twenty-eight thousand seven hundred and ninety-five dollars and fourteen cents ($28,795 14).

For interest on bonds issued for levee purposes under act No. 32, of 1870, two hundred thousand dollars, or so much thereof as may be necessary ($200,000).

For interest due the several townships, forty-eight thousand dollars ($48,000).

For pensioner for life one thousand dollars ($1000).

For printing and advertising one hundred and forty thousand dollars ($140,000). Provided, That no newspaper having the benefit of this appropriation shall receive any pay unless printed and published in the parish where the work is contracted, provided that the acts effecting a revision of the Statutes, the Revised Code, Code of Practice, and Civil Code, passed during the session of 1870 shall not be published at the charge of the State in any newspaper.

For printing the Revised Statutes under act No. 131 of 1869, five thousand and eighty-eight dollars ($588).

For printing the Civil Code under act No. 131 of 1869, twenty-two hundred and forty-eight dollars ($2248).

For printing the Code of Practice under act No. 131 of 1869, nine hundred and twenty dollars ($920).

For the interest on the bonds issued in favor of the seminary fund under act No. 182 of 1857, eight thousand dollars ($8000).

For the interest on the bonds issued in favor of the Louisiana State Penitentiary, under act No. 55, of 1869, thirty-five thousand dollars ($35,000).

For the interest on the bonds issued in favor of the North Louisiana and Texas Railroad Company, under act No. 105, of 1868, thirty-one thousand two hundred dollars ($31,200).

For the interest on the bonds issued in favor of the Bœuf and Crocodile Navigation Company, under act No. 146, 1870, six thousand four hundred dollars ($6400).

Appropriation for the support of the Insane Asylum, at Jackson, Louisiana, thirty thousand dollars ($30,000).

Appropriation for the support of the Deaf and Dumb Asylum, at Baton Rouge, Louisiana, fifteen thousand dollars ($15,000).

Appropriation for the expenses of State cadets for the year 1870, at thirty-five dollars ($35) per month for seven months for each cadet, under act No. 131 of 1867, thirty-five thousand seven hundred dollars ($35,700).

Appropriation to the Recorder of Conveyances of the parish of Orleans, and to the several Recorders in this State, for recording list of forfeited lands for non-payment of taxes, two thousand dollars ($2000), or so much thereof as may be necessary.

Appropriation for reimbursement of swamp lands erroneously sold, one thousand dollars ($1000).

Appropriation to the Recorder of Conveyances for furnishing certificates to the Board of Assessors, one thousand dollars ($1000).

Appropriation to refund to the Mechanics' Society their expenditure in preparing Mechanics' Institute Hall for the use of the State Convention, and for gas bills for July, September and October of 1867, and for May of 1868, four hundred and seventy-seven dollars and ninety-two cents ($477 92).

Appropriation to pay the mileage and per diem of the members, and the per diem of officers and employes of the General Assembly, and to pay the contingent expenses of the General Assembly, seventy-five thousand dollars ($75,000), or as much thereof as may be necessary.

Appropriation for transporting convicts to the Louisiana Penitentiary, fifteen hundred dollars ($1500).

Appropriation for making a topographical and geological survey of the State of Louisiana, to be made under the direction of the Board of Supervisors of the Louisiana State Seminary of Learning and Military Academy, six thousand dollars ($6000).

Appropriation for the rent of the building used as a State House, known as the Mechanics' Institute, in the city of New Orleans, from the twenty-third day of November, 1869, to the twenty-third day of November, 1870, ten thousand dollars ($10,000).

Appropriation for the rent of the building occupied by the Auditor, Treasurer, etc., corner of Royal and Conti streets, to the thirty-first day of December, 1870, three thousand dollars ($3000).

And the Treasurer of the State is hereby authorized to take possession of the first story or lower floor of the building for his office.

Appropriation for the support of the free public schools, two hundred and fifty thousand dollars ($250,000), or so much thereof as may be necessary.

Appropriation for the support of the Charity Hospital, one hundred thousand dollars ($100,000).

Appropriation to the Camp Street Female Asylum, New Orleans, two thousand dollars ($2000).

Appropriation to the Firemen's Charitable Association, ten thousand dollars ($10,000).

Appropriation to the St. Josephs' Orphan Asylum, Fourth District, New Orleans, one thousand two hundred and fifty dollars ($1250).

Appropriation to the Home of Jewish Widows and Orphans, New Orleans, one thousand dollars ($1000).

Appropriation to the Widows' Home, Third District, New Orleans, one thousand dollars ($1000).

Appropriation to the St. Ann's Asylum, Fourth District, New Orleans, one thousand dollars ($1000).

Appropriation to the Conference of St. Joseph of St. Vincent de Paul, New Orleans, two thousand dollars ($2000).

Appropriation to the St. Mary's Catholic Orphan Boys' Asylum, New Orleans, two thousand dollars ($2000).

Appropriation to the St. Elizabeth's Asylum, New Orleans, one thousand five hundred dollars ($1500).

Appropriation to the Ladies of Providence in the Third District, New Orleans, two thousand dollars ($2000).

Appropriation to Orphans' Asylum, Seventh street, New Orleans, one thousand dollars ($1000).

Appropriation to the House of Good Shepherd, New Orleans, two thousand dollars ($2000).

Appropriation to the Society of Destitute Orphan Boys, in the parish of Jefferson, five hundred dollars ($500).

Appropriation to the Louisiana Retreat, parish of Jefferson, two thousand dollars ($2000).

Appropriation to the Female Orphan Asylum at Carrollton, two thousand dollars ($2000).

Appropriation to the St. Vincent's Orphan Asylum at Donaldsonville, fifteen hundred dollars ($1500).

Appropriation to the Female Orphan Asylum at Baton Rouge, five hundred dollars ($500).

Appropriation to the St. Vincent's Home for Boys, No. 371 Bienville street, New Orleans, one thousand dollars ($1000).

Appropriation to the Third District Indigent Orphan School, Greatmen street, New Orleans, two thousand five hundred dollars ($2500).

Appropriation to the Firemen's Charitable Association, Gretna, parish of Jefferson, five hundred dollars ($500).

Appropriation to the St. Vincent's Infant Orphan Asylum, New Orleans, two thousand dollars ($2000).

Appropriation to the Protestant Episcopal Orphan's Home, Camp street, New Orleans, fifteen hundred dollars ($1500.)

Appropriation for the Louisiana Orphan's Home, two thousand dollars ($2000.)

Appropriation for the German Protestant Orphan Asylum, three thousand dollars ($3000.)

Appropriation for the Holy Family Widows' Hospital Association, in the Third District, one thousand dollars ($1000.)

Appropriation to the Home Missionary Society, New Orleans, one thousand dollars ($1000.)

Appropriation to the Girls' Asylum, conducted by the Sisters of the Holy Cross, Third District, New Orleans, one thousand dollars ($1000.)

Appropriation to the Female Orphan Asylum, conducted by the Sisters of Charity, at Baton Rouge, one thousand dollars ($1000.)

Appropriation to the Shreveport Medical and Surgical Infirmary, five thousand dollars ($5000.)

Appropriation to the Louisiana Orphan's Association, two thousand dollars ($2000).

Appropriation to the Augusta School and Charitable Association of Franklin parish, two hundred dollars ($200), to be drawn by the President.

Appropriation to St. Mary's Orphan Boy's Asylum, Third District, five hundred dollars ($500).

Appropriation to the Algiers Firemen's Association, fifteen hundred dollars ($1500).

Appropriation to pay John F. Deane, Clerk of the Supreme Court of the State of Louisiana for the Eastern District, the costs in eighty-eight cases filed and tried in said court during the years 1865, 1866, 1867, 1868 and 1869, in which the State was plaintiff, at ten dollars each case, under the act of 1855, eight hundred and eighty dollars ($880).

Appropriation to pay J. M. Demarest for services rendered as clerk in the State Treasurer's office during the months of November and December, 1869, and January, 1870, six hundred dollars ($600).

Appropriation to defray the traveling expenses of the Board of Supervisors of the Louisiana State Seminary and Military Academy, now at Baton Rouge, Louisiana, one thousand dollars ($1000).

Appropriation to the Board of Health, five thousand dollars ($5000).

Appropriation to the Sisters of Providence, corner of Girod and Marigny, one thousand dollars ($1000).

Appropriation to the charitable institutions under the auspices of the Fourth African Baptist Church, of New Orleans, five hundred dollars ($500).

Appropriation to the Blind Institution at Baton Rouge, ten thousand dollars ($10,000).

Appropriation to the Children's Home of the Protestant Episcopal Church, in Jackson, one thousand dollars ($1000).

Appropriation to John B. Robertson, for services as attorney in the New Orleans, Opelousas and Great Northern Railroad cases, three thousand dollars ($3000).

Appropriation to the Benevolent Association of Thibodaux, parish of Lafourche, five hundred dollars ($500).

Appropriation to John A. Burns, assignee of Milton Burn, late Assessor of the parish of St. Tammany, for balance due him for assessment, as per act of 1865, to be paid on the warrant of said John A. Burns, assignee, two hundred and one dollars and twenty-nine cents ($201 29).

Appropriation to the Monroe Free Public School Association, two thousand dollars ($2000).

Appropriation to pay costs in suits, when the State loses the case, two thousand dollars ($2000), or so much thereof as may be necessary.

Appropriation for revising and correcting State assessment rolls of 1870, for the city of New Orleans, fourteen hundred dollars (1400).

SEC. 2. Be it further enacted, etc., That each officer, for the benefit of whose office there is a contingent fund appropriated by this act, shall render to the General Assembly a detailed statement accompanied with vouchers, within the first ten days of each regular annual session, showing what disposition has been made of the said contingent fund.

SEC. 3. Be it further enacted, etc., That all acts or parts of acts contrary to or inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect from and after its passage.

PROCEEDINGS OF THE SENATE WHEN SITTING AS A COURT OF IMPEACHMENT.

THURSDAY, March 3, 1870.

At the hour of eleven o'clock A. M., the Chief Justice entered the Senate Chamber and took the chair.

The roll of the Senate being called, the following members answered to their names:

Messrs. Anderson, Antoine, Bacon, Beares, Blackman, Braughn, Campbell, Coupland, Day, Egan, Foute, Futch, Jenks, Jewell, Kelso, Lewis, Lynch, Monette, Offutt, Ogden, O'Hara, Packard, Pinchback, Poindexter, Ray, Smith, Thompson, Todd, Whitney, Wilcox, Williams, Wittgenstein—32.

By direction of the Chief Justice, the Sergeant-at-Arms opened the court with the usual proclamation.

On motion of Mr. Wittgenstein, the reading of the proceedings of the previous sitting of the court was dispensed with.

By direction of the Chief Justice, the Secretary proceeded to inform the managers on the part of the House of Representatives that the Senate, sitting as a Court of Impeachment, was ready to proceed with the trial of G. M. Wickliffe, Auditor of Public Accounts of the State of Louisiana.

The managers, on the part of the House of Representatives, having appeared and taken the seats provided for them—

T. J. Semmes, Esq., and Henry Gray, Esq., appeared as counsel for respondent.

Argument of Mr. Gray.

The Chief Justice: The Senators will please give their attention to the counsel while making the argument for the defense.

Mr. Gray, of counsel for respondent:

Mr. Chief Justice and the Court—Although from early life I have had occasion to exercise my profession and to appear in courts, I confess that I have never appeared with so much diffidence as on this occasion. Heretofore, it has been my province to appear before courts governed by certain fixed and definite rules of law. The judgment of an advocate, as a matter of course, may be at fault, but be that as it may, he professes to approximate the truth by resorting to certain fixed and definite principles of law. When we commenced this cause in the defense, we had reason to believe, and did believe, that we were to be governed by the fixed rules of evidence in this case. In presenting my argument, now, I beg leave to say to the court that I claim some charity at their hands if I am compelled to travel over ground already occupied by my associate counsel in his argument. I simply do this for the purpose of bringing it to the mind of those members of the court who did not hear the argument of my colleague and character of the defense which he made. The learned managers tell us that we do not appear before a court governed by any fixed rules of law or any fixed rules of evidence, but they draw the distinction between what they call a political court and a criminal court. I call attention to this because we have asserted this from the beginning. The gentlemen may consult their own fancy and depart from the constitution; that is their right—a right which they exclusively possess, if they choose, to call this a political court; but it is our right to insist, and we do insist that we are to be tried according to the rules of law, and, if convicted, we are to be convicted according to the rules of law, and the general rules of evidence.

Now, may it please the court, it is a glorious spectacle undoubtedly, and a most encouraging sign, when the House of Representatives of the State, takes upon itself to impeach an officer when the Legislature rising above party prejudice and above political considerations, comes before this Senate and indicts a high officer for crimes and misdemeanors.

It is an encouraging spectacle indeed; but while I grant that, while I am free to give them credit for that, I do insist that they shall allow, at least, that in the determination of this question, they are to be governed by the rules of evidence and the principles of law.

Now, may it please the court, what is an impeachment? The gentleman who read from Cushing's Parliamentary law, said that impeachment was resorted to in order to reach high crimes and misdemeanors not otherwise to be reached. We do not contest Mr. Cushing's authority, but he was writing the parliamentary law of England. In England, the parliament is supreme, and there is nothing to prevent them from impeaching Lord Clarendon; there is no constitutional provision there in reference to impeachment; hence, when Mr. Cushing treated the subject of impeachment, he stated what was the law in England, and as far as England is concerned, it may be well, but we have a different form of government here. Did he not say that all power should be vested in the Parliament of England?

We say that all power is vested no where; we say that, for certain great principles, governments are instituted; that certain rights are reserved; that when men come together and form a government, it is at their own option to limit it; and ours is a limited government. An unlimited government was thought, by our ancestors, to be an evil. It was thought so at the time when George Washington lived. It was thought, from time immemorial, that there were certain powers not to be exercised at all by the government. Why? Because they might be exercised wrongfully, and hence it was thought best that they should not be exercised. Now, may it please the court, we are governed by certain constitutional principles in this country, and by the reconstruction laws, as I understand them, and as I hope they will be understood; and I agree with my collegue, in the hope to see society consolidated, and to see all good men come together in harmony. But how is that to be effected? Is it by personal persecution? Is it by setting aside fundamental laws? Is it by refusing to be governed by the law? It seems to me that this would be a confession that our present system is all wrong.

We set out with this proposition, that under the constitution of 1868, no man can be deprived of his property; no man can be deprived of that which belongs to him, without the commission of some crime, by which he has forfeited his right to it. Now, has a man a right to his office? Why, in any government, whether it be monarchial or republican, he has a right to possess that which is his; he has a right to his office. The learned managers tell us that an office is not property; they confine no right to say so. They say that no man has a right to his office, even if elected for ten years, if, in the public interest, the Legislature sees fit to abolish it.

We say that the public can not be deprived of the services of an officer which they have elected, and that this property can not be taken away from any person, unless it be forfeited by some act. There are various ways by which property can be acquired, and there are equally various modes by which property can be lost; and we have declared in our own constitution that no man can be deprived of his property without compensation, or without due course of law. How is he to be deprived of it by due course of law? Has a man property in an office? Why, the Supreme Court of the United States has declared, in two decisions lately, that not only has a man a title or property in his office, but he has property even in the right to acquire it; and they declare further, that the deprivation of that is a punishment, if taken away from him. Now, this discussion has assumed this range; in the first place this is alleged to be simply a civil proceeding. We do not care what name you give to it; we do not care under what form you clothe it, but I do say that to deprive us of this office is a punishment, under whatever shape or form you put it.

I presume in this matter the Senate will consider themselves a court, presided over by the Chief Justice, organized for the purpose of determining the guilt or innocence of the accused, and they will convict or acquit him. There can be no hung jury here.

The State of Louisiana is not here claiming the office, at the hands of Mr. Wickliffe; the State of Louisiana does not speak through her representatives, to the Senate, sitting as a court, but the people of the State of Louisana have a right, as I contend, to the services of the officer whom they have elected; how is he then to be deprived of his office? Is it simply on political grounds? Political feathers! What are they? Why, some of the best men in Greece were prosecuted by the political courts; Maria Antoinette, that beautiful and innocent woman, was tried and convicted by a political court. Charles II was tried, and, though he was acquitted, still it was a trial; and my own judgment, and the judgment of all sensible men, is that political trials are wrong in principle, and evils to be avoided. Yet, we are told that this is a political trial. To be tried how? That this officer, elected by the free voice of the people, whom they trusted with one of the most important offices in the government, for I so consider it, that he is to be deprived of his office without the commission of any crime. Upon what crimes and misdemeanors can you convict an officer? How are you to ascertain what constitutes crimes and misdemeanors? You may find what Blackstone says, but I beg leave to say that, while in ordinary questions we may get along very well, there are in political trials scarcely two cases that present the same features.

Now, this being the case, how are you to proceed? Are you to decide according to your own opinion, or under the known law of the land? How are you to ascertain what constitutes a political offense? I ask you, how? and I appeal to those persons who have sense enough to see that society should rest on some sound basis; I appeal to all who want peace and prosperity in the land. Are officers created for the use of the State, or are they simply to be at the mercy of a simple accidental majority of the members of the Legislature? And are they to determine those questions of political offenses? Why, how can there be any peace, or security, if a judge can be tried, not for any crimes or misdemeanors, but because on simple political questions he may have given improper decisions? It is simply a question of politics, then.

Now, then, in each of the articles of impeachment, they say, what? They say that George M. Wickliffe was guilty of high crimes and misdemeanors; in one instance they say crime, and in all others misdemeanors.

Now, what is a misdemeanor in office? can there be such a thing as misdemeanor in office? There may be crime, but no misdemeanor, because the Supreme Court, long before the convocation of this body, in the good times when wholesome principles of law existed, declared that there was no such thing as misdemeanor known to the law of Louisiana. Is this law or not? If it is law are you willing to be bound by it? I hope there is not one solitary Senator sworn to do justice, according to the law, who will decide contrary to law; I presume not.

Therefore, it is, that I impress on the Court, the importance of this question. I do not seek to take this case out of court. I do not propose to send my client from hell to heaven; but I do invoke in his favor simple justice. Well, this being the case, we say there is no such thing as misdemeanor in the State of Louisiana. We throw ourselves on that ground; you may decide against it; you may consult your own fancy; you may say say that you are not bound by the law, but by the political parliamentary law.

That may be, at this day, a delightful thing to enjoy, to put a man out of office, not for any crime, but on political grounds; it may be very fine, and very pleasant for you at this time, to establish this precedent, but be that as it may, it may be that the principle which you establish to-day, will, like the apples of Sodom, turn to ashes in time to come. How are we, standing here before you Senators, except, as before a Court, unless you constitute this a trial by political caucus? But if we stand here to answer, not to any crimes known to the law, but merely for offenses against a political clique, upon information of spies, and to be turned out of office, having done no intentional wrong, then I might as well give up the cause, and there would be no use to proceed any further.

Let us examine the history of this case. Some time ago a controversy arose between the Governor and Mr. Wickliffe. It is no use to say what about; private questions are not before the court. But the Governor assumed a power not given to him by the law. Why is it not given to him by the law? Because, in the framing of the constitution, it was thought wise to separate the powers of these officers; even in the custody of the treasury there are two officers. Why? Because there must be checks, one upon the other. I appeal to the Senators, whether it was intended by the constitution that the executive officer, the Governor, was to have the power to take possession of the State. Has he not done so? Has he not taken possession of this office, lawfully in the custody of my client. Twice he put it in the hands of officers not amenable or responsible, into the hands of persons under his absolute command; and more than that, he not only violated the law in this respect, but he even went so far as to resist an officer of the law. Is not that the testimony? Is he to be allowed to take possession of this office by force?

An office confided to the Auditor for wise purposes, he is the responsible officer. Must every sergeant of police have power to turn him out of office? Yet such is the case; on two occasions this has been done, under direction of the Governor, and where was the indignation of the House of Representatives? Why was this most ignorant breach of conduct in office, perpetrated? Why did the Governor take away from this man an office created by law; take away from him the power to discharge the duties of that office? And yet, for months and months it was the case, that people came here from all parts of the State to settle their accounts with the State, and they were compelled to remain here for months and months and yet the House of Representatives come here and say that Mr. Wickliffe is responsible for the confusion in his office; that he did not keep his books in order; that he could not furnish the information asked for by the Governor.

Now, I presume, it will be admitted, that the fundamental principle in all republics is that the people have a right to choose their own servants. I take it that the people determine whether a man is fit for office or not; and if a majority of the people elect a man for office, how can they turn him out? Is it to be done by a mere political assembly, or a political trial? I take it for granted not.

It so happened that the Auditor's office, during the war, was moved to Shreveport, and then moved back again to this city afterward. The present Auditor was put in possession of the office, and, as far as we think, he has discharged the duties of that office faithfully. That he may have made mistakes, I do not pretend to deny; but, may it please the court, is a man to be turned out of office because he happens to make a mistake? I venture to say that in this office, requiring exceeding delicacy and great labor and care, there has never been an Auditor of the State who has never made some mistake.

If, in questions of law, he wilfully have violated the law, if he intentionally had done this; then, as a matter of course, he ought to be responsible, criminally. But what principle of jurisprudence are you going on? If a man does no act unlawfully or criminally, are you going to establish the common law of England here, when the Supreme Court has decided that there is no such thing as common law in the State of Louisiana? At the cession of Louisiana from Napoleon to the United States, it was declared that in all criminal cases proceedings should be conducted under some law, and so it was kept until 1812, and we mean to say this, that the common law never was in force, nor that the evidence should be conducted under the common law, and our Supreme Court has so decided. Then what constitutes crime? What crime is he charged with? I know that in one of the articles it is called crime, but in the others it is a misdemeanor. Before I come to argue that question I beg leave to say to the court that there are some things that I am sorry to have seen in this question. I am sorry that the learned manager alluded to Captain Francis as though, because he was a carpet-bagger, we should not believe him on oath. I remember the day well when we received men from other sections and other countries with open arms. We have no prejudice against people from other sections, but at the same time, when they do come here and settle among us, we do not ask them to rob our treasury. Now, this man reminds me of what I have read in that classical work called the Arabian Knights, where a certain Sultan demanded of his son that he should hold a tent in his hand while he counted ten thousand, and by some extraordinary magic he accomplished the feat. And now this Mr. Francis comes in. Whether he be a carpetbagger or not I do not know; but he comes here and holds three offices, or he holds four offices, I believe, and do you not think his carpet-bag very capacious. I do not say that because a man is a carpet-bagger he may not tell the truth. This man came here with Billy Wilson, I believe, or as I am informed. Of course I do not intend to reflect on the character of Billy Wilson or his soldiers. Well, responsible citizens of Terrebonne parish tell you that they would not believe him under oath, from his general character. From his general character they do not believe him under oath. Now, I wish the Senators and the court to distinctly understand this, and I do presume that, in the judgment of this cause, you will be governed by the only established principles of jurisprudence. This man Francis comes here, and does what? He produces nobody in his own parish willing to believe him under oath. Responsible gentlemen of his own parish come and say they would not believe him under oath. The Judge of his own parish does not believe him under oath, and it is well known that the Judges in nearly every parish are Republicans: and Francis does not come supported by the testimony of a solitary man, and yet, Senators, you are asked to pass sentence on this testimony. It might be sufficient to hang a thief, and no man would pay attention to it; and yet a man who has received at least the endorsement of a large majority who elected him to office is to be turned out of office, deprived of his rights and property, on the testimony of this carpet-bagger. I do not say that a carpet-bagger can not tell the truth, but I do say that this man is unworthy of belief as a private man. Now, may it please the court, we come to another charge, and on that the changes have been rung. It is like the school mistress who kept butter, and when she had but little of it she spread it over a wider surface. They come here and say that Mr. Wickliffe is guilty of extortion because he insisted on being paid extra compensation for cutting up warrants. Now, the proof is that it was never exacted, but it was voluntarily offered, and there is no proof that he ever refused to issue warrants, and the reason he assigned for not cutting them up was that it required more trouble and more clerk hire. Now, be it remembered that the affairs of the office have been in great confusion since the war. Mr. Peralta says that it has not yet been reduced to system. Many things have been lost and new rolls had to be made out, and it required an extra force of clerks. That is the testimony of all the clerks themselves. Now, as a matter of course, if the Auditor had demanded from these persons this pay before he issued the warrants it would have been a different thing, but it is not so. I agree with my associate counsel, if this be made a misdemeanor, then show us the law. If you are sitting here to try misdemeanors, then show us the penal law. What is a misdemeanor in law? And if it be not a violation of the penal law what are you sitting here for? Are you to turn a man out of office for what he has done or omitted to do, which, according to your opinion, he should not, or should have done? If that is the case, the case is at an end. We say there is no law requiring the Auditor to cut up warrants, and, in doing so, the parties found it to their own advantage to pay for having it done. But these most liberal gentlemen, who have such great sensibility to discover the wrong perpetrated on the officers of the Charity Hospital, assume that it was an illegal act and a great outrage to pay a warrant to an institution kept by the Sisters of Charity in the City of Jefferson. I know more about that institution than they do; I have known something about the management of it since its commencement almost, and I am proud to say that they have nobly performed their work of charity. Who are the Sisters of Charity? Who does not love them? What stranger has ever been here in sickness and misfortune who does not love them? For the purposes of this institution, during the war, there was issued a warrant for these orphan children. The gentleman's charity seems very severe when he comes and makes that charge against Mr. Wickliffe. To have issued other warrants in exchange for that. It is not pretended that that warrant was issued for war purposes, for what had the poor orphans to do with the war? And yet, they come here and say that he committed an offense in issuing this warrant. But the learned managers say that it was war, civil war, at the time, rebellion. Was all government to cease because men were in rebellion, because the State afterward went out of the Union? I never saw any of them in the swamp. Does that affect the validity of the warrant? It is true that our constitution declares, and I think it a very unjust provision—I think it ought to be left to our own sense of justice and generosity, and yet the constitution declares that warrants issued for war purposes are not valid. Is not war helplessness? Or do you mean to say that because the State of Louisiana was in rebellion that all charity in life must cease? I pretend to say that when the learned manager appealed so eloquently in behalf of the Charity Hospital, he ought to have remembered this institution too. The Sisters of Charity had that warrant, and some kind and liberal gentleman perhaps advanced the money, and I presume that that institution had some value for it, and that they traded it away. Now, it is said that Mr. Wickliffe is guilty of another offense; that he employed two extra clerks to enforce the provisions of the gambling act. But he is not responsible for the passage of that act, and while I admire the gentlemen for voting against that law, I do not admire their course pursued in reference to it. Mr. Wickliffe was, by that act required to close up all gambling houses, which did not pay the license. It was made his duty, and how could he do this without employing persons who were familiar with the management of these houses? We know very well that it has been extremely difficult to prevent frauds in the collection of revenues. It has been almost impossible to collect the revenues, and how could he collect this from these houses without having men whose duty it should be to go round to inspect them? Should he abandon his own office for this purpose? He found competent men to perform this work, and yet, for doing a duty imposed on him by the Legislature, he is now sent before this court to be turned out of office.

Again, it is charged that he employed so many clerks not authorized by law. I read from the acts of 1855 and the act of 1869, No. 114.

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Then, that section of this law compels the Auditor to supervise the collection of this tax on gambling, and, if that be so, is it not the collection of revenue? It is inserted in the revenue law. And yet, for discharging the duty imposed upon him by this law, you seek to punish him. Suppose he had not done it, and employed no agents, what would have been said? Here you are charged with a misdemeanor, here you are not guilty of any misdemeanor, but you are guilty of dereliction of duty. You have not done that which the law requires, and you are not competent to hold office. The whole object here seems to be to convict us, right or wrong. If we had not done this we would be guilty; if we have done it we are still guilty. How is this? Is this man to be dispossessed of his office on such grounds as this? If so, I hope that this will be the last political court that I ever will see. Then Mr. Wickliffe employed these clerks, and, under the law, he says it was his duty to do it. Under the law all revenue officers are authorized to draw their warrants on the treasury for their salaries. Is this an offense to issue such a warrant?

Then we come to the testimony of this man, Osborn, a gentleman well classified by my colleague, a resident of Vicksburg, a sort of a hybrid between Mississippi and Louisiana, a man not like the one of the poet, without a local habitation and a name, for I suppose he has a name, though I doubt very much what it is. This man of many places prints a paper half in Vicksburg and half in this city, publishes it in the parish of Madison, and then suddenly turns up as a member of the Mississippi Legislature from the county of Jackson. What a wonderful man that must be! What immense powers of locomotion he must have! Jack the Giant-killer is said to have had seven-league boots, and I think that in some unaccountable manner he must have got possession of those boots. What right has this man, a member of the Legislature of Mississippi, to come here and be a contractor for public printing in Louisiana, and live in Vicksburg, and claim to publish a paper in the parish of Madison, and print half of it in New Orleans, and the other half in Vicksburg? May it please the court, we think we have a right to claim that if abuses must be corrected, that if this thing is to be tried according to a spirit of morality, if every omission of duty not pronounced a crime, if every violation of the law of morality, if these things are to be objected to, then let us commence with such men as this Osborn, and complete the round. And what has the Governor done? Why is he not tried? Twice he has been guilty of an offense under the law, as far as political offense is concerned, at any rate; and here stands the Board of Public Works—what have they done? Under the advice of the Chairman of the Committee on Finance of the Senate, they have made contracts amounting to $1,500,000 over and above the appropriation made by law, and who hears of impeaching them, and this fact must have been known to the Governor. How, then, is it that the Chairman of the Finance Committee is not impeached? Perhaps because he did not take a social glass with Mr. Wickliffe. Perhaps, because of that appearance he must have presented when before that meeting, yet no word is said in censure of him. True, you can not impeach him. True he is only here as a Senator and one of the judges, though he holds another and a Federal office. The constitution says that no man shall hold two offices. I know that under the old order of things any man that took a Federal office was considered in honor bound to resign his State office. It is the meaning of the constitution; it is the meaning of political liberty. If you allow a Federal officer to hold a State office, what is the result? You will not even have the semblance of political liberty left.

Now, therefore, I say, why not impugn the actions of the Board of Public Works? Why has not the Governor brought that to the attention of the Legislature? And yet the Senate is gravely asked to impeach my client, to deprive him of his office, to evict him, to disgrace him for an offense which they do not notice in others.

Now, may it please the court, I come to another branch of the question. It is true that Mr. Wickliffe issued the Kathman warrant; we do not deny it; but it is also true that it was done under one of the acts of the Legislature, and he was protected by the judgment of one of the courts, and we think that the judgment of court, in ordering the issuance of this warrant, was correct.

Upon that point, then, it is simply a question of the construction of the law. But, be that as it may, there is no evidence going so show that he issued this warrant with any criminal intent whatever; on the contrary, it is expressly proven that he could have no such motive in issuing the warrant, and that no part of it inured to his private benefit.

Well, the claim was proven, the court rendered judgment, and it might be presumed there was an end of the matter. But he has given security to the public if the warrant is issued in violation of the law, and there is a remedy. If he intended to defraud the State, then of course he ought to be turned out of office; but, as was well put by my associate counsel, in order to constitute crime, there must be a criminal intent. Is it possible that you are going to establish this principle, that if a man commits an error in office, that that constitutes a crime? Are you going to establish the common or English law here? In order to constitute a misdemeanor in this State, it must have been declared by statute. They must prove the intent; and they do not show any corrupt motive; on the contrary, they show that Mr. Wickliffe could not possibly have had any such motive in issuing this warrant.

Shall it it be said that error is a crime? Suppose, Mr. Chief Justice, you should render an erroneous decision, would that be an indictable offense?

Is it proper, when society is still disorganized, when you are establishing the equal rights of all men, now to turn loose this political court to convict a man of every imagined error he may have committed in office? I have never believed, and will never believe, that it is proper and right to make an officer, after he has been elected by the people, the mere creature of an accidental majority in the Legislature. Suppose the Governor had failed to issue writs of election to fill vacancies in the Legislature; suppose the Governor was impeached here for that, would you turn him out of office? I presume not. The Governor would say he had valid reasons. But if he did it corruptly, or for party purposes, or for his own private interest, what would be the result? And even then there is no crime, because it is no violation of any written law, and the common law does not prevail here.

Then, on this occasion, this seems to be simply a question as to whether this officer has conducted himself properly or improperly. Do the managers insist that every mistake made by an officer necessarily constitutes a crime for which he is to be adjudged guilty?

What do the managers say constitutes a misdemeanor in office?

Therefore, I think, if you settle this question by assuming such powers, you at once do away with all liberty, and establish the idea that everything public, justice, law, the treasury of the State, all power can be exercised by such a political court. Are there to be no recognized rights to protect a man in his property? This will be the consequence of such a judgment, if you render it.

May it please the court, there is another point to which I will direct your attention. We have been charged, by inference, with misdemeanor in issuing extra compensation to clerks. We did not issue warrants, but only certificates of indebtedness, and left it to the Legislature to say whether they would pay it or not. But I take a broader ground, there was an appropriation made, in the treasury, which was over due, not disposed of, it was in the treasury, "not otherwise appropriated." It is not pretended that in this transaction Mr. Wickliffe received any part of that compensation; on the contrary it is proven by the clerks to have been received by themselves, and in case it is not settled by the Legislature, the money is to be refunded by the clerks in the Auditor's office.

If the clerks were compelled to do more labor, I think that the generosity and justice of the Legislature should say that they should be paid. This appropriation article against the Auditor is certainly not well taken in law.

(Mr. Gray read the law of 1869, authorizing the auditor to employ additional clerks.)

The evidence shows how many clerks the Auditor had. He did not exceed the apportion authorized by the law, except in the instance of those appointed under the gambling act. That was the only instance, and the court will manifestly see the propriety of employing them.

May it please the court, I have something to say in reference to this printing bill, and the cutting up of these warrants issued under it. A gentleman comes here and testifies in reference to that transaction, with exceeding credibility, and tells us that the Auditor said they must "come down," and we prove that the great objection that the Auditor had to these printing bills was that they were too large, and they must "come down." What do you mean? I presume the honorable managers had the selection of these printers. No! He had the selection of these printers, and I take it for granted that he knows the parties who were appointed, and that he would not appoint men who would offer a bribe. I take it for granted that he did not appoint all rebels. I take for granted that the men who were appointed were responsible, and when one of them comes here and says he bribed the Auditor, I take for granted that he must be considered crazy. I therefore take for granted, that the gentleman must be mistaken, when he comes here and says he bribed the Auditor. This man is not certain whether it is worse to bribe or to be bribed; but we leave the question to be determined by the Senate, whether a man who swears that, ought to be believed by the Senate.

May it please the court, I have two points of law to make, not made by my colleague, as to what is the definition of extortion, and the applicability of this authority, which will also settle the question as to whether the court shall convict. (Mr. Gray here read from fourth Blackstone, page 141.)

Now, if the court please, the making of a voluntary tender is not extortion, but extortion is that act by which a man demands a fee for the performance of his duty. Will the managers contend that this cutting up of these warrants was an official duty? We call again for the law making it his duty; if there is any such law we can not find it. It is no part of his duty, and if a man voluntarily comes forward and tenders it, it is no offense to take it. But, if the court please, another point was made by the learned managers, and that was that under the pension act there were large drafts made on the treasury over the appropriation. The point for which we contend is, that an appropriation made by law for a particular purpose; is a specific appropriation. It is an appropriation for a specified object. The act in reference to the colored veterans of 1812 is a general and specific appropriation, because a certain amount is appropriated to each veteran. Suppose, if the court please, your honor is entitled to a salary of five thousand dollars a year, by law, and that the Legislature appropriates so much to pay the salary of judges, and that appropriation is exhausted, is a judicial officer not entitled to compensation by the general law? Or, under the constitution, which says the salary of judges shall not be diminished during their continuance in office. The appropriation is made by the constitution, and I care not whether the Legislature neglects their duty or not; by the constitution it is an appropriation, and they can not avoid it. But the act of the Legislature is very clear, that each colored veteran is entitled to so much. What is the duty of the Auditor? Suppose a colored veteran presents himself with the proper affidavit under the pension act, and demands his warrant, and suppose the Auditor refuses to issue it, and says there is no appropriation — there is the appropriation, and how can the Auditor know whether there is any money in the treasury to pay it? He can not go into the Treasurer's office and examine whether there is any money in the vaults; all he has to do is to see whether the law makes the appropriation; and this law makes an appropriation as much as the law for paying the judges of the Supreme Court.

But it seems that the gentleman insists that there are not so many colored veterans in the State. How can he say? How does he know? The law provides the manner in which the claim is to be proved, how the proof is to be presented, and before what officer; and upon the presentation of that proof the Auditor issues the warrant for that pension.

This is a specific appropriation, the same as the salaris of judges. The estimate made by the Committee on Finance of the Legislature, in presenting a bill, has never been considered as the making of an appropriation; it is simply an estimate. The estimate may be $150,000, $200,000 or $300,000, but whether the amount be sufficient or not is no business of the Auditor; that is the business of the Treasurer to say whether it shall be paid or not. That I understand to be the law. Hence this charge that it was done without any specific appropriation must fall. Whether there be any money in the treasury, is a question, not for the Auditor, but for the Treasurer, to determine. Therefore, they have entirely mistaken the law. It is the Auditor's business only to examine the claim and the vouchers, and issue the warrant.

Now, if the court please, in reference to the second point, which my colleague did not discuss. I beg leave to present this point; that in these charges and specifications, and by the testimony, it is shown that the party has been tried before. Now, I presume that it will not be contended that, in a republic like ours, if a man has been found guilty of murder this court can try him. I presume that the constitution of the United States means something. Chief Justice Marshall, in an early decision, declared that the constitution of the United States was a bill of rights not only for the people in the District of Columbia, but a bill of rights for the people of all the States. This being the case, what is the constitution of the United States, and what is our own constitution? The gentlemen seem to think that they have a right, even after a man has been tried before a court of justice, to indict him for the offense; but if he be indicted before a court of competent jurisdiction; if, after trial by court, and jury he is acquitted, is it proper to try him again? Is it proper to say, you have been tried before a court of criminal jurisdiction; you have been tried once, and acquitted, but we will try you again? Is this the principles of the constitution of the United States? Is this what it means, that by simply changing position, and saying, you have been tried before a criminal court, but we will try you before a civil court, simply changing the name? I now insist, and we do insist on this argument, and it must be clear to the mind of every reflecting man, that no matter under what form you clothe it, whether you call this a political court or civil court, if you render a verdict of guilty, it is a conviction and a punishment; and would not that make it a court of criminal jurisdiction? For whatever the law provides a punishment for, that is a penal offense. I beg again to call attention to a decision of the Supreme Court. I cite from Black, the case of Priest. Priest carried his case to the Supreme Court of the United States, and this determined the question what is the nature and character of punishment; because, I presume, it will be admitted that if this be a punishment, then the court must be governed according to the rules of law, and to be a punishment it must be made a penal offense by some statute. This being the case, the law being clear, I come now to the question, under what clause can we be found guilty of crime or misdemeanors. I will sum up very briefly: I have endeavored to show that there is no such thing as misdemeanor in the State of Louisiana known to the law. Is there a lawyer in the State that will say so? A misdemeanor is not what each man may think, according to his own fancy and idea, to be improper. Crime is not what each man may think, according to his own fancy, to be wrong; but I presume the convention, in framing the constitution, when they used the words crimes and misdemeanors, used them as synonymous terms. In England there is such a thing as misdemeanor, but not in this State; for whatever the law declares contrary to the statutes is a misdemeanor. I do not suppose that there is a single lawyer who will doubt this proposition. Then, under these circumstances, how does it stand? Laws are not made to no purpose.

Do the people, when they elect a man to office, guarantee that he shall always be right? Is it required that he shall always be right? If so, the office would be a very unprofitable one. The Auditor's office, the duties of which are the most difficult in the State to discharge, was left in confusion after the war, and it was almost impossible to bring things to order. Under these circumstances it is not remarkable that some errors may have been committed, as we do not pretend to deny. But if that error is to turn an officer out; if the State demands a guarrantee that an officer never shall make a mistake, and that if he makes a mistake it constitutes a crime, then we have not practiced under that system; and I venture to say that there never has been an officer who did not commit some errors. Yet the persons that framed these articles charged Mr. Wickliffe with keeping his office in confusion, and not being able to furnish the required information to the Governor. The Governor has a right to demand information; but suppose the Auditor can not give it, where is the law that makes it a crime? Does the learned manager say so? I take for granted it is not, and they can not produce the law making it a crime to refuse giving information to the Governor. What is our answer? We do not pretend to deny that there was confusion, but we say to the Governor: You took possession of our office and turned it into such a state of confusion as to make it utterly impossible to furnish such information, and then you want to charge him with crime for not furnishing that which was utterly out of his power to furnish. Who had charge of the books and