

New Orleans 6th March 1892.

80 Camp St.

Gen. Action N. Bourque,
Mayville, New York.

Dear Sir: Your esteemed letter
of the 1st inst. reached me yesterday, and
has recd. my most attentive & careful study.

The A^g. Dist. Atty. has led me to believe
that during the course of the coming week
he will file the information we are
impatiently waiting for, to contain an
allegation that the S. & W. R. R. was
conveying our client Ardunee from the
City of New Orleans in the State of Louisiana
to the City of Mobile in the State of Alabama,
so that if we find it expedient so to do
we can meet the charge by demurrer,
when we are called up to plead to the
information before the State Court.

Only one motive actuates me, and that is
to conduct our case skillfully towards suc-
cessful termination. To this end I am schooled
to accept every suggestion, modify every plan,
and sacrifice every conviction. Before I
undertake to enter any plea whatever,
be it pure, you will already have been
fully conducted.

As soon as the information is filed,

I shall send you a copy, together with a draft of the pleading I propose to meet it with, subject to your correction. In the meantime, however, I cannot, I confess, fully understand the necessity of setting up, in our plea, word for word the Statute under which our man is being persecuted, unless your idea be, as I first intimated, that the information will complain only of an inspection of the State Cars on a Railroad operated wholly within the limits of the State.

As to a finding of specific facts, in the State Criminal Court, by the judge or by the jury, I must say that it does not conform to our practice; bearing in mind that the case is not appealable, and that our State Supreme Court looks only, so to speak, to errors of law.

On the whole, it will save time and trouble to apply directly to the Circuit Court for the Habeas Corpus. It was only from excess of caution that I proposed otherwise, in view of the indisposition of the Federal Courts to disturb the harmony of their relations with the States, tribunals, in the sacred guardianship of the Constitution by all alike.

When we apply to the U. S. Circuit Court for the writ of hab. corpus, we can,

if you see proper, set forth at full length the State Law under which the person Verdanes is sentenced, although the U. S. Courts cannot avoid taking official notice of it, and of the judicial construction it received at the hands of the State. If possible, I will try to make up the issue some way or another with the West. Atty. to dispense with evidence.

The basis of our jurisprudence in this State is the Civil Law, although our trials, rules of evidence and methods of procedure in Criminal Cases are declared to be according to the Course of the Common Law. I mention this because of the fact that a certain looseness has crept into our practice here, which older practitioners are only too well used to.

We will say nothing more about the point that the Carrigan question is malappropiate &c., and outside the limits of the Contention now had in view; but it's hard for me to give up my pet hobby that the Law is void as a regulation of interstate commerce.

My regret is that we are getting along very slowly. I had to intimate to the West. Atty. on account of the delay, that Verdanes' bondsman would probably surrender him. This led to the opinion that he would file the information in a few days.

According to our local practice we look upon what you style a plea in abatement for lack of cause of action, if apparent in the record, as to be urged by demurrer for defect of form, and by Motion in Arrest of Judgment for defect of substance. As I referred to just now, I had contemplated to meet the information by a plea to the jurisdiction, and then by demurrer on the other constitutional questions; but after all, everything will depend upon the form of the information to be filed.

Very truly Yrs.
Jas. H. Walker