The New Orleans Crescent.

OFFICIAL JOURNAL OF THE CITY OF NEW ORLEANS.

TUESDAY MORNING, OCTOBER 20, 1868.

[OFFICIAL.]

STATE LEGISLATURE.

NINETY-SIXTH DAY.

Senate.

MONDAY, Oct. 19, 1868.

The Senate was called to order by the president at 12 o'clock, M.

The roll was called; present, the following members:

Anderson, Antoine, Bacon, Beares, Braughn, Campbell, Coupland, Darrell, Day, Foute, Francois, Futch, Jenks, Jewell, Kelso, Lewis, Lynch, Monette, Ogden, O'Hara, Packard, Pinchback, Poindexter, Pollard, Ray, Smith, Todd, Whitney, Wilcox, Wittgenstein—30.

Prayer by the Rev. Mr. Clark.

On motion of Mr. Ray the reading of the minutes was dispensed with.

Mr. Ray from the committee on the judiciary, reported unfavorably upon Senate bill No. 151, an act for the relief of W. W. Handlin.

Mr. Darrell, from the enrollment committee, reported as duly enrolled Senate bill No. 235.

Mr. O'Hara, from the committee on elections and returns, presented the following minority report:

Hon. President and Members of the Senate of Louisiana:

In the case of George W. Ragan vs. R. H. Day, the undersigned cannot agree with the majority of the committee, and begs leave to submit the following minority report:

From the evidence adduced, the undersigned is fully convinced that no fair and impartial election took place at Baton Rouge on April the 17th and 18th, 1868. It is in evidence that the ballot-boxes, police and others had been controlled by parties in the interest of the mayor and Sheriff Bird, the mayor (J. E. Elam) being then in office and a candidate for re-election. It is also proven that more than one thousand voters were prevented by intimidation from voting. The undersigned cannot agree with the majority in the presumption that the said one thousand voters would have voted for G. W. Ragan. The undersigned, therefore, recommends to this honorable body that the election be set aside, and the seat of R. H. Day be declared vacant, and that the governor be instructed to order a new election.

PATRICK O'HARA.

Mr. Thompson, also from the committtee on elections and returns, presented the following minority report:

ROOMS SENATE COMMITTEE ON ELECTIONS, October 19th, 1868.

To the Honorable the President and the Members of the Senate of the State of Louisiana:

The undersigned, a member of the Senate committee on elections, having examined with all the care to which, from its importance, it is entitled, the evidence submitted by George W. Ragan, contesting the seat of the Hon. R. H. Day—as well as that presented by Dr. Day himself—and differing, and honestly differing, with the majority of his colaborers in the work assigned them by your honorable body, submits the following minority report:

A careful examination of the immense mass of testimony taken in this case presents the following:

1st. That the list of registered voters in the parish of East Baton Rouge amounted in round numbers to—

Colored	3000
White	1500

That the large amount of more than 1000 votes were not polled on the 17th and 18th days of April, and yet that Dr. Day received a majority of more than 700 votes over his competitor for senatorial honors.

The whole current of testimony shows that this contest was conducted with a vigor unusual in such cases.

Gentlemen of the very highest respectability in Louisiana have testified in behalf of the sitting member, and the certain and consentaneous opinion of the whole is that the election was conducted as fairly as any election at which they were ever present, and they witnessed many in the city of Baton Rouge and East Baton Rouge. That if fraud of any description was practiced it wholly escaped their attention; and they further state that they were at all times in a position to have seen it had such been the case.

In addition to the testimony of civilians, we have the testimony of the distinguished commander of the post of Baton Rouge and his officers, completely negativing the charge of intimidation with which it is charged the election is tainted. The flattering vote received by the contestant, a comparative stranger, is an evidence of the high esteem in which he was held by the Republican party of his district, but both the witnesses for contestant and Dr. Day assure us that many of the leading colored men of Baton Rouge were the warm friends and active supporters of the doctor, regarded by them as conservative in his notions, known to them intimately, and enjoying a measure of popularity with the colored population of his district, based as the witnesses declare upon the kindliness of his disposition, his attention to them when sick, and his habit of bonding them when imprisoned for alleged violations of the criminal code of Louisiana. And it is to the above that some of the witnesses attribute, as well as the undersigned, the very large vote received by him, nay, in the language of one totally disinterested, of high respectability, and of the same political faith with contestant, whose testimony was taken by commission, in the State of Maine, in his answer to third and fifth interrogatories, page 182, he declares he voted for the Constitution, and on the same page, and in answer to tenth interrogatory, he declares "that G. W. Ragan could control a larger colored vote than Dr. Day, but that Dr. Day could influence a majority of all the voters in the parish," and the same witness declares that he expected some 300 or more to vote for the doctor, and many of them afterwards declared they had done so, and in confirmation of the deep hold of Dr. Day upon the affections of the colored people of the parish of East Baton Rouge, one witness, (colored) a man of much influence and very intelligent, page 126, declares that he was and is a Republican, voted the Republican ticket, except for Mr. Ragan, and through his influence at least 300 colored voters, he thinks cast their ballots for Dr. Day, and yet another, an old resident of the parish, declares, page 175, that if "Ragan were to run to-day against Dr. Day, the doctor would get a majority of the colored votes."

The undersigned would further state, and the testimony justifies the statement, that the changing or swapping of votes has always been regarded as a legitimate mode of electioneering, and has never been esteemed an act of fraud until very recently; but admitting it to be fraud, and such fraud as to the extent practiced would affect the result, you have from the contestant's own witnesses this statement developed that at least sixty votes were thus exchanged by the active supporters of Dr. Day, leaving the sitting member at least 650 majority. The undersigned cannot agree with the majority that colored voters were denied the right of voting. Without doing violence to the testimony of Gen. Sykes, a part of whose command was near the polls for the preservation of peace and order, as well, perhaps, to secure to all their rights under the law, as well as the highly respectable gentlemen who, under the solemn sanctity of an oath, declared that from time to time public proclamation was made inviting all who were entitled to do so to approach the ballot box and cast their votes.

The undersigned would further state to the Hon. the Senate of Louisiana that this report has been made, not in the spirit of a partisan, but from a sincere desire so to present the leading features of the evidence as to vindicate the judgment rendered by the voters of the parish of East Baton Rouge on the 17th and 18th of April, 1868.

For the reasons above stated the undersigned concludes that the contestant George W. Ragan has totally failed to establish the charges exhibited in his protest against the Hon. R. H. Day, and that the said Day is clearly and unmistakably entitled to his seat in your honorable body.

Respectfully submitted,

W. L. THOMPSON.

Mr. Lynch, from the finance committee, reported back the following bills, with the recommendation that they be indefinitely postponed:

Senate bill No. 86—An act extending the collection of the convention tax and providing for the final settlement thereof.

Senate bill No. 259—An act to require State tax collectors to receive certain State warrants in payment of taxes due the State, and authorizing them to take up said warrants.

House bill No. 105—An act to provide means for the relief of the treasury of the State.

House bill No. 209—Joint resolution providing for the payment of members and employés, and prohibiting speculation in warrants for the payment of the contingent expenses, etc.

House bill No. 244—An act to make the warrants of the General Assembly of 1868 receivable for State lands.

House bill No. 163—An act authorizing the tax collectors to receive the warrants of members and employés of the General Assembly in payment of State taxes by preference.

Mr. O'Hara, from the committee on claims, reported unfavorably upon the petition of D. H. Haynes and the petition of J. Madison Wells, both asking for relief.

Mr. Lynch—I ask for a suspension of the rules to introduce a bill to be entitled an act to supply deficiency of appropriations for the year ending December 31, 1868.

Rules suspended and the bill read.

Mr. Lynch—I ask for a suspension of the rules to put the bill upon its second reading.

Rules suspended and the bill read.

The bill was considered engrossed.

Under a suspension of the rules, the bill was read a third time and finally adopted with its title.

Mr. Darrell—I ask for a suspension of the rules to introduce a bill to be entitled an act appropriating the sum of ten thousand dollars for the arrest of the assassins of H. H. Pope and Valentine Chase, of St. Mary parish.

Rules suspended and the bill read.

Mr. Darrell—I ask for a suspension of the rules to put the bill on its second reading.

Rules suspended and the bill read.

The bill was considered engrossed.

Under a further suspension of the rules the bill was read a third time, and finally adopted with its title.

Mr. Bacon, from the special joint committee to inquire into the unauthorized alterations to Senate bill No. 23, presented the following report:

SENATE CHAMBER, New Orleans, Octs 19, 1868.

To the honorable the Senate of the State of Louisiana:

Your committee appointed to examine into and inquire as to how the alterations which were not agreed to by either House, were made in the engrossed copy of the Senate bill No. 23, which passed into an act, respecting imprisonments and fines, and as to the person or persons by whom they were made, beg leave to report, that they have examined the secretary and the assistant secretary of the Senate, and the chief enrolling clerk thereof, and the chairman of the judiciary committee and chief clerk of the House.

All agree that the bill was engrossed as it passed the Senate, containing the words respecting the powers of recorders and other magistrates and courts that it "shall not be competent" for them to remit fines or imprisonments, and that the words "be discretionary," found in lieu thereof, being interlined in pencil, and the other words erased, were not in it when it went to the House, but the latter were found in it when the enrolling clerk of the Senate undertook first to enroll it, and the former words were erased. The same is reported to us as to the word "nor" in the eighteenth line. The supposed fourth section was also supplied in pencil after the bill left the Senate.

The House referred the bill to its judiciary committee, and that committee reported it back with the indorsement "Favorably," in pencil, and as thus reported it passed. The clerk of the House has formally and officially reported to us by indorsement on the bill by the direction of the House, "that the House concurred without amendments," and that the words "not be competent" were not stricken out by the House, nor the words "nor to" in the eighteenth line, and that the additional section was not added by the House.

The Hon. Peter Harper, chairman of the judiciary committee, declares to the best of his recollection the judiciary committee of the House reported the bill back favorably and without amendments.

Your committee have had an opportunity of observing a very reprehensible practice, which may have been practiced heretofore in both houses but which should be abandoned, that of making scratches and alterations of bills sent by one house to another, when it desired to amend them.

A bill which originated in and passed the Senate to be entitled "an act relative to attachment," was returned to the Senate by the clerk of the House as having been concurred in without amendment, but was found to have an important clause stricken out with pencil, and this it was afterwards found the House intended to have stricken out but which should have been done by separate amendment to that effect, to have been engrossed on another piece of paper, to be sent back to the Senate with their bill unmutilated.

In the case of the bill respecting which your committee has been directed to inquire, it seems to be undoubted, for the House has formally so decided, that the bill was passed by that body as it passed the Senate, unaltered, and has now been correctly enrolled and approved by the governor and become a law; but we have much doubt on our minds whether there was not some inchoate attempt in the judiciary committee of the House to have it changed, but this never took shape by the action of the House itself, which adopted the bill as it went from the Senate.

Your committee have found it vain to attempt to find out who added the matter in pencil, or struck out the words which were in the bill as it passed, nor with any distinctness that they were placed there after final action on the bill. No one seemed to be able to give the slightest clue to it. But the bill passed both houses as it was originally engrossed, with no knowledge on the part of either that any such attempts at alteration had been made.

We would here simply add that it is the duty of the committee on enrollment to carefully scrutinize every bill sent them for enrollment, and to report no bill as correctly enrolled unless they have themselves compared it with the original. Had this been done with the bill in question, the mistake, or worse conduct, which placed us in a false position with the governor and to ourselves, would have been discovered at once and no falsely enrolled bill would have gone before him.

Your committee deem further investigation on their part unnecessary, and therefore ask to be discharged.

All of which is respectfully submitted.

A. B. BACON, Chairman.
JNO. RAY.
J. J. MONETTE.

The committee was discharged.

MOTIONS.

Mr. Wittgenstein—I move to reconsider the vote by which the Senate refused to consider engrossed Senate bill No. 8, an act relative to notaries public.

Mr. Ray—I move to lay the motion of Mr. Wittgenstein on the table.

Mr. Campbell—I call for the yeas and nays.

The yeas and nays were ordered, resulting:

Yeas—Anderson, Bacon, Beares, Braughn, Day, Foute, Futch, Jewell, Lynch, Ogden, Packard, Ray, Todd—13.

Nays—Antoine, Campbell, Coupland, Francois, Kelso, Lewis, Monette, O'Hara, Pollard, Smith, Wittgenstein—11.

The motion was laid on the table.

The different reports of the committee on elections and returns in the case of G. W. Reagan vs. R. H. Day were taken up.

Mr. Futch—I move the adoption of Mr. Thompson's minority report.

Mr. O'Hara—I move to substitute by adopting my minority report.

Mr. Lewis—I move that the reports be made the special order of the day to-morrow.

Mr. Braughn—I move to lay that motion on the table.

The motion of Mr. Lewis was tabled.

Mr. Braughn—I call for the main question.

The main question was ordered, by a rising vote of 16 yeas to 8 nays, and the reports taken up and read.

Mr. Campbell—I call for the yeas and nays on the motion to adopt Mr. O'Hara's minority report offered as a substitute to the motion to adopt the minority report of Mr. Thompson.

The yeas and nays were ordered, resulting:

Yeas—Anderson, Campbell, Coupland, Darrell, Francois, Kelso, Lewis, Monette, O'Hara, Pinchback, Poindexter, Pollard, Smith—13.

Nays—Anderson, Bacon, Beares, Braughn, Foute, Futch, Jenks, Jewell, Lynch, Ogden, Packard, Ray, Wilcox, Wittgenstein—14.

Mr. O'Hara's substitute was lost.

On the motion to adopt the minority report of Mr. Thompson the yeas and nays were ordered, resulting:

Yeas—Anderson, Bacon, Beares, Braughn, Foute, Futch, Jenks, Jewell, Lynch, Ogden, Ray, Wilcox, Wittgenstein—13.

Nays—Antoine, Campbell, Coupland, Darrell, Francois, Kelso, Lewis, Monette, O'Hara, Packard, Pinchback, Poindexter, Pollard, Smith, Whitney—15.

The motion was lost.

The majority report being taken up, Mr. Campbell entered the following protest:

I protest against the decision of this important contest under the spur of the previous question. The report of the majority of the committee occupies one hundred and eighty-five pages of closely printed matter. I have not had time to read it, much less to investigate it. If forced to vote, I must vote in total ignorance of the subject matter. I do not believe a Senator on this floor, except the members of the committee, has read this report. In my opinion it is unjust and impolitic thus to attempt to cut off deliberation upon this contest, but if compelled to vote, I must vote in accordance with the finding of a majority of the committee. I say to the friends of the sitting member, that in forcing this question they have compelled some to vote against them who might, after examination, have voted with them, at least so far as to refer the whole matter back to the people.

HUGH J. CAMPBELL.

Mr. O'Hara—I call for a division of the question on the report of the majority of the committee, and I call for the yeas and nays on that portion of the report declaring vacant the seat of Senator Day.

By unanimous consent the matter was postponed until to morrow.

Mr. Anderson—I ask for a suspension of the rules to take up Senate bill No. 168, an act to provide for the payment of the annual salaries of the officers of the last General Assembly of Louisiana.

Rules suspended and the bill read.

Mr. Anderson—I move that the bill be considered engrossed.

Adopted.

Mr. Anderson—I ask that the rules be suspended to put the bill on its third reading.

Mr. Lynch—I move that the bill be postponed indefinitely.

Mr. Anderson—I call for the yeas and nays.

The yeas and nays were ordered, resulting:

Yeas—Messrs. Antoine, Campbell, Coupland, Kelso, Lewis, Lynch, Monette, O'Hara, Packard, Pinchback, Poindexter, Pollard, Ray, Smith, Whitney, Wittgenstein—16.

Nays—Messrs. Anderson, Beares, Braughn, Foute, Futch, Jenks, Jewell and Ogden—8.

The bill was postponed indefinitely.

RESOLUTIONS.

By Mr. Smith—

Resolved, That in view of the great discount upon State warrants, that the porters of the Senate be allowed the sum of eighty dollars each as an extra compensation.

Mr. Smith—I move the adoption of the resolution.

Mr. Todd—I move to amend by including the doorkeeper and postmaster.

The amendment was accepted, and the resolution adopted as amended.

A message from the governor was received.

By Mr. Todd—

The resolution lies over.

NOTICES OF BILLS.

Mr. Campbell—I give notice that on a future day I will introduce a bill to be entitled an act repealing an act entitled an act relative to notaries public, approved April 8, 1868.

The clerk of the House of Representatives appeared with a message from that body asking concurrence in House bill No. 186: an act for the appropriation of $42,224 to pay the past indebtedness of the Louisiana State penitentiary, and announcing that the House had concurred in Senate joint resolution appropriating one hundred dollars each to the members of the police force who have attended in their official capacity the sessions of the Legislature of 1868, with amendments; and in Senate bills No. 60: an act to amend and re-enact article 354 of the Code of Practice, and No. 101: an act to incorporate the loan and pledge association without amendments.

Mr. Ray—I ask for a suspension of the rules to introduce a bill to be entitled an act providing for more certain notice of the filing of accounts, etc.

Read twice under suspension of the rules and referred to the judiciary committee.

Mr. Braughn—I ask for a suspension of the rules to take up Senate bill No. 168, an act for the purchase of a museum of medals, models, scientific library, etc.

Rules suspended and the bill read.

Mr. Todd—I move that the bill be postponed until the second Tuesday in January next.

Mr. Ray—I call for the yeas and nays.

The yeas and nays were ordered, resulting:

Yeas—Campbell, Day, Francois, Jenks, Lynch, Packard, Ray, Todd, and Whitney—9.

Nays—Antoine, Braughn, Coupland, Futch, Kelso, Monette, Ogden, O'Hara, Pinchback, Poindexter, Pollard, Wittgenstein—12.

The Senate refused to postpone.

Mr. Ray—I move to indefinitely postpone the bill.

The yeas and nays were ordered, resulting:

Yeas—Campbell, Day, Francois, Jenks, Kelso, Lynch, O'Hara, Packard, Pollard, Ray, Todd and Whitney—12.

Nays—Antoine, Bears, Braughn, Futch, Monette, Ogden, Pinchback, Poindexter and Wittgenstein—9.

The bill was postponed indefinitely.

The chief clerk of the House of Representatives appeared with a message from that body, announcing that the House had concurred in Senate joint resolution No. 34, relative to the adjournment of the General Assembly, with an amendment.

Mr. Ogden—I ask for a suspension of the rules to introduce a resolution.

Rules suspended and the following read:

In view of the fact that the Legislature has been in session since the 22d of June, and that members of both houses have drawn their warrants from that date; be it

Resolved, That a committee of three be appointed to wait on the governor and inform him that as the one hundred and twenty days given by the constitution for the session of the Legislature have expired, that the Senate will adjourn this evening, to meet at its next regular term, and that if he has any message to send in they are now prepared to receive it.

Lies over.

Mr. O'Hara—I ask for a suspension of the rules to take up Senate joint resolution No. 34 relative to adjournment of the General Assembly, returned from the House with an amendment.

Rules suspended and the amendment changing the date of adjournment from the 26th to the 20th inst., was read.

Mr. O'Hara—I move that the Senate concur in the House amendment.

Mr. Lynch—I call for the yeas and nays.

The yeas and nays were ordered, resulting:

Yeas—Braughn, Darrell, Day, Futch, Jenks, Kelso, Lynch, Ogden, O'Hara, Pinchback, Poindexter, Pollard, Whitney—13.

Nays—Antoine, Bacon, Beares, Campbell, Coupland, Francois, Monette, Packard, Ray, Smith, Todd, Wilcox, Wittgenstein—13.

A tie.

The President—I vote nay.

The amendment was not concurred in.

Mr. Ogden—I move that the rules be suspended to take up my resolution relative to adjournment.

Mr. Wittgenstein—I move to lay the motion on the table.

Adopted by a rising vote of 12 yeas 8 nays.

Mr. Campbell—I ask for a suspension of the rules to report favorably, with amendments, upon House bill No. 132—an act to incorporate a savings and pawners bank of New Orleans.

Rules suspended and the report received, on the yeas and nays being ordered and resulting:

Yeas Messrs. Bacon, Braughn, Campbell, Coupland, Francois, Kelso, Monette, Ogden, O'Hara, Packard, Pollard, Smith, and Todd—13.

Nays—Messrs. Day, Pinchback, Poindexter, Whitney, Wilcox and Wittgenstein—6.

Mr. Campbell—I ask for a suspension of the rules to take up Senate joint resolution No. 33, appropriating one hundred dollars each to the members of the police force who have attended, in their official capacity, the sessions of the Legislature of 1868, returned from the House.

Rules suspended and the amendment of the House adding the names of "P. Z. Canonge, J. W. Munday and Wm. H. White" to the first section, was read.

Mr. Campbell—I move to concur in the amendment.

Adopted.

Mr. Campbell—I ask for a suspension of the rules to take up the constabulary bill, and call for the yeas and nays.

The yeas and nays were ordered, resulting:

Yeas—Messrs. Anderson, Antoine, Bacon, Beares, Blackman, Braughn, Campbell, Coupland, Darrell, Day, Egan, Foute, Francois, Futch, Jenks, Jewell, Kelso, Lewis, Lynch, Monette, Offut, Ogden, O'Hara, Packard, Pinchback, Poindexter, Pollard, Randall, Ray, Smith, Thompson, Todd, Whitney, Wilcox, Williams and Wittgenstein.

Nays—Messrs. Anderson, Antoine, Bacon, Beares, Blackman, Braughn, Campbell, Coupland, Darrell, Day, Egan, Foute, Franceis, Futch, Jenks, Jewell, Kelso, Lewis, Lynch, Monette, Offut, Ogden, O'Hara, Packard, Pinchback, Poindexter, Pollard, Randall, Ray, Smith, Thompson, Todd, Whitney, Wilcox, Williams and Wittgenstein.

The Senate refused to suspend the rules.

Mr. Todd—I ask for a suspension of the rules to take up the resolution relative to the extra compensation to employés of the Senate.

Rules suspended and the following read:

WHEREAS, In consideration of the faithful and efficient manner in which the clerks and employés of the Senate have discharged the duties incumbent upon them during the long and arduous session of this body, and

WHEREAS, By reason of the depreciation in value of warrants, their source of revenue, and the ruinous rates of discount to which they have been subjected, thereby increasing the expense of living, and in consequence burthensome and embarrassing to the many who have families dependent upon them for support, therefore

Be it resolved by the Senate of Louisiana, That the warrant clerk is hereby authorized and directed to draw his warrants on the State treasurer in in favor of the following clerks and employés of the Senate to be paid out of the contingent fund of the General Assembly: secretrry $300; assistant secretary $300; chief enrolling clerk $250; enrolling clerks each $150; reporters of New Orleans Picayune $150; CRESCENT, Republican and German Press each $150; Stone, Jones, Thompson and Downes, clerks committee on peace and good order of State each $150; night watchman 80.

Mr. Bacon—I move to refer the resolution to the finance committee.

Mr. Braughn—I move to strike out the two last items.

Mr. Smith—I move to lay the motion to refer on the table.

Lost.

Mr. Bacon's motion to refer prevailed.

The order of the day was called.

House bill No. 286—An act authorizing the appointment of Mrs. Mary Elizabeth Wardell as curatrix of an interdicted, was read.

Mr. Ray—I ask for a suspension of the rules to put the bill on its second reading.

Rules suspended and the bill read.

The bill was considered engrossed.

Under a suspension of the rules the bill was read a third time and finally adopted with its title.

Mr. O'Hara—I ask for a suspension of the rules to take up House bill No. 201, an act for the relief of J. C. Kathman, late chief of bureau of immigration. Rules suspended and bill read.

Mr. Bacon—I move to reconsider the bill.

Mr. Wittgenstein—I move to postpone until the second Monday in January next, 1869. Adopted.

Mr. Bacon—I move to reconsider the vote by which the Senate refused to concur in House amendment to Senate joint resolution No. 34, relative to the adjournment of the General Assembly. The vote was reconsidered.

Mr. Braughn—I move to concur in the House amendment.

Mr. Todd—I call for executive session. The Senate went into executive session.

The executive session being raised, Mr. Lynch, from the finance committee, reported favorably upon Senate resolution making an appropriation for the clerks and employés of the Senate chamber, with amendments as follows: Secretary $300 instead of $500; assistant secretary $300 instead of $500; chief enrolling clerk $250 instead of $500; enrolling clerks each $150 instead of $300; reporters of the New Orleans Picayune, CRESCENT, Republican and German Press, each $150 instead of $250; clerks committee on peace and good order in the State $150 instead of $300; strike out clerk of contingent expense committee and add night watchman $80.

Mr. Lynch—I ask for a suspension of the rules to take up the resolution.

Rules suspended and the amendment read.

Mr. Lynch—I move the adoption of the resolution as amended by the committee.

Adopted.

Mr. Coupland—I ask for a suspension of the rules to introduce a resolution.

Rules suspended and the following read:

WHEREAS, There is much unfinished business for the committees on auditing and supervising the accounts of the Senate to do in order to close up the accounts with a view of making a report of the expenses of the Senate at the next session of the General Assembly; therefore, be it

Resolved, That the chairman of said committee be authorized to pursue the duties devolving upon him during the time to the next session of the General Assembly, and be have authority to convene the said committee whenever it is deemed necessary during the time to decide upon any questions that pertain to the duties of said committee.

Mr. Coupland—I move the adoption of the resolution.

Adopted.

Mr. Ogden—I ask for a suspension of the rules to introduce a resolution.

Rules suspended and the following read:

Resolved, That in order to pay the per diem and mileage of the members of the committee on public buildings, for the time they are authorized to sit after the adjournment of the Legislature, the warrant clerk of the Senate is hereby authorized to draw his warrant on the auditor of the State in favor of the member to whom it is due, on the certificate of the chairman of said committee that the amount is correct, and that this apply to all committees authorized to sit during the interval.

Mr. Ogden—I move the adoption of the resolution.

Adopted.

Mr. Wittgenstein—I ask for a suspension of the rules to introduce a resolution.

Rules suspended and the following read:

Be it resolved by the Senate of the State of Louisiana, That the chairman or acting chairman of the committee on enrollment be allowed to sit a sufficient length of time, after the adjournment of the General Assembly, to complete such business as may remain unfinished, and that they and such a number of clerks as may be necessary be entitled to their per diem, to be paid on the warrant of the warrant clerk, approved by the chairman of the enrollment committee.

Mr. Wittgenstein—I move the adoption of the resolution.

Adopted.

Mr. Braughn—I move that the Senate adjourn to meet again at 7 o'clock this evening.

Adopted.

In the Senate Thursday, October 15, 1868,

Senate bill 279, "An act to regulate the appointment of deputy sheriffs in the parishes of Orleans, Jefferson and St. Bernard, and to restrict the powers of sheriffs in the metropolitan police district to the discharge of the duties imposed upon them by law," being under consideration.

Mr. Todd—I move to strike out the word "Jefferson" wherever it occurs in this bill, for the reason that we have a sheriff there who was elected by the Republicans and who served in the United States army, and whenever you take away the powers which are delegated to him by the laws of the State, you paralyze him. He can scarcely make a support as it is. If you strike out Jefferson I have no earthly objection to the bill.

Mr. Ray—It seems to me the reason assigned by the senator from Jefferson is not a good one. Whether the sheriff of any particular parish is a Democrat or a Republican is no reason why the law should be passed. There is little or no profit derived by the sheriff from superintending an election; at any rate, I believe the election law we have passed and the registration law take the whole subject of elections out of the hands of the sheriffs throughout the State. This law is to place this subject of elections within the control of municipal officers in this parish, Jefferson, St. Bernard, and the same as in the other portions of the State. They have abused the privilege so much heretofore that it is regarded as better to take it out of their hands altogether. I move to lay the motion to amend on the table.

The motion to table was adopted, and on motion of Mr. Ray the bill was taken up section by section.

Mr. Pinchback—Mr. President, I am glad the bill has been taken up section by section. I heard the senator from Jefferson say that it was taking away the constitutional rights of sheriffs, and I want, to examine it, and hear it discussed, to see whether it does so or not. I find, however, nothing of the kind in it from reading it over.

Mr. Bacon—I move to strike out section second; and I now wish to say here, that if it be the design of this Legislature to deprive the parishes of Louisiana of the right to choose their officers, and to invest it in the governor, whose appointments are to be confirmed by this Senate and to impose upon the people of those parishes officers not elected by them, who are to hold in their hands almost the lives and liberties of the people, I, for one, as a representative of this parish, will tell you that it should not be submitted to.

Mr. Campbell called Mr. Bacon to order as using inflammatory and unparliamentary language.

The president called both senators to order and requested Mr. Bacon to confine his remarks to the discussion of the merits of the section.

Mr. Bacon—I say this, sir, as to the unconstitutional exercise of power by this Legislature: It is robbing the people of those rights guaranteed them by this Constitution, and as the Constitution is higher than any law which this Legislature can make, when I say that the people will not submit to such laws I mean that the Constitution is higher than any law which this Legislature can enact. I do not say, sir, that the people will not obey the laws, but I say they will not obey unconstitutional enactments falsely called laws; and, sir, it is idle for us to talk here of any quietude in this community, or in any other; to pray for it, to work for it, to counsel it, to urge men not to indulge in violent feelings, nor to do violent acts, when every provocation is given to act otherwise. And the gentleman presumes to call this law. I say, sir, it has none of the characteristics of law; it is merely partisan effort at usurpation; it is usurping power and then calling it law. The Constitution of the State declares that there shall be a sheriff elected in every parish. What is that sheriff for? His duties have been defined from time immemorial and they are defined now in the existing laws. In England, and in every other State, and in this State since its first existence, there is the grand conservator of the peace, the sheriff. He is at the head of the police of his parish or his county, as the case may be; inferior policemen are to report to him and he is to command them all. And yet, sir, we are told that the sheriffs of the parishes of Orleans and Jefferson must go to these governor created officers for their instructions. Now, sir, I ask the people of the parish of Orleans to adhere to the law and execute the law—the law which is higher than any law which this Legislature can make. This bill, and all similar ones, are introduced for the purpose of creating and exercising a power for which there is no authority in the Constitution, and which will override the Constitution and destroy the rights of the people. It is to make this Legislature—part of which holds its power for two years, and part for four years—together with the governor, the masters of the people; although they may show by their suffrages that they have no confidence in it, yet they must be ruled by it. This is not legal nor constitutional. I would ask legislators who desire peace, if there be any such here to look calmly at this matter and see whether they are attempting to create, as the senator from Carroll said the other day, another Ireland, where a man is not safe unless he is guarded by a strong body of his own or the soldiers of the queen. We, sir, should not undertake to produce such antagonisms as this, if we wish to see peace in this community and the proper laws obeyed. We should try to assuage all these difficulties and differences, and not produce new ones. I am astonished, sir, to see gentlemen of good sense and intelligence, and who must know the people who have so long exercised the right of suffrage, undertake here things which would not be countenanced for a moment in any Northern State, or any State which has, like us, the right, upon paper at least, of enjoying the privilege of self-government. I am astonished, sir, in a greater measure, that such a bill as this should be introduced and pushed through with such celerity and determination, [Latin quotation] without the delay of a moment in its progress, except, however, one of the party with which the gentleman acts, is anxious to have it read section by section, and another to have it amended so far as not to apply to his own parish; otherwise, I suppose, it would be rushed through without even the pretext of an examination of the law by which a constitutional officer is to be deprived of his functions, and they given to an officer who is not recognized by the Constitution as having any existence at all. Now, sir, I have done. Do what you please. Pass it through. But, I say to you here, that if you go on, step by step, robbing the people of the little power left them, and are giving to yourselves, as a Legislature, with the aid of your governor, all the powers which the people should exercise under the Constitution in electing their officers, you cannot hold them.

Mr. Ray—Mr. President, the senator who has just taken his seat raises a question of constitutionality, and another of policy. The first question, if there is any force in it, ought to be considered. It is true that the State authorizes the election of a sheriff; but, I believe, it is equally true that the Legislature has the power to define the duties of that officer. There is no duty performed by any sheriff that is fixed by the Constitution at all.

Mr. Futch—The Constitution says "There shall also be elected by the qualified electors of the parish at large, one sheriff, who shall be the executive officer of the civil courts, and who shall perform all other duties now devolving upon the sheriff of the parish of Orleans."

Mr. Ray—That article of the Constitution is irrelevant to the subject, Mr. President. The object of a sheriff is to perform executive duties, but these executive duties are prescribed by the Legislature. Now, it was never intended by the Constitution, nor will the wording justify the interpretation, that the duties of the sheriff should never be changed by the Legislature. But in this law there is nothing abridging the duties of the sheriff at all; it merely prescribes the method by which the sheriff shall have assistance in executing his duties. It is perfectly competent for the Legislature to take away from sheriffs the power of calling out *posses* or of appointing deputies, if necessary. The sheriff appoints deputies, not by virtue of the Constitution, but by virtue of the acts of the Legislature. It is a thing with which the Constitution does not pretend to interfere. Now, the object and purpose of this law are to assist the sheriff in the execution of his duties. He is required, when it becomes necessary, to apply to the Metropolitan Police Board for additional aid to execute the duties of his office, and it is made the duty of that board to furnish the aid he demands. Is there anything unconstitutional, or that abridges the rights vested in the sheriff by the Constitution in that? Is there anything that will prevent the execution of any law required to be executed by the sheriff? None; and no pretext can be sustained that this section interferes with the Constitution. The right of the sheriff to call out a posse was conferred by a special act of the Legislature. In this law it is merely proposed to change the mode by which, when the sheriff of his own power cannot execute a writ, he shall be aided in doing so. When we take into consideration the object of the metropolitan police bill, the wisdom of this provision is seen. It does not propose to take away the right to elect the sheriff, or to interfere with him in the execution of his duties, but to give him the additional right to call for all the power requisite for that purpose. If he requires ten men, or fifty, or a thousand, all he has to do is to apply to the metropolitan police officer, and the necessary assistance is afforded. As I understand the object of the metropolitan police, it is an organized body—not an army. It has its organization complete as a police force. Then where can a sheriff better go, when he has not the power to enforce certain writs, than to that organized body? Instead of calling a *posse* or swearing in additional sheriffs, here is an organization of men sufficient for all such purposes, and the sheriff has only to make an application to the head of that force and the proper assistance will be given him, just as he would apply to the military organization, if there was one here under the charge of the governor—the military would be sent out to assist the sheriff in the execution of that writ. The principle is just the same. Here is a police organization to execute the law and keep order, and if the sheriff needs any aid there is the place to go for it.

On motion of Mr. Campbell the motion to strike out was laid on the table and section 2 adopted.

Section 3 having been read, Mr. Todd moved to strike it out, which motion was tabled.

Section 4 having been read—

Mr. Todd—I move to strike it out. The people of the City of Jefferson are not rioters or cutthroats. The senator from Ouachita says we can call on the metropolitan police. We are law-abiding citizens in that community, and the citizens themselves have never failed to respond when called upon to assist in keeping the peace.

Mr. Bacon—Mr. President, the senator from Ouachita, in reply to the remarks that I made a few minutes ago, criticised the application of what I then said to the second section, but the senator had himself, immediately after the first section was read, said that the whole object of the bill was expressed in it; that it did not subject the sheriff to the authority of the metropolitan police, but simply gave the sheriffs the power to obtain assistance from the police, but he admitted that it deprived the sheriffs of all authority over elections, a power which they had hitherto possessed and abused. If I extended my remarks upon the second section beyond its mere verbiage with a view to that which was subsequently to be found in the bill, in the section just read, and directed my remarks more to that provision than the one under immediate consideration. I had a precedent for it in the senator's own remark respecting section 1. This section 4 does make these officers who are elected under the Constitution subject to the metropolitan police commissioners, created by an act of the Legislature and appointed by the governor, having less rightful authority, in a parish, most assuredly, than he whose warrant of authority comes from the Constitution and the election by the whole people of an extensive and populous parish, such as this. This, sir, of itself, is an outrage, and approaches as near the unconstitutional exercise of power as a subordinate authority could ever undertake. I say, sir, that this Legislature, and this governor, are inferior to the people. I say that the laws of this Legislature are inferior to the Constitution, and that an officer whose power and dignity are given him by the Constitution is higher than any whom we can create, and when this bill in this section undertakes to subject the sheriff elected by the people of the parish of Orleans to commissioners selected through the authority of this Legislature by the governor, it is an act in violation of the principles of the Constitution which the people have a right to resist. The gentleman says that although sheriffs are authorized by the Constitution they have no special powers or duties assigned them save what are delegated by the Legislature—that the Legislature can take from or give them as much power as it sees fit. I do not so understand it. I understand that the Constitution creates these officers for the purpose of exercising certain functions which from time immemorial have devolved upon sheriffs. The Legislature may define or qualify them, but I do not think it can make them subordinate to officers whom the Legislature itself creates. The Legislature thereby places itself above the charter under which it acts. Why, sir, this Legislature has no more lawful existence than the sheriff of the parish of Orleans. It is created by the Constitution, so is the office of sheriff. And this metropolitan board of police is a bastard in comparison with the sheriff of the parish of Orleans. Mr. President, the principle of this bill is that the people shall not choose their officers; shall not govern themselves, but shall be governed by Governor Warmoth and the accidental majority of the Legislature. That is the policy and the principle of the bill, and that principle is in violation of the constitutional rights of the people, and I say they have a legal and constitutional right to resist it.

Mr. Ray—When you say a right to resist it, do you mean by force of arms, or by a resort to the laws?

Mr. Bacon—By law—the law of the Constitution.

On motion of Mr. Campbell, the motion to strike out was laid on the table. Yeas 15, nays 6.

The remaining sections were then adopted.

[To be Continued.]

EVENING SESSION.

Pursuant to adjournment the president called the Senate to order at 7 o'clock P. M.

The roll was called, present the following members:

Anderson, Antoine, Bacon, Beares, Braughn, Campbell, Day, Foute, François, Futch, Jewell, Kelso, Lynch, Monette, Packard, Poindexter, Ray, Smith, Whitney, Wilcox and Wittgenstein—21.

Mr. Campbell—I ask for a suspension of the rules to introduce a favorable report from the joint committee composed of the city delegation and internal improvement committees, upon Senate bill No. 283, an act to aid in the construction of the New Orleans and Ship Island Canal for the purpose of more effectually leveeing, draining and reclaiming swamp land in rear of the city of New Orleans.

Rules suspended and the bill read by its title.

Mr. Beares—I move that the bill be taken up section by section.

Adopted.

The first, second, and third sections were read and adopted.

Section fourth was read.

Mr. Lynch—I move to strike out five per cent. wherever it occurs, and insert 2½ per cent. instead.

Adopted.

Mr. Braughn—I move to strike out the word "city" in line —, and to insert instead the word "parish."

Adopted.

The section was adopted as amended.

[The chief clerk of the House of Representatives appeared with a message from that body, asking concurrence in House bill No. 272, an act for the relief of Frank Huguet; House bill No. 254, an act appropriating money to pay claim of James Edmonston, and House bill No. —, an act to provide a revenue for the support of the State government, and the manner of collecting the same.]

Action on Senate bill No. 283 was resumed.

The fifth and sixth sections were read and adopted.

The seventh section was read.

Mr. Futch—I move to postpone the consideration of the bill until next session.

The clerk of the House of Representatives appeared with a message from the House, asking concurrence of the Senate in House bill No. 189, an act defining the duties of notaries public and sheriff in the parish of Orleans in certain cases; House bill 278, an act for the relief of Victor Gerodias; House bill No. 277, an act to provide for a survey of Bayou Manchac; House bill No. 281, joint resolution to inquire into the recent disturbances in the parishes of St. Landry, Bossier and Caddo.

Mr. Braughn—I move to lay the motion of Mr. Futch on the table.

The yeas and nays were ordered, resulting:

Yeas—Anderson, Antoine, Beares, Braughn, Campbell, Day, Foute, Francois, Jewell, Kelso, Monette, Packard, Poindexter, Wilcox, Wittgenstein—15.

Nays—Bacon, Futch, Lynch and Ray—4.

The motion to postpone was tabled.

Mr. Lynch—I move to amend the seventh section by inserting after the word "State" the words "in the south eastern land district, and in all cases of patents."

The amendment was adopted.

Section seven was adopted as amended.

Section eight was read.

Mr. Bacon—I move the adoption of the following proviso:

Provided, that neither the money nor the lands granted by this act to the said company shall accrue to or be delivered to the said company until the State engineer and city surveyor shall ascertain and declare the canal so constructed does constitute a sufficient drain for the city of New Orleans and the other districts adjacent thereto, for which this act provides, and that the said company shall covenant and agree to maintain the same at the widths and depths herein provided for the purposes of drainage as aforesaid, without any further cost to the city or said districts than is herein provided.

Mr. Wilcox—I move to lay the proviso on the table.

Mr. Bacon—I call for the yeas and nays.

The yeas and nays were ordered, resulting:

Yeas—Anderson, Antoine, Beares, Braughn, Campbell, Foute, Francois, Jewell, Kelso, Monette, Poindexter, Whitney, Wilcox, Wittgenstein—14.

Nays—Bacon, Day, Futch, Lynch, Ray—5.

The proviso was laid on the table.

Mr. Braughn—I move the adoption of the following additional section:

"*Be it further enacted, etc.*, That this act shall take effect from and after its passage."

Adopted.

Mr. Foute—I move the adoption of the following additional section:

"*Be it further enacted, etc.*, That the said company be liable in damages to the sufferers from any overflow caused by the neglect or failure to protect and securely levee the rear of the city and the canal over which the said company may have control."

Mr. Wilcox—I move that the bill be adopted as a whole.

Adopted.

Mr. Wilcox—I ask for a suspension of the rules to put the bill on its third reading.

Mr. Bacon—I call for the yeas and nays.

The yeas and nays were ordered, resulting:

Yeas—Anderson, Antoine, Beares, Braughn, Darrell, Day, Foute, Francois, Jewell, Kelso, Lynch, Monette, Poindexter, Ray, Smith, Whitney, Wilcox, Wittgenstein—18.

Nays—Futch—1.

Mr. Campbell—I move that the bill do now finally pass.

Adopted.

Mr. Wilcox—I move the adoption of the title.

Adopted.

Mr. Wilcox—I move to reconsider the vote by which the bill finally passed.

Mr. Poindexter—I move to lay that motion on the table.

Adopted.

Mr. Lynch—I ask for a suspension of the rules to take up House bill No. 222, an act to provide a revenue for the support of the State government and manner of collecting the same.

Mr. Ray—I move that the bill be made the special order of the day to-morrow immediately after the reading of the minutes.

Adopted.

Mr. Ray—I ask for a suspension of the rules to take up bill No 186, an act for the appropriation of $42, 224 38 to pay the past indebtedness of the Louisiana State penitentiary.

Mr. Ray—I ask for a suspension of the rules to put the bill on its second reading.

Rules suspended and the bill read.

The bill was considered engrossed.

Under a further suspension of the rules the bill was read a third time and finally passed.

Mr. Ray—I move that the title be adopted.

The yeas and nays were ordered, resulting:

Yeas—Anderson, Antoine, Bacon, Beares, Braughn, Campbell, Day, Foute, Francois, Futch, Jewell, Kelso, Lynch, Packard, Ray, Smith, Wilcox, Wittgenstein—18.

Nays—Monette and Poindexter—2.

Mr. Wittgenstein, from the enrollment committee, reported as follows:

SENATE ENROLLING DEPARTMENT, October 19, 1868.

To the President and Members of the Senate:

Your committee on enrollment respectfully report the following bills duly engrossed:

Senate bill No. 155—An act to exempt the Mutual Aid and Benevolent Life Insurance Association of Louisiana from taxation.

Senate bill No. 228—An act to authorize attorneys at law from other States to practice in the courts of this State.

Senate bill No. 252—An act for the relief of Wm. G. Bell, of the parish of St. Landry.

Senate bill No. 277—An act defining more fully the duties of the police juries of the several parishes in the State, wherein there are levees or other public works to be built or repaired in their respective parishes in connection with the general duties of the Board of Public Works.

Senate bill No. 281—An act to exempt from taxation the Workingmen's Mutual Life Insurance Society of Louisiana.

Senate bill No. 284—An act to secure the collection of the taxes of the city of New Orleans for the year 1867.

Senate bill No. 286—An act for the relief of James R. Andrews, late sheriff and tax collector of the parish of Rapides.

Senate bill No. 287—An act in relation to ferry privileges granted to Mr. E. B. Towne, in the parish of Madison.

House bill No. 286—An act authorizing the appointment of Mrs. Mary Elizabeth Wardell as curatrix of an interdictor.

Senate bill No. — An act to supply deficiencies of appropriations for the year ending the 31st of December, 1868.

Also as duly enrolled:

Senate joint resolution No. 34—Joint resolution relative to the adjournment of the General Assembly.

Respectfully, JOS. WITTGENSTEIN, Chairman of Enrolling Committee.

Mr. Lynch—I move that when we adjourn we adjourn until to morrow at 10 o'clock.

Adopted.

Mr. Ray—I ask for a suspension of the rules to take up House bill No. 189, an act defining the duties of notaries public and sheriffs in the parish of Orleans, in certain cases.

Read twice under suspension of the rules and referred to judiciary committee.

Mr. Futch—I ask for a suspension of the rules to take up House bill No. 277, an act to provide for a survey of Bayou Manchac.

Rules suspended and the bill read.

Mr. Futch—I ask for a suspension of the rules to put the bill on its second reading.

The rules were suspended and the bill read.

The bill was considered engrossed.

Under a further suspension of the rules, the bill was read a third time, and finally adopted with its title.

Mr. Campbell—I ask for a suspension of the rules to take up House bill No. 278, an act for the relief of Victor Gerodais.

Read twice under suspension of the rules and referred to the finance committee.

Mr. Anderson—I ask for a suspension of the rules to introduce a resolution.

Rules suspended and the following read:

WHEREAS, August Donato and Fortune Biard, contesting the seats of Senators Anderson and Offut, from the tenth senatorial district, have not been able to complete their testimony, be it

Resolved, That the said Donato and Biard re-