New Orleans Republican.
OFFICIAL JOURNAL OF THE UNITED STATES
OFFICIAL JOURNAL OF NEW ORLEANS

THE COURTS.

The Matter of the State Debt Limitation—The Test Case of J. O. Nixon, Late State Printer.

In the Eighth District Court came up yesterday morning the suit upon a mandamus of Salomon & Simpson vs. James Graham, in the matter of the claim of J. O. Nixon, late State Printer, for a claim of some $51,000 allowed by a recent act of the Legislature.

At the opening of the case, Mr. Belden read the following petition:

To the Honorable the Judge of the Eighth District Court in and for the parish of Orleans, State of Louisiana:

The petition of the State of Louisiana, officially represented by Simeon Belden, Attorney General of said State, which she prays to be allowed to file in the suit by mandamus in this honorable court, entitled Ezekiel Salomon and Myer M. Simpson, composing the firm of Salomon & Simpson, vs. James Graham, Auditor of Public Accounts of the State of Louisiana, and numbered on the docket thereof No. 448, respectfully represents that the mandamus prayed for in said suit should be refused and demand rejected, for the reason that the act of the General Assembly of the State of Louisiana, entitled "an act for the relief of J. O. Nixon, late public printer," being act No. 32 of the acts of the General Assembly of Louisiana of 1871, and under which act the said Salomon & Simpson base their rights to mandamus and payment, is in violation of the constitution of the State of Louisiana, and is null and void and of no effect in law, for this, that said act of the Legislature of Louisiana, if allowed to be executed, would increase the debt of the State of Louisiana beyond $25,000,000, in contravention and violation of the amended article of the constitution of this State, which reads that prior to the first day of January, 1890, the debt of the State shall not be so increased as to exceed $25,000,000.

Petitioner and intervenor respectfully represents that this intervention on the part of the State of Louisiana is based upon the official information of the Auditor of Public Accounts of this State, James Graham, defendant in this suit.

That as the financial officer and agent of the State in whose keeping are lodged the evidences of the debt of the State, he has refused to warrant in favor of plaintiffs in this suit, for the reason set forth in this intervention.

Wherefore petitioner prays that she be allowed to intervene herein; that this petition of intervention be served on said Solomon & Sampson, relators herein, and after due and legal proceedings had, that this petition of intervention be maintained, and that said act of the Legislature of Louisiana, "for the relief of J. O. Nixon, late public printer," be declared violative of the amended article of the constitution of the State of Louisiana, as increasing the debt of the State in excess of $25,000,000, and for that reason the same be decreed null and void; and, further, for the reason stated in this petition of intervention, that the mandamus prayed for against said Auditor of Public Accounts, James Graham, be refused at relator's cost, and for general relief.

SIMEON BELDEN,
Attorney General.

Mr. Belden, after submitting the petition, stated that he had selected Major New to represent the State for him. Messrs. Labatt & Aroni excepted to the intervention of the State, and spoke to the exception, but the court ruled that it could be filed. Mr. Aroni then read the original petition of Messrs. Salomon & Simpson, praying for a mandamus, on the ground that they are subrogated to the rights of J. O. Nixon, and that the State Auditor has refused to warrant for the same. Mr. Benedict, representing the State Auditor, here read the answer of the Auditor, in which he says: "That, as a constitutional officer of the State of Louisiana, he has sworn to support the constitution of the State; that his interest herein arises from his desire to hold inviolate his oath of office, and protect himself on his official bond given for the faithful performance of the duties thereof as prescribed by law." He then cites the amendment to the constitution relating to the State debt, and declares that the State had no right or power to pass the said act of relief; that at the time the act was passed the State debt exceeded $25,000,000, and has exceeded that ever since. Mr. Graham also alleges several other grounds in his answer for refusing to warrant, which we shall give in extenso at another time.

E. Salomon, sworn—Member of firm of Salomon & Simpson, relators in this case; called upon the Auditor for a warrant for the amount specified in the act; the Auditor refused to issue the warrant. The relators here rested their case.

James Graham, State Auditor, sworn for respondents: [The bond and oath of his office were proven at the outset.] Books of my office show the indebtedness of the State. [He was here asked if the list handed him was a statement of the present and eventual debt of the State.] Mr. Aroni objected to Mr. Graham's showing the debt of the State except so far as his official report shows. He objects to the question of indebtedness at all. The only question is, whether the Auditor must, as a ministerial officer, perform a ministerial act or not. He can not inquire into the constitutionality of the act of the Legislature. Oral testimony can not be introduced to contradict an act of the Legislature. The court ruled that, as the State had intervened, it gave a much broader field for the introduction of evidence properly relevant to show that the State debt had exceeded the constitutional limitation, and ruled that the evidence was necessary. Respondent excepted to the introduction of Mr. Graham's evidence except on the part of the intervenors.

The court said that the question to be passed upon was whether the State debt has or has not exceeded the constitutional limitation. If it had not, and there was no other objection to the claim, it would have to be paid.

Mr. Graham continuing, said: The report was made from my annual report, and the acts of the State adding to the same. The total amount of the bonded debt is $22,560,233. Outstanding obligations, etc., up to the first of March, $2,146,141 58. Increase of warrants since the first of January to the first of March, $552,174 14. Total debt of the State on December 30, 1870, $25,000,000. There has been an increase of debt since my last report, as evidenced by warrants and certificates of indebtedness. No bonds have been issued for the accruing debt of some $15,000,000. I placed them in my account, as I regarded these debts as binding on the State equally with its funded debt already funded. This is mostly for railroad purposes, and is not included in the amount of $22,560,233 before given.

[The annual report of the Auditor for 1870 was offered in evidence, from page forty to page forty-five inclusive.]

[Mr. Benedict here offered the act of the Legislature of 1870, appropriating to Mr. Nixon, as State Printer, $4732.]

There is no money in the treasury to the credit of the general fund. The Treasurer stated that at the time the demand was made in this case there was but about a thousand or two dollars in the treasury. I refused to warrant for this claim at the outset; no receipt was tendered to me at the time the demand was made.

[A statement of the annual expenses and receipts of the State from 1865 to 1870, and the probable receipts for the year 1871, as made by the Auditor, was here filed by Mr. Benedict.]

Cross-examined—The amount of $22,000,000 contains the bonds issued to the property banks—the amount $4,838,000, as appears on page forty of the Auditor's report; the reason the bonds were not put with the others was because my predecessor so entered them: these bonds were issued under acts of 1836 and 1828.

Judge Dibble said: "They were issued as accommodation notes by the State."

The State has not been called upon to pay these bonds, or the interest of these bonds, so far as I know; the presumption is these two banks have fulfilled their obligations to the State; the question as to whether the State has ever been called upon to pay these bonds, or interest, has never been presented to me before; have no official information that any exchange of warrants has taken place since my last statement. I obtain that information from time to time from the Treasurer; I know that there are bonds in the Citizens' Bank to be exchanged for warrants; if this exchange is consummated it will reduce the amount of outstanding warrants; these bonds amount to $513,000, and if exchanged for warrants will retire $359,000 of warrants; I have made an estimate of the eventual debt of the State, but have made no estimate from the acts of the Legislature recently adjourned; none of the accruing debt is now evidenced by existing bonds; when I make out an estimate of interest due by the State, I do not think I ever compute the interest upon the bonds issued to the property banks; in my estimate of outstanding warrants and certificates I include all issued from 1866 to 1870, and unpaid to the first of March, 1871; there has been no demand made upon me for bonds for the accruing debt; the law, in each case, defines when these bonds become exigible.

Mr. John G. Gaines, sworn—President of the Citizens' Bank; the State has issued three millions six hundred thousand dollars in bonds in favor of the Citizens' Bank; the State, in 1837, was called upon to pay a portion of the bonds, but not since 1853; the bank is in condition to meet her liabilities on these bonds; they rest upon $14,000,000 of mortgage; have no doubt that the bank will meet all her obligations in full; the Legislature authorized an extension of these bonds, with the will of the holders.

Mr. Dubuclet, State Treasurer, sworn—No money in the treasury to the credit of the general fund, nor was there on the second, third and fourth of March; at no time since I have been in the office has there been money to the credit of the general fund to meet all the warrants.

[The Treasurer here agreed to furnish the statement of money received in the treasury from the first of December.]

Have paid warrants since the first of December; will furnish a statement of the amount of warrants paid during that time, and from what fund they were paid, tomorrow at eleven o'clock.

[Mr. Aroni offered the official debates of the Legislature to show that the relief bill of 1870 for Mr. Nixon was considered upon the passage of the last act. Objected to as being unnecessary.]

Mr. Semmes said that as there was a constitutional limitation, the Legislature could not evade the same, under the pretence of recognizing a pre-existing debt, to make a donation for private purposes, and gave notice that he should make this point on the merits.

The evidence here closed and the argument was opened by Mr. Aroni for relators, who was followed by Mr. Semmes for respondent, when the hour for adjournment having arrived, the case was continued for further argument.

Fourth District Court.

Claiborne Street Railroad vs. their late Secretary—Judge Theard has rendered a judgment against John G. Campbell, late secretary and treasurer of the Canal and Claiborne Street Railroad Company, in the sum of $9809, the total amount of the deficit in his accounts.

H. T. Wade vs. David W. Eames—In this case Judge Theard has rendered a decision in favor of the defendant. The facts of the case are these:

Some years since, Henry F. Wade made a donation of property to his wife. In the same office and at the same hour, Mrs. Wade donated the very same property to her daughter, Mrs. Eames. Mrs. Eames dying shortly after, the property reverted to her child; the child also dying, Mr. Eames, the father, became the inheritor according to law.

Mr. Wade, repenting of his donation to his wife, sought to revoke the same, and brought suit to recover from David W. Eames one-half of the property aforesaid.

The court held that although a donation may at any time be revoked by the living party or parties thereto, yet from the fact that the plaintiff having signed, with his wife, in the donation to Mrs. Eames, not only sanctioned the donation, but also the alienation of the said property.

Fifth District Court—Decision by Judge Leaumont.

In the suit of the heirs of the late Terrence O'Sullivan, to recover the possession of certain property in square bounded by Franklin, Poydras, Liberty and Lafayette streets, Judge Leaumont has rendered a decision, decreeing possession to the heirs aforesaid.

Seventh District Court.

Patrick Irwin vs. James M. Peterson.—The plaintiff sues to recover from Peterson the sum of $1091 97, for one-half of the portion of the brick wall belonging to Irwin and used by Peterson for the support of his buildings.

The plaintiff claims that the said wall divided the property of Irwin, on Gravier street, from the property of Peterson, the portion used by Peterson containing 91,043 bricks, at $22 per thousand.

Judge Collens has decided that "the defendant retained the right to pay only half the cost of the party wall, until he was put in default to contribute. He was never put in default, and now claims, or elects (if responsible at all), to pay that cost."

Judgment for $591 77.

United States District Court.

In the case of the steamer Saratoga vs. four hundred and thirty-eight bales of cotton, submitted on appeal, Judge Woods rendered a decision to the following effect: This is an admiralty appeal, in which libelants seek to recover $27,000. The court below awarded $900, with costs. In this court the claim being about to be dismissed, it has been objected that the judgment of the court below could not be interfered with. When libelants appealed they opened the whole case, and the cause in the appellate court is to be tried *de novo*, as if no decree had been passed. Libel dismissed at the cost of libelants.

The case of Mateo Grassich, for his male minor children vs. Marco Givanovich, came up on exception. The plaintiff avers that one Nicolo Grassish, since deceased, domiciliated in Ragusa, Dalmatia, bequeathed a large estate to the legitimate male children of plaintiff, who sues to recover from defendant a large sum in the hands of defendant, amounting to $218,278 63. Exception is taken to the capacity of plaintiff, as a succession has been opened and an administrator appointed in Ragusa; that the estate was directed by will of testator to be put under administration, and the income only to be paid to legatees; that the final share due each child cannot be determined during the father's lifetime, as more children may be born. Exception sustained.

In the case of Myra Clarke Gaines, a report was submitted to the Circuit Court, by Hon. J. B. Weller, as master in chancery. The figures in the report are rather startling. It is very full and voluminous, and would hardly interest the general reader, except as to the general result arrived at. The property reported upon is that known as the New Orleans draining machine, and the report, among other matters, embraces the profit, in the shape of increased taxation, accruing to the city from the operation of the machine through a period of thirty-five years. The following is the result arrived at in the report:

Value of rental of draining machine, at the rate of $24,000 per annum	$84,800 00
Interest thereon	72,800 00
	$157,600 00
Expenditures by the city, with interest thereon	$40,333 21
	$117,666 79

Commissioner Weller's Court.

The late clerk of the steamer Ida sued the boat for wages, claiming eighty dollars. At the time of trial he failed to appear, and the case was dismissed.

The crew of the bark C. E. O'Neil sued for wages, and a discharge from the vessel. It was shown that the shipping articles had never been read to them, so the Commissioner ordered their discharge, and the payment of their wages.

The case of Michael Reilly vs. the steamer Dora caused considerable excitement among the parties interested. The plaintiff claimed one hundred and sixty dollars, wages alleged to be due him as carpenter of the boat. In the progress of the case the captain of the Dora became so excited that he seized a heavy ferule lying on the table, and made an attack upon the plaintiff. The Commissioner ordered Deputy Marshal Steele to arrest him. The case will be decided to-day.

"Is it wrong to cheat a lawyer?" was recently very ably discussed by a debating society. The conclusion arrived at was that it was not wrong, but impossible.

LAWS OF THE STATE OF LOUISIANA.

PUBLISHED BY AUTHORITY.

ERRATA.

[NOTE BY THE SECRETARY OF STATE.—Owing to a clerical error, the date of approval of No. 8, February 25, 1871, was omitted.]

AN ACT No. 16.

To incorporate the Young Veterans' 1862-65 Benevolent and Mutual Aid Association of New Orleans, Louisiana.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in general assembly convened, That for the purposes hereinafter specified, Clement St. Cyr, M. L. Leblanc, William H. Green, J. H. Ingraham, F. St. Cyr, Joseph John, Raphael St. Armand, John Learson and M. E. Perault are hereby, with their successors in office, constituted and created a body politic under the name and style of the Young Veterans' 1862-65 Benevolent and Mutual Aid Association of New Orleans, Louisiana.

SEC. 2. Be it further enacted, etc., That the officers of this association shall consist of one president, one vice president, secretary, assistant secretary, treasurer and councelor, who shall be chosen by the majority of the members.

SEC. 3. Be it further enacted, etc., That the officers of this association, or their successors in office, are hereby authorized and empowered to nurse, provide for and take care of their sick and bury their dead; and for this purpose are fully empowered to make and adopt such by-laws, rules and regulations from time to time as to them may seem necessary and expedient, not inconsistent or opposed to the objects herein named; to levy or impose such tax or contribution upon their members, and to collect the same as the majority of them may deem necessary; to sue and be sued, receive donations of money, food, clothing or real estate, and to rent or purchase, buy or sell, and hold such grounds and buildings as may be required for their use, and to do all other things necessary and legitimate to the carrying out of their humane and benevolent purposes.

SEC. 4. Be it further enacted, etc., That all the power of the association is placed in the president thereof, who will have the right to sue or be sued in behalf of the association.

SEC. 5. Be it further enacted, etc., That the constitution and by-laws of the Young Veterans' 1862-65 Benevolent and Mutual Aid Association of New Orleans, will be strictly in conformity with the laws of the State governing charitable associations.

SEC. 6. Be it further enacted, etc., That said act shall take effect from and after its passage.

(Signed) GEO. W. CARTER,
Speaker of the House of Representatives.
(Signed) OSCAR J. DUNN,
Lieutenant Governor and President of the Senate.
Approved February 25, 1871.
(Signed) H. C. WARMOTH,
Governor of the State of Louisiana.
A true copy:
GEO. E. BOVEE,
Secretary of State.

AN ACT No. 17.

To amend and re-enact an act entitled an act to incorporate Harmony Fire Company No. 1, of the town of Franklin, parish of St. Mary, approved February 28, 1856.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in general assembly convened, That section third of said act, which reads as follows, "that said company shall, at all times, keep in good and efficient order at least one fire engine, with the necessary hose and apparatus for the purpose of extinguishing fire within the town of Franklin, and shall, in case of fire within said town, promptly repair to where the same exists, with said engine, and use every exertion to extinguish the same; and, on all occasions, to preserve, as far as possible, the property of the citizens of said town from danger by fire," be and the same is hereby amended and re-enacted so as to read as follows:

"That said company shall at all times keep in good and efficient order at least one fire engine, with the necessary hose and apparatus, for the purpose of extinguishing fires within the town of Franklin, and shall, in case of fire within said town, promptly repair to where the same exists with said engine, and use every exertion to extinguish the same, and on all occasions to preserve, as far as possible, the property of the citizens of said town from danger by fire; provided, that the number of members attached or belonging to said fire company shall not exceed fifty, and that the said members shall be exempt from serving in the militia of this State."

SEC. 2. Be it further enacted, etc., That this act shall take effect from and after its passage.

(Signed) GEO. W. CARTER,
Speaker of the House of Representatives.
(Signed) OSCAR J. DUNN,
Lieutenant Governor and President of the Senate.
Approved February 25, 1871.
(Signed) H. C. WARMOTH,
Governor of the State of Louisiana.
A true copy:
GEO. E. BOVEE,
Secretary of State.

AN ACT No. 18.

To provide for the relinquishment to the United States in certain cases of title to lands for sites of light stations on the coasts and waters of this State.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in general assembly convened, That whenever it shall be made to appear to any one of the district courts of this State, upon the application of any authorized agent of the United States, that the said United States are desirous of purchasing any tract of land and the right of way thereto within the limits of this State, for the erection of a lighthouse, beacon, light range, light, or light keeper's dwelling, and that the owner or owners of said land are unknown, non-residents or minors, or from any other cause are incapable of making a perfect title to said lands, or in case the said owners being residents, and capable of conveying, shall, from disagreement in price, or any other cause whatever, refuse to convey said lands to the United States, it shall be the duty of the judge of the district court in which the lands so designated to be purchased are situated, to order notice of said application to be published in some newspaper nearest to where said lands lie, also one newspaper published in the city of New Orleans, once in each week, for the space of four months, which notice shall contain an accurate description of the said lands, together with the names of the owners or supposed owners, and shall require all persons interested in the said lands to come forward, on a day to be specified in said notice, and file their objections, if any they should have, to the proposed purchase; and at the time specified in said notice it shall be the duty of the said district court to empanel a jury in the manner now provided by law to assess the value of said lands at their fair market value, and all damages sustained by the owner of the lands so appropriated by reason of such appropriation, which amount, when so assessed, together with the entire costs of said proceedings, shall be paid into the parish treasury of said parish in which said proceedings are had, and thereupon the sheriff of the said parish, upon the production of the certificate of the treasurer of said parish that the said amount has been paid, shall execute to the United States and deliver to their authorized agent a deed of the said lands, reciting the proceedings in said cause, which said deed shall convey to the said United States a good and absolute title to the said lands against all persons whatsoever.

SEC. 2. Be it further enacted, etc., That the money so paid into the parish treasury shall there remain until ordered to be paid out by a court of competent jurisdiction.

SEC. 3. Be it further enacted, etc., That it shall be the duty of the judge directing the money to be paid to a parish treasurer, in accordance with the provisions of this act, to require of such treasurer a bond in double the amount of money ordered to be paid by him, with two or more sufficient sureties, to be approved by said judge. Said bonds shall be payable to the people of the State of Louisiana for the use and benefit of such persons severally as are entitled to said money. Said bonds shall be executed and approved and filed with the clerk of said court, before receiving said money.

SEC. 4. Be it further enacted, etc., That in all cases of publication of notice under this act, the court shall require the same proof as in cases of publication of notice under the civil practice act of this State.

(Signed) GEO. W. CARTER,
Speaker of the House of Representatives.
(Signed) OSCAR J. DUNN,
Lieutenant Governor and President of the Senate.
Approved February 25, 1871.
(Signed) H. C. WARMOTH,
Governor of the State of Louisiana.
A true copy:
GEO. E. BOVEE,
Secretary of State.

AN ACT No. 19.

To authorize the change of the name of Louisa Parmly Ward to Louisiana Parmly Campbell.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in general assembly convened, That Louisa Parmly Ward be authorized to change her name to Louisiana Parmly Campbell.

SEC. 2. Be it further enacted, etc., That this act take effect from and after its passage.

(Signed) GEO. W. CARTER,
Speaker of the House of Representatives.
(Signed) OSCAR J. DUNN,
Lieutenant Governor and President of the Senate.
Approved February 25, 1871.
(Signed) H. C. WARMOTH,
Governor of the State of Louisiana.
A true copy:
GEO. E. BOVEE,
Secretary of State.

AN ACT No. 20.

For the relief of F. G. Llorens.

WHEREAS, State warrant No. 282, dated May 31, 1869, drawn to the order of F. G. Llorens, and amounting to one hundred and fifty ($150) dollars, having been lost or mislaid in the month of June, 1869, and said Llorens having caused a public notice to be published according to law in the year 1869, cautioning all persons against negotiating for said warrant; and

Whereas, According to the certificate of James Graham, Auditor of Public Accounts, and the certificate of Antoine Dubuclet, State Treasurer, it appears that said warrant is still outstanding, and has not been paid; therefore

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana, in general assembly convened, That the Auditor of Public Accounts be and he is hereby authorized and directed to issue his warrant to F. G. Llorens for the sum of one hundred and fifty dollars, to be paid out of the funds as directed in the one lost or mislaid: provided, that said warrant shall be in full payment of the original warrant, No. 282, dated May 31, 1869, alleged to have been lost or mislaid.

SEC. 2. Be it further enacted, etc., That this act shall take effect from and after its passage.

(Signed) GEO. W. CARTER,
Speaker of the House of Representatives.
(Signed) OSCAR J. DUNN,
Lieutenant Governor and President of the Senate.
Approved February 25, 1871.
(Signed) H. C. WARMOTH,
Governor of the State of Louisiana.
A true copy:
GEO. E. BOVEE,
Secretary of State.

LAWS OF THE UNITED STATES.

Passed at the Third Session of the Forty-First Congress.

[GENERAL NATURE—No. 12.]

AN ACT to divide the State of Virginia into two judicial districts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the counties of Albemarle, Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Buckingham, Campbell, Carroll, Charlotte, Clarke, Craig, Cumberland, Floyd, Franklin, Frederick, Fluvanna, Giles, Grayson, Green, Halifax, Henry, Highland, Lee, Madison, Montgomery, Nelson, Patrick, Page, Pulaski, Pittsylvania, Rappahannock, Roanoke, Rockbridge, Rockingham, Russell, Scott, Smyth, Shenandoah, Tazewell, Washington, Wise, Wythe, and Warren, of the State of Virginia, shall hereafter constitute a new judicial district of the United States, and be called the western district of Virginia; and the circuit and district courts of the United States for said western district of Virginia shall be held at Lynchburg, Danville, Abingdon, and Harrisonburg, within said district.

SEC. 2. And be it further enacted, That a term of the circuit and district court of the United States for said western district shall be held at Danville, on the first Monday of March and September; at Lynchburg, on the second Monday of March and September; at Abingdon, on the third Monday of March and September; and at Harrisonburg, on the Wednesday after the fourth Monday of March and September, in each year.

SEC. 3. And be it further enacted, That the district of Virginia shall hereafter consist of the counties of said State not named in this act, and shall be called the eastern district of Virginia; and circuit and district courts of the United States shall be held in said eastern district, as follows: At the city of Richmond on the first Monday of April and October, and at the city of Alexandria on the first Monday of January and on the first Monday of July, and at Norfolk on the first Monday of May and first Monday of November, in each year.

SEC. 4. And be it further enacted, That the said circuit or district court for either of said districts may, in its discretion, order special terms, and order a grand or petit jury, or both, to attend the same, by an order to be entered of record twenty days before the day at which said special term shall be ordered to convene; and said courts respectively at such special terms shall have all the powers that they have at a regular term appointed by law: Provided, however, That no special term of said circuit court for either district shall be appointed except by and with the concurrence and consent of the circuit judge.

SEC. 5. And be it further enacted, That all suits and other proceedings, of whatsoever name or nature, now pending in the circuit or district court of the United States for the district of Virginia, shall be tried and disposed of in the circuit and district courts, respectively, for said eastern district, as the same would have been if this act had not been passed, and for that purpose jurisdiction is reserved to the said courts in the said eastern district; and the clerks of the circuit and district courts of the present district of Virginia shall retain the records and files of the said circuit and district courts, at the city of Richmond, and do and perform all the duties appertaining to the said offices, respectively, within the eastern district, except as is hereinafter provided; and all process returnable to or proceedings noticed for any term of the present circuit or district court shall be deemed to be returnable to the next term of said courts, respectively, in the said eastern district, as fixed by this act.

SEC. 6. And be it further enacted, That upon application of any party to any suit or proceeding now pending in the present circuit or district courts of the United States, for the present district of Virginia, which should have been commenced in the proper court for the western district if this act had been in force at the time of the commencement thereof, the proper court shall order that the same be removed for further proceedings to the proper court for said western district; and thereupon the clerk shall transmit certified copies of all the papers and of all orders made therein to the clerk of the court to which suit or proceeding shall be removed, and all further proceedings shall be had in said court, to which the same shall be removed as if the said suit or proceeding had originally been commenced therein.

SEC. 7. And be it further enacted, That the passage of this act shall not have the effect to destroy or impair the lien of any judgment or decree, rendered by the circuit or district court of the United States for the present district of Virginia, prior to this act taking effect; and final process on any judgment or decree entered in the circuit or district court of the United States for the district of Virginia, or which shall be entered therein prior to this act taking effect, and all other process for the enforcement of any order of said courts respectively, in any cause or proceeding now pending therein, except causes or proceedings removed as herein provided, shall be issued from and made returnable to the proper court for the eastern district of Virginia, and may be directed to and executed by the marshal of the United States for the said eastern district in any part of the State of Virginia.

SEC. 8. And be it further enacted, That there shall be appointed a district judge for said western district of Virginia, who shall receive an annual salary of three thousand five hundred dollars; and there shall also be appointed a marshal and district attorney of the United States for said western district of Virginia, who shall respectively receive such fees and compensation, and exercise such powers and perform such duties as are fixed and enjoined by law.

SEC. 9. And be it further enacted, That the circuit and district judges shall appoint four clerks, each of whom shall be clerks both of the circuit and district courts for said western district, one of whom shall reside and keep his office at Lynchburg, another shall reside and keep his office at Abingdon, another shall reside and keep his office at Danville, and the fourth shall reside and keep his office at Harrisonburg, who shall receive the fees and compensation for services performed by them, respectively, now fixed by law.

SEC. 10. And be it further enacted, That either of the clerks of the circuit and district courts for said western district, is hereby authorized, under the direction of the district judge of said western district to make a transcript from any of the records, files, or papers of the district and circuit courts of the United States remaining in the office of the clerks in said eastern district, of all matters and proceedings which relate to or concern liens upon or titles to real estate situate in said western district; and for that purpose shall have access to said records in the office of the said clerks in said eastern district; and such transcripts, when so made by either of said clerks, shall be certified to be true and correct by the clerk making the same, and the same when so made and certified shall be evidence in all courts and places equally with said originals.

SEC. 11. And be it further enacted, That this act shall not affect the completion of the census of the State of Virginia for the year eighteen hundred and seventy; and nothing herein shall affect existing laws or existing officers except as herein modified and provided.

Approved, February 3, 1871.

[GENERAL NATURE—No. 13.]

AN ACT for the relief of the Stockbridge and Munsee tribe of Indians, in the State of Wisconsin.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the two townships of land, situated in the county of Shawanaw, and State of Wisconsin, set apart for the use of the Stockbridge and Munsee tribe of Indians, shall, under direction of the Secretary of the Interior, be examined and appraised, by two or more disinterested appraisers to be selected by him, in eighty-acre lots, according to public survey; such appraisal shall state the quality of the soil, the quantity, quality and value of the timber growing on each lot, estimating the pine timber at not less than one dollar per thousand, and the value of all improvements, if any, made thereon, with the name of the owner of such improvements, as certified by the sachem and councillors of said tribe, and, when returned to the land office of the district in which said lands are situated, be subject to public inspection for at least thirty days before the day appointed for the sale of such lands, as hereinafter provided. One copy of said appraisal shall be made and returned to the land office of the district, and a duplicate thereof to the Secretary of the Interior, within six months from the passage of this act, and the person appointed to make such appraisal shall be allowed such compensation for their services as may be fixed by the Secretary of the Interior.

SEC. 2. And be it further enacted, That the said two townships of land shall be advertised for sale, by notice of not less than three months, to be published in at least three newspapers of the district having general circulation, and shall be offered at public auction, at the nearest Government land office within the Green Bay agency, to the highest bidder, in lots of not exceeding eighty acres each, but shall not be sold for less than the appraised value thereof. None of said lands shall be subject to entry until they shall have been offered as aforesaid, and then only at the price fixed by such appraisal. All of said lands remaining unsold at the expiration of one year after they shall have been offered as aforesaid shall be again advertised and offered at public auction at the nearest government land office within the Green Bay agency, at not less than the minimum of one dollar and twenty-five cents per acre, and thereafter shall be subject to private entry at the latter price, and shall in all cases be sold for cash only: Provided, however, That the Secretary of the Interior is hereby authorized to reserve from sale a quantity of said lands not exceeding eighteen contiguous sections, embracing such as are now actually occupied and improved, and are best adapted to agricultural purposes, subject to allotment to members of the Indian party of said tribe as hereinafter provided.

SEC. 3. And be it further enacted, That from the first proceeds of the sale of lands, as provided in the second section of this act, shall be paid the expenses of appraisal and sale of said lands, the amount due to individuals for improvements as returned by the appraisers, and the amount of the debts contracted by the sachem and councillors for the benefit of said tribes, amounting to the sum of eleven thousand dollars, according to a schedule to be certified by them, and returned to the Commissioner of Indian Affairs.

SEC. 4. And be it further enacted, That, immediately after the returns shall be received at the General Land Office of the last public sale according to the provisions of this act, a statement shall be made up, under the direction of the Secretary of the Interior, exhibiting the gross amount of moneys realized from the sale of the said two townships of land, after deducting therefrom the sums appropriated by the preceding sections of this act, to which said amount shall be added the value of the lands remaining unsold of said two townships, estimating the same at sixty cents per acre; also the sum of six thousand dollars held in trust by the government of the United States for the use of the Stockbridge and Munsee tribes of Indians, under the treaty of eighteen hundred and thirty-nine; and the total amount thereof shall constitute the entire sum of money due from the government of the United States to the said Stockbridge and Munsee tribes of Indians, to be paid and appropriated for their benefit as hereinafter directed.

SEC. 5. And be it further enacted, That the sum of money thus found due to the said tribes shall be divided between the citizen and Indian parties of said tribes, in proportion to the number of each respectively, according to rolls thereof, made and returned in conformity with the provisions of this act to the Commissioner of Indian Affairs: That portion of said sum belonging to the citizen party shall be equally divided among them per capita, and paid to the heads of families and adult members of said party; that portion of said sum belonging to the Indian party shall be placed to their credit on the books of the Treasurer of the United States, and bear interest at the rate of five per centum per annum, payable semi-annually, and said interest shall be applied to the support of schools, the purchase of agricultural implements, or paid in such other manner as the President may direct: Provided, however, That a part of said sum due the Indian party, not exceeding thirty thousand dollars, may, on the request of the sachem and councillors of said tribe, be expended in securing a new location for said tribe, and in removing and aiding them to establish themselves in their new home; and in case of their procuring and removal to such new location, at any time, the said eighteen sections of land reserved for their use by the second section of this act shall be sold in the manner therein provided, and the proceeds thereof be placed to their credit as aforesaid.

SEC. 6. And be it further enacted, That, for the purpose of determining the persons who are members of said tribes and the future relation of each to the government of the United States, there shall be prepared, under the direction of the Commissioner of Indian Affairs, or such person as may be selected by him to superintend the same, two rolls, one to be denominated the citizen roll, to embrace the names of all such persons of full age, and their families, as signify their desire to separate their relations with said tribe, and to become citizens of the United States; the other to be denominated in the Indian roll, and to embrace the names of all such as desire to retain their tribal character and continue under the care and guardianship of the United States; which said rolls shall be signed by the sachem and councillors of said tribe, certified by the person attending the same, and returned to the Commissioner of Indian Affairs, but no person of full age shall be entered upon said citizen roll without his or her full and free consent, personally given to the person superintending such enrollment; nor shall any person, or his or her descendants, be entered upon either of said rolls who may have heretofore separated from said tribe and received allotment of lands under the act of Congress for the relief of the Stockbridge tribe of Indians, of March third, eighteen hundred and forty-three, and amendment of August six, eighteen hundred and forty-six, or under the treaty of February five, eighteen hundred and fifty-six, or who shall not be of Stockbridge or Munsee descent. After the said rolls shall be made and returned as herein provided, the same shall be held as a full surrender and relinquishment on the part of the citizen party, each and every one of them, of all claims to be thereafter known or considered as members of said tribe, or in any manner interested in any provision heretofore or hereafter to be made by any treaty or law of the United States for the benefit of said tribes, and they and their descendants shall thenceforth be admitted to all the rights and privileges of citizens of the United States.

SEC. 7. And be it further enacted, That after the said rolls shall have been made and returned, the said Indian party shall thenceforth be known as the "Stockbridge tribe of Indians," and may be located upon lands reserved by the second section of this act, or such other reservation as may be procured for them, with the assent of the council of said tribe, and their adoption among them of any individual not of Indian descent shall be null and void.

SEC. 8. And be it further enacted, That as soon as practicable, after a suitable and permanent reservation shall be obtained and accepted by said tribe, either at their present home or elsewhere, the same shall, under the direction of the Secretary of the Interior, be surveyed and subdivided to correspond with the public survey, and the council of said tribe, under the superintendence of the agent of the United States, shall make a just and fair allotment of so much thereof (in compact form) as may be required, among the individuals and families composing said tribe, as follows: Each head of a family consisting of four persons shall receive eighty acres of land, and if consisting of more than four persons, at the discretion of the council, eighty acres more may be assigned to him or her; each male person above the age of eighteen years, not included in any family, shall receive eighty acres; each female person above the age of eighteen years, not a member of any family, and each orphan child, shall receive forty acres; the lands assigned and allotted as aforesaid shall be held inalienable, and in case of the death of any person, his or her right thereto shall descend to his or her heirs, if members of said tribe, and if he or she dies without heirs capable of inheriting, the land shall revert to and become the common property of said tribe; there shall also be set apart and appropriated a lot, not exceeding forty acres, to be held as common property on which to erect a church, parsonage, school-house, and other improvements necessary for the accommodation of said tribe; provided, that if any female shall marry out of said tribe, she shall thereby forfeit all right to hold any of said lands, as if deceased.

SEC. 3. And be it further enacted, That the allotments contemplated in the previous sections of this act shall be made, and a certified copy thereof returned to the Commissioner of Indian Affairs, within one year after the reservation shall have been made and accepted by said tribe; and thereafter the title of the lands described therein shall be held by the United States in trust for individuals and their heirs to whom the same were allotted. The surplus lands embraced in such reservation remaining after making such allotments shall be held in like manner by the United States, subject to be allotted to individuals of said tribe who may not have received any portion of said reservation, or to be disposed of for the common benefit of said tribe: Provided that no change or addition shall be made in the allotment returned to the Commissioner of Indian Affairs, unless the same shall be approved by the Secretary of the Interior.

J. G. BLAINE,
Speaker of the House of Representatives.
SCHUYLER COLFAX,
Vice-President of the United States and President of the Senate.
Received by the President January 25, 1871.

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the house of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

[RESOLUTION OF GENERAL NATURE—No. 2.]

A RESOLUTION to authorize the restoration of Benjamin S. Richards to the active list of the navy.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be and he is authorized, by and with the *advice* [advice] and consent of the Senate, to appoint Ensign Benjamin S. Richards a master on the active list of the navy, to date from the twenty-sixth day of March, eighteen hundred and sixty-nine, with the pay of that grade from that date.

Approved, January 10, 1871.

[GENERAL NATURE—No. 2.]

AN ACT granting to the Utah Central Railroad Company a right of way through the public lands for the construction of a railroad and telegraph.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the right of way through the public lands be, and the same is hereby granted to the Utah Central Railroad Company, a corporation created under the laws of the legislative assembly of the Territory of Utah, its successors and assigns, for the construction of a railroad and telegraph from a point at or near Ogden City, in the Territory of Utah, to Salt Lake City, in said Territory; and the right, power, and authority is hereby given to said corporation to take from the public lands adjacent to the line of said road material of earth, stone, timber, and so forth, for the construction thereof. Said way is granted to said railroad to the extent of two hundred feet in width on each side of said railroad where it may pass through the public domain, including all necessary ground for station-buildings, work-shops, depots, machine-shops, switches, side-tracks, turn-tables and water-stations; provided, that within three months from the passage of this act, the said Utah Central Railroad Company shall file with the Secretary of the Interior a map to be approved by him, exhibiting the line of the railroad of said company, as the same has been located and constructed; provided, further, that said company shall not charge the government higher rates than they do individuals for like transportation and telegraphic service. And it shall be the duty of the Utah Central Railroad Company to permit any other railroad, which has been or shall be authorized to be built by the United States, or by the Legislature of the Territory of Utah, to form running connections with its road on fair and equitable terms.

SEC.