

New Orleans Republican OFFICIAL JOURNAL OF THE UNITED STATES OFFICIAL JOURNAL OF THE STATE OF LOUISIANA PROCEEDINGS

GENERAL ASSEMBLY OF THE STATE OF LOUISIANA THIRD SESSION

SENATE Forty-Ninth Day's Session

SENATE CHAMBER, Tuesday, March 1, 1870. The Senate met pursuant to adjournment.

Present: Hon. O. J. Dunn, Lieutenant Governor and President of the Senate, and Messrs. Anderson, Antoine, Bacon, Beares, Blackman, Brangan, Campbell, Coupland, Darrall, Day, Egan, Fouché, Futch, Jenks, Jewell, Kelso, Lewis, Lynch, Monette, Offutt, Ogden, O'Hara, Packard, Pinchback, Poindeux, Ray, Smith, Thompson, Todd, Whitney, Wilcox, Williams, Wittgenstein—33.

The reading of the minutes of the previous day's session was dispensed with. Mr. Darrall submitted the following report:

GENERAL ASSEMBLY OF LOUISIANA, and the Senate, March 1, 1870. To the Honorable President and Members of the Senate: GENTLEMEN—Your Committee on Enrollment beg leave to report as having been duly enrolled the following bills, to-wit: Senate Joint Resolution No. 31, "Appropriating five thousand dollars to the Ladies' Memorial Association of Fredericksburg, Virginia," etc.

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Which the Senate refused, unanimous consent not being obtained. A motion to adjourn was then refused on a division, yeas 13, nays 14.

On a call of Mr. Pinchback, the Senate proceeded to the consideration of Executive business.

Executive business having been raised by unanimous consent, the following entitled bills were introduced without notice: By Mr. Wilcox: "An act granting certain privileges to the Louisiana Burial and Land Improvement Company," which was read first time.

The constitutional rule was then suspended by a four-fifths affirmative vote, the bill put on its second reading, and referred to the Committee on Corporations and Parochial Affairs.

By Mr. Blackman: "An act providing compensation to John Ray, appointed under act No. 31 and joint resolution No. 182, of the acts of 1868, to revise the statute of a general character and the Civil Code and Code of Practice of this State, for such services, and to authorize him to compile a digest of the statutes of a general character from the acts of 1870, and to superintend the publishing for the use of the State, said digest enclosed," which was read first time.

The constitutional rule was then suspended by a four-fifths affirmative vote, the bill read a second time, and ordered engrossed for a third reading.

The constitutional rule was further suspended by a four-fifths affirmative vote, the bill read its third and last time, and finally adopted with its title.

A motion to adjourn until twelve o'clock M., March 2, being adopted, the President announced that the Senate stood adjourned accordingly.

HOUSE JOURNAL—OFFICIAL. Forty-Seventh Day's Proceedings. HOUSE OF REPRESENTATIVES, Tuesday, March 1, 1870. The House met pursuant to adjournment.

Present: Hon. O. J. Dunn, Lieutenant Governor and President of the Senate, and Messrs. Anderson, Antoine, Bacon, Beares, Blackman, Brangan, Campbell, Coupland, Darrall, Day, Egan, Fouché, Futch, Jenks, Jewell, Kelso, Lewis, Lynch, Monette, Offutt, Ogden, O'Hara, Packard, Pinchback, Poindeux, Ray, Smith, Thompson, Todd, Whitney, Wilcox, Williams, Wittgenstein—33.

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PROCEEDINGS OF THE SENATE WHEN SITTING AS A COURT OF IMPEACHMENT. Evening Session. THURSDAY, February 24, 1870.

At seven o'clock P. M., the recess having expired, the Chief Justice entered the Senate chamber and took the chair. The roll being called, by direction of the Chief Justice, the following Senators answered to their names: Messrs. Anderson, Antoine, Bacon, Beares, Campbell, Coupland, Darrall, Day, Egan, Fouché, Futch, Jenks, Kelso, Lewis, Lynch, Monette, Offutt, Ogden, O'Hara, Packard, Pinchback, Poindeux, Pollard, Ray, Smith, Todd, Whitney, Wilcox, Williams, Wittgenstein—27.

By direction of the Chief Justice, the Sergeant-at-Arms opened court with the usual proclamation. Mr. Bacon: I move that the reading of the minutes be dispensed with.

The motion being put and carried, the reading of the minutes was dispensed with. The Chief Justice: The Secretary will inform the members of the House of Representatives of the progress of the case.

Mr. T. J. Semmes and Henry Gray appeared in support of the accused. The Chief Justice: The witnesses who were summoned to appear in this case, and to be sworn, are: Mr. Ray, Mr. Chief Justice, I would suggest that we proceed with the examination of the witnesses present, and take that matter under consideration afterwards.

The Chief Justice: If this suggestion be not opposed, that we will proceed with the examination of the witnesses. There being no objection, the examination of witnesses was proceeded with.

TESTIMONY OF PATRICK LEONARD. Patrick Leonard, a witness for the prosecution, was called and duly sworn by the Secretary. Examination in chief by Manager Lowell: Questioned by the accused and his counsel. Answer: Patrick Leonard, I reside in the parish of Plaquemines.

Q. What is your business? A. I am Sheriff of the parish of Plaquemines. Q. Are you editor of a paper? A. Yes, the Empire Parish. Q. Are you public printer for that parish? A. Yes, sir.

Q. You publish the laws of the State? A. Yes, sir. Q. And with whom do you settle your accounts? A. With the Auditor of Public Accounts. Q. Did you ever have any difficulty in settling your accounts? A. Yes.

Q. State what that was? A. The first account that I had against the State I had cut up into small bills, and when I called on the Auditor, and asked as a favor to give me small warrants, he refused, and he kept the one for \$531. In March I had the same difficulty, and the same remarks were made, that according to the measurement of the printing, I was only entitled to one-third. We could come to no agreement, and I left. Several days afterwards I came back, and he cut the bill in two, and he gave two certificates for \$782.50. Then I had some more bills, and he refused to receive them, and I went five or six times, but I could never see him.

Q. Did he cut down your measurement? A. No, sir. Q. How many settlements did you have with him? A. Three. Q. The first one was when? A. Some time in November. Q. Did he refuse to receive them? A. It must have been 1868. Q. The second one was when? A. On the fifteenth of February, 1869. Q. The third one when? A. On the first of March, 1869. Q. On the first one you got warrants for? A. Yes, sir. Q. At the first one the difficulty was that he did not cut it up into small warrants? A. Yes.

Q. What was all that passed? A. Yes. Q. Was that settlement for printing? A. Yes. Q. Was there any question then about the measurement? A. No, sir. Q. There was no difficulty made about the bill—the only question was about the warrants, and if he cut it into smaller ones, he wanted pay for it? A. Yes, he corrected the bill and took off a few cents.

Q. But the main question was about the warrants? A. Yes. Q. You say that in November, 1868? A. Yes. Q. The next settlement was when? A. On the fifteenth of February, 1869. Q. What was that for? A. In the Empire Parish. Q. Yes. Q. What was the amount of this claim? A. It was \$531. Q. You presented your claim—what did you predicate it upon as a basis? A. A bill that I had with me now. Q. Let us see it. (Witness produces the bill referred to.) Q. I suppose this is a copy? A. No, it is the original. Q. What did you say the amount was? A. When I first came there in February, the bill was \$1059—I could not get a settlement, and I went back two or three weeks after and my bill was \$2031.

Q. But the date February 29, 1869—how do you make it? A. That is the bill for March, then. Q. Then I see March the sixteenth and nineteenth, two items, making \$1965—where do you get \$2031? A. That is the other settlement in February. Q. So that the second and third settlements together made the sum of \$2031? A. No, the settlement in February was for \$2031, and the one in March for \$1865, I think. Q. Just look at this and tell me how you make \$2031? A. Yes, I know a good deal about courts, and I know the delay of the law. Q. Do you think that there would be much delay about getting a mandamus; it is one of the most peremptory writs? A. Yes, it is one of the most peremptory writs, well, I suppose it is an easy thing. Q. Do you not consider that you paid pretty well for getting this settlement, one-

half at one time and one-third the other? A. Yes, I thought it too much then. Q. Have you not had some prosecution made against you of some sort, as embroiling you as a auctioneer? A. No. Q. Or for withholding money? A. No. Q. Or as Tax Collector? A. No, sir. Q. You are State Tax Collector? A. No, sir. Q. Are you are you not Tax Collector? A. No, sir. Q. The law was changed in 1869, taking that away from the Sheriff; but were you not Tax Collector prior to 1869? A. Yes.

Q. Then you were Tax Collector—have you settled your accounts with the State? A. Yes. Q. You are a defendant to the State? A. No, sir; I could not make a settlement. Q. Is not your account behindhand? A. I could not make a settlement, the Auditor refused to accept it. Q. What Auditor? A. Mr. Wickliffe. Q. Why would he not? A. He wanted the delinquent list and the collections. Q. Then, as the matter now stands, you have not settled, and you stand as a defendant to the State, and in his office. A. I am ready to settle at any time. Q. Is not a process verbal in the hands of the District Attorney, in your parish, against you? A. I think so.

The testimony of this witness was closed, and he was excused from further attendance by consent of counsel. TESTIMONY OF JOHN S. WALTON. John S. Walton, a witness for the prosecution, was called, and duly sworn by the Secretary. Examination in chief by Manager Lowell: Question. State your name and residence. Answer: John S. Walton, and I reside at No. 327 Chartres street. Q. Are you a member of the Board of Health? A. Yes, sir. Q. Have you ever had any transactions with the Auditor in the settlement of an appropriation made to the board? A. I went to see him once, about getting a warrant changed from a large bill to smaller ones, and he refused to do so. Q. State what the conversation was. A. As near as I remember, I called on him and stated to him that there was considerable difficulty about getting a large warrant, and that it was almost impossible, and I asked him if he could not give me smaller ones, and he declined doing so. I did not persist, and I did not go back. Q. Was it for the interest of the State, and that the warrants were to be used for the purposes of the Board of Health. He expressed a great deal of indifference, and refused to do so, and our negotiation amounted to nothing.

Q. Was there ever any other negotiation with him? A. I was not personally concerned in any. I had no other interview with him. Other matters came before the board, which I only knew at second hand. Q. Do you know of any one having made any representation to the Board of Health? A. It was reported to the board that a person— Q. Named for respondent objects to hearsay evidence. Witness: I know nothing of my own knowledge. We tried a great many ways to get the warrant changed, but he would not do so. Q. What was the amount of the warrant? A. Twenty thousand dollars. Q. What kind of warrants did you ask the Auditor to give? A. To give me warrants, so as to be able to dispose of them in the market. His objection was, principally, to the trouble of making them.

Q. What kind of warrants did he propose to give? A. He declined, when I saw him, to give any at all. When I urged him to consider the interest of the State, and to try to relieve us, he said if the State would not make her money good, let her suffer for it. He spoke in very contemptuous terms about the State, and he would not do anything with him. We had considerable negotiations in the board about the matter, and a proposition was made to us to pay a consideration to have the warrants changed, and as a member of the board, I refused to lead myself to anything of the kind or vote that the board should do so.

Q. Who made the proposition? A. I do not know the person who made it, but it was conveyed to the board in such a shape that we deliberated about it. I can not remember who made it; I know pretty well who it was, but not well enough to state it under oath. We finally got the warrants cut up into five thousand dollar warrants without paying anything for it. Q. Question by the respondent: It was cut up, then, in five thousand dollar warrants? A. But it did not relieve us much.

TESTIMONY OF DR. W. H. HIRK. Dr. W. H. Hirk, a witness for the prosecution, was called and duly sworn by the Secretary. Examination in chief by Manager Lowell: Question. State your full name. Answer: William Henry Hirk. Q. Where do you reside? A. At the Marine Hospital—that is a portion of the Charity Hospital. Q. What position do you hold there—in the Charity Hospital? A. Secretary and treasurer. Q. Did you have any official transaction with Mr. Wickliffe as Auditor? A. The Legislature gave me \$55,000 for that Institution, and it was my duty as an officer to receive that money. Q. State what transaction you had, in regard to the issuance of warrants, with the Auditor? A. When I first went there, I went with an order for the amount. He gave me, in the first instance, \$500, cut up into \$500 warrants, and he did not well enough to time, he said that he could not give me less than \$10,000 warrants, unless I gave him five per cent, five points. I told him that I would not do so, and he refused to do so. I communicated with some members of the board, and they were indignant at the offer. I returned to the office, and then I took \$10,000 warrants. Afterwards, I found great deal of difficulty in getting rid of a \$10,000 warrant, and I tried to do all I could to get rid of it, and I gave me smaller ones, and he said he would do it for three per cent, and I gave him \$300, and he exchanged, and gave me small warrants for the \$10,000.

Q. Was this \$300 paid in warrants or in money? A. In treasury notes. Subsequently, when I found so much difficulty in getting anything out of Mr. Wickliffe, I arranged a meeting with Mr. Mushaway, I arranged with him, in the presence of Mr. Wilson, to give him \$300 to procure for me smaller warrants, and he gave me \$300 in treasury notes, which the Auditor was to have given me. Q. Was this \$300 in money? A. Yes; I gave a check on the Merchants Bank. Q. That was another transaction? A. Yes. Q. Who is Mr. Mushaway? A. I believe him to be connected with the Auditor's office. Q. When was this transaction? A. It was somewhere between the nineteenth and twenty-fourth of June. Q. That was the first transaction? A. The first. Q. When was the second? A. The second was about the twelfth of October, 1869. Q. In 1869? A. Yes, sir; both were in the year of 1869. Q. What do you mean by the first transaction? A. I am speaking about the transaction with Mr. Wickliffe in June, and the transaction with Mr. Mushaway in October. Q. How have you spoken about another transaction? A. That was merely when he first gave me \$500 warrants; but afterward when I returned, he gave me \$10,000 warrants. Q. Did you try to dispose of these? A. Of course I tried. Q. And you paid him \$300 to exchange one? A. Yes, sir. Q. Did you pay that out of your own funds? A. Of course; I was acting for the Charity Hospital, and it came out of the funds of the hospital. Q. And it was the same in regard to the money you paid to Mushaway? A. Yes. Q. What difference was there between large and small warrants in the value? A. The difference varied very much—from

two to six per cent; of course sometimes they fluctuated very much, and sometimes it was very difficult to get rid of large warrants. Q. What kind of an institution is the Charity Hospital? A. It is an institution supported by the State, for the benefit of the people of the State, and, in fact, anybody who comes there. Q. Is it the chief hospital in the State? A. It is the only hospital in the Southern country, any consequence. Q. Is it a State institution? A. A State institution. Q. It has been supported by the State for some time? A. Always, from its foundation. It was inaugurated first by Mr. Peydras, and afterward it was a State institution. Q. Does it receive any other support than from the State? A. No; only the provisions that the State makes for it. Q. Is it sustained entirely by the State? A. Yes, entirely by the State.

CROSS-EXAMINED BY COUNSEL FOR RESPONDENT. Q. Do you give bonds as Treasurer? A. I do. Q. How much is your bond? A. Whatever the administrators require. Q. What is it now? A. The administrators placed it at \$5000, and I had to give them \$5000. Q. Who are the sureties on your bond? A. Mr. Wurtzburger, the Sheriff of the parish. Q. Is he the only one? A. Yes, he is a man of large property. Q. How much did you pay to Mr. Wickliffe? A. Three hundred dollars. Q. And how much to Mushaway? A. Three hundred dollars. Q. These were the only two occasions when you paid anything to get your warrants? A. Yes. Q. The first occasion was the payment for what amount of warrants? A. \$10,000. Q. What was that for? A. In June, sir—the twenty-third, I believe. Q. Was that for the issuance of warrants? A. For the exchange of a \$10,000 warrant for small warrants. Q. Then you had in your possession a warrant for \$10,000? A. Yes. Q. And you desired to exchange for it small warrants? A. Yes, for the accommodation of the hospital. Q. In making that exchange, did he cut this warrant into other warrants? A. He gave other warrants for it. Q. Which he professed to hold as his own property? A. Yes. Q. Then you sold your \$10,000 warrant for small warrants that Mr. Wickliffe held under his control, and you paid the difference? A. Yes. Q. What do you call that? A. I do not know what to call it. Q. Was it not a trade between you and Mr. Wickliffe for this large one? A. Yes, sir. Q. Now, in the second instance, when you paid \$300 to Mushaway, did you then get other warrants for one of \$10,000? A. Yes. Q. Mr. Wickliffe had issued a warrant for \$10,000 to you? A. He was to have done so. Q. But he did it? A. I believe so. Q. Then you took that \$10,000 warrant, and gave it to Mushaway to get it exchanged? A. I did not give it to him; I did not have it. Q. You then employed Mushaway to get it cut up, and gave him \$300? A. Yes. Q. What has that to do with Wickliffe? A. I do not know; I am summoned here as a witness, to answer questions. Q. Then you did not pay Wickliffe, as far as you know anything for that last transaction? A. No. Q. Did you ever pay him a cent in your life for the warrants belonging to the Charity Hospital? A. No, sir.

TESTIMONY OF J. W. MENARD. J. W. Menard, a witness for the prosecution was called, and duly sworn by the Secretary. Examination in chief by Manager Lowell: Question. What is your name? Answer: J. W. Menard. Q. Where do you reside? A. In Jefferson city. Q. Are you proprietor of a newspaper? A. Yes. Q. What paper? A. The Standard. Q. Did you have a contract for publishing the laws of the State? A. I did in 1863 and 1869. Q. With whom did you settle for that contract? A. With the Auditor of Public Accounts. Q. Do remember a settlement you had in March of April, 1869? A. Yes. Q. State what transpired? A. I think it was in March, when I returned from Washington; I called at Mr. Wickliffe's office several times, during two weeks, I believe; sometimes I could not see him, and sometimes I saw him; he said he was short of clerical force, and at another time, he said that he did not well enough to state it under oath. We finally got the warrants cut up into five thousand dollar warrants without paying anything for it. Q. Question by the respondent: It was cut up, then, in five thousand dollar warrants? A. But it did not relieve us much.

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CROSS-EXAMINED BY COUNSEL FOR RESPONDENT. Q. Do you give bonds as Treasurer? A. I do. Q. How much is your bond? A. Whatever the administrators require. Q. What is it now? A. The administrators placed it at \$5000, and I had to give them \$5000. Q. Who are the sureties on your bond? A. Mr. Wurtzburger, the Sheriff of the parish. Q. Is he the only one? A. Yes, he is a man of large property. Q. How much did you pay to Mr. Wickliffe? A. Three hundred dollars. Q. And how much to Mushaway? A. Three hundred dollars. Q. These were the only two occasions when you paid anything to get your warrants? A. Yes. Q. The first occasion was the payment for what amount of warrants? A. \$10,000. Q. What was that for? A. In June, sir—the twenty-third, I believe. Q. Was that for the issuance of warrants? A. For the exchange of a \$10,000 warrant for small warrants. Q. Then you had in your possession a warrant for \$10,000? A. Yes. Q. And you desired to exchange for it small warrants? A. Yes, for the accommodation of the hospital. Q. In making that exchange, did he cut this warrant into other warrants? A. He gave other warrants for it. Q. Which he professed to hold as his own property? A. Yes. Q. Then you sold your \$10,000 warrant for small warrants that Mr. Wickliffe held under his control, and you paid the difference? A. Yes. Q. What do you call that? A. I do not know what to call it. Q. Was it not a trade between you and Mr. Wickliffe for this large one? A. Yes, sir. Q. Now, in the second instance, when you paid \$300 to Mushaway, did you then get other warrants for one of \$10,000? A. Yes. Q. Mr. Wickliffe had issued a warrant for \$10,000 to you? A. He was to have done so. Q. But he did it? A. I believe so. Q. Then you took that \$10,000 warrant, and gave it to Mushaway to get it exchanged? A. I did not give it to him; I did not have it. Q. You then employed Mushaway to get it cut up, and gave him \$300? A. Yes. Q. What has that to do with Wickliffe? A. I do not know; I am summoned here as a witness, to answer questions. Q. Then you did not pay Wickliffe, as far as you know anything for that last transaction? A. No. Q. Did you ever pay him a cent in your life for the warrants belonging to the Charity Hospital? A. No, sir.

TESTIMONY OF J. W. MENARD. J. W. Menard, a witness for the prosecution was called, and duly sworn by the Secretary. Examination in chief by Manager Lowell: Question. What is your name? Answer: J. W. Menard. Q. Where do you reside? A. In Jefferson city. Q. Are you proprietor of a newspaper? A. Yes. Q. What paper? A. The Standard. Q. Did you have a contract for publishing the laws of the State? A. I did in 1863 and 1869. Q. With whom did you settle for that contract? A. With the Auditor of Public Accounts. Q. Do remember a settlement you had in March of April, 1869? A. Yes. Q. State what transpired? A. I think it was in March, when I returned from Washington; I called at Mr. Wickliffe's office several times, during two weeks, I believe; sometimes I could not see him, and sometimes I saw him; he said he was short of clerical force, and at another time, he said that he did not well enough to state it under oath. We finally got the warrants cut up into five thousand dollar warrants without paying anything for it. Q. Question by the respondent: It was cut up, then, in five thousand dollar warrants? A. But it did not relieve us much.

TESTIMONY OF DR. W. H. HIRK. Dr. W. H. Hirk, a witness for the prosecution, was called and duly sworn by the Secretary. Examination in chief by Manager Lowell: Question. State your full name. Answer: William Henry Hirk. Q. Where do you reside? A. At the Marine Hospital—that is a portion of the Charity Hospital. Q. What position do you hold there—in the Charity Hospital? A. Secretary and treasurer. Q. Did you have any official transaction with Mr. Wickliffe as Auditor? A. The Legislature gave me \$55,000 for that Institution, and it was my duty as an officer to receive that money. Q. State what transaction you had, in regard to the issuance of warrants, with the Auditor? A. When I first went there, I went with an order for the amount. He gave me, in the first instance, \$500, cut up into \$500 warrants, and he did not well enough to time, he said that he could not give me less than \$10,000 warrants, unless I gave him five per cent, five points. I told him that I would not do so, and he refused to do so. I communicated with some members of the board, and they were indignant at the offer. I returned to the office, and then I took \$10,000 warrants. Afterwards, I found great deal of difficulty in getting rid of a \$10,000 warrant, and I tried to do all I could to get rid of it, and I gave me smaller ones, and he said he would do it for three per cent, and I gave him \$300, and he exchanged, and gave me small warrants for the \$10,000.

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