution.

- EDWIN M. STANTON.
C. H. Bontrich was married for the third time at Indianapolis, on the 22d ult.

- Hamilton County Case. The bill practically by the constitution is geographical, not political, and was fixed by the legislature, and appointed according to the several counties according to the census return of white male inhabitants above twenty-one years of age, and shall never be less than thirty-two. (Art. 1, Sec. 2.) Upon a well settled maxim, the expression of the law is to be construed in favor of being equally expressed, they are equal by law. The geographical county limit is therefore as absolute as the limit of counties, each county having the same power to reduce the whole number of representatives to 10, or increase it to 100, that they have to reduce the election district below a county. Upon the personal basis is the enumeration of white male inhabitants in each county, this further demonstrating the absolute geographical limit. It is for the basis, as it is to substitute any other than county bounds. An assembly composed of members representing any part, but not the whole, of a county, has no right to make laws for the State than a body composed of only ten members, or representing black inhabitants. To such the constitution has delegated no legislative authority, and it can exercise none except by usurpation. If analogies were sought to illustrate what is clear by the plain letter, and the spirit of the constitution, and that is, indivisible, in respect to its political and judicial organization. Can a judge of the court of appeals divide jurisdiction of one or only part of a county? His jurisdiction may well be divided as that of a representative, both being defined by the same law, and both being elected by the people. If a representative be elected by part only of a county? Yet their powers have the same limit as is defined by the constitution for him who is to exercise the legislative power.

