out the approval of the Governor, from lapse of time, when the said Bovee knew that such was not the fact, and that he was certifying to that which he knew to be untrue, in this, that the said paper was not the bill passed by the Legislature enrolled by the proper committee and signed by the proper officers, as such original bill, but that the same was an original paper, purporting to be a copy of the original from which it was not made and with which it was never compared.

Second—That at the time he, the said Bovee, gave such certificate he knew that the original and only bill passed by the Legislature was in the possession of the Governor, who had refused to approve and intended to veto the same at the meeting of the Legislature on the next meeting thereof.

Third—That the said Bovee knew when he gave the same certificate, and so the fact is, that the said original bill was not presented to the Governor for his approval five days before the adjournment of the Legislature, and that the same was not entitled to become a law through any approval or action of his whatever.

Fourth—That the said Bovee certified that the said charter of the Crescent City Waterworks Company had become a law when he knew that such was not the case, contrary to the will, consent and approval of the Governor, and with the fraudulent intent to injure the State, and to endeavor to make that a law which did not have the legal sanctions for that purpose.

That the said improper, illegal and unjust conduct of said Bovee gave the Governor, who is charged with the conservation and enforcement of the laws the right to suspend him and put respondent in his place until the meeting of the Legislature in January next.

Wherefore, respondent prays that plaintiff's petition be dismissed and his demand rejected.

SEMMES & MOTT,
WILLIAM GRANT,
Attorneys of defendant.

A true copy:
O. W. TENNISON, Deputy Clerk.

[Affidavit of John Lynch.]

Offered by complainant November 25, 1872.

Eighth District Court for the parish of Orleans, Nos. 13,545, 13,546.—John Lynch, being duly sworn, says that the annexed document, marked A 1, is a true, full and complete transcript of the minutes of the board of returning officers of the election of November 4, 1872, as held on the twelfth and thirteenth of November instant, and that all those minutes are a true, full and complete record of everything that transpired at the sessions held on these days, and that no other business was transacted by the board of returning officers on those days than is contained in said minutes, except that, after the adjournment of the board, a communication was addressed to Messrs. Longstreet and Hawkins, notifying them of their appointment, a copy of which is annexed as a part hereof, and marked A 2, and that they afterward presented their respective oaths of office on the same day, hereto annexed as part hereof, and marked A 3 and A 4.

Affiant further swears that at the time of administering the oaths of office, as detailed in the minutes, to affiant, H. C. Warmoth and F. J. Herron, all three took the oath simultaneously. It was administered to them by Chief Justice Ludeling; that he was not present when any oath was administered to F. H. Hatch or Durant DaPonte as returning officers of election, nor did he ever consent to recognize them or Jack Wharton as such; that at the time he left the room wherein the meeting was held, and as he was going out, there was an appearance of the oath being administered to Messrs. Hatch and DaPonte, but the administering of such oath had not been completed; that subsequently the board of returning officers of election met, and by resolution requested the Attorney General to institute this suit, as will appear by copy of resolution hereto annexed and made part hereof, marked A 5.

F. J. Herron being duly sworn, says that he has read the foregoing affidavit of John Lynch, and that the same is true; that it is untrue that he has been deprived of the seal of State, or dispossessed thereof, but is still in possession of the same, and that said Jack Wharton has not been in possession of the office or rooms of the Secretary of State's office, but that the same is and has been in possession of the police since the thirteenth of November instant.

A true copy: ROBERT LYNNE,
Deputy Clerk.

Filed November 19, 1872.

STATE OF LOUISIANA,
Executive Department,
New Orleans, November 13, 1872.

WHEREAS, By an amendment of the constitution of the State, adopted at the general election held November 7, 1870, it is provided that "no person who at any time may have been a collector of taxes, whether State, parish or municipal, or who may have been otherwise entrusted with public money, shall be eligible to the General Assembly or to any office of profit or trust," etc., and

Whereas, Official information has been received at this office that F. J. Herron is indebted to the State for moneys collected by him as tax collector in and for the Sixth District, city of New Orleans;

Now, therefore, I, Henry Clay Warmoth, Governor of the State of Louisiana, charged with the faithful execution of the laws under the constitution of the State, and in due observance of the provisions of the amendments to the same, do issue this my order removing F. J. Herron from the office of Secretary of State, and do hereby appoint Jack Wharton to discharge the duties of said office.

Given under my hand and the seal of the State this thirteenth day of November, A. D. 1872, and of the independence of the United States the ninety-seventh.

H. C. WARMOTH,
Governor of the State of Louisiana.

Y. A. WOODWARD,
Assistant Secretary of State.

A true copy from the records on file in the office of the Secretary of State.

Y. A. WOODWARD,
Assistant Secretary of State.

A true copy of the document on file in the suits 13,545, 13,546 of the docket of the Eighth District Court for the parish of Orleans. ROBERT LYNNE, Deputy Clerk.

[Affidavit of A. S. Badger, Superintendent of Police.]

Filed November 19, 1872.

State of Louisiana, parish of Orleans.—A. S. Badger, Superintendent of Police, after being duly sworn, deposes and says: That he is not in possession of the office of Secretary of State; that none of his subordinates, or any member of the Police Department, is in possession of said office; that Jack Wharton is, to the best of his knowledge and belief, in possession of said office of Secretary of State.

A. S. BADGER.

Sworn to and subscribed before me, this eighteenth day of November, A. D. 1872.

CHARLES S. RICE,
United States Commissioner, District of Louisiana.

Circuit Court of the United States for the district of Louisiana. William P. Kellogg vs. H. C. Warmoth, No. 6830.

Personally appeared Henry C. Warmoth, made defendant in the above entitled suit, who being sworn, says:

That he is Governor of the State of Louisiana; that it is utterly untrue that he ever avowed or had the intention to use any of his powers unlawfully as Governor of Louisiana to defeat the election of the complainant, but that, on the contrary, it was always his purpose, as it was his duty, to use these powers to secure a fair expression of popular sentiment at the ballot-box.

That he did not select supervisors pliable to his will, as charged in the bill of complainant; nor did he make any conditions precedent in the appointment of said supervisors or other officers charged with the conduct of said election.

That it is untrue, as charged in said bill, that affiant had any connection with or knowledge of any plan to deprive a large number or indeed any citizen of the right to register on account of race, color or previous condition, or for any other cause.

Affiant denies that by any scheme of which he has knowledge, or with which he had any connection, ten thousand voters, or indeed any number of voters, were refused registration or the right to vote at the election which took place on the fourth day of November last.

He denies that he adopted the means charged, or any other means whatsoever, to deprive voters of their franchise, and to defeat the election of complainant by preventing their ballots from being cast.

Affiant denies that ten thousand voters, or any number of voters, were refused registration through any conspiracy to which he was a party, who afterward offered to vote for complainant, and were refused as charged.

Affiant denies that complainant is in possession of any evidence, under act of thirty first of May, 1870, or any other act amendatory thereof, which goes to show that any of the complaints of said bill against affiant are true.

He denies that there are documents, having the least truth in them which show that from three to five thousand persons, or any number of persons, were refused their right either to register or vote on account of race, color or previous condition.

He denies that he has conspired with supervisors or assistant supervisors of registration, to cause a dishonest, incorrect and false count of the votes cast in the several parishes, or that he has caused false and untrue returns and certificates of the result and canvass of the votes cast in the several parishes as charged, by not counting the ballots deposited by persons of color, or that any ballots cast for complainant, whether by colored or white persons, have been suppressed or not counted, with his knowledge or by his connivance or consent.

Affiant denies that Jacob Hawkins or James Longstreet were ever elected members of the board of returning officers, or that said persons were ever recognized upon said board, of which affiant is president.

That it is utterly untrue, as charged, that affiant refuses to open the returns, influenced by fear that the board of returning officers would make a true and proper investigation of the truthfulness of returns, and the scheme for excluding ballots would be defeated, or that evidence of frauds that had been committed and of the fact that a large number of persons had at such election offered to vote and had been refused, contrary to law and laws of the United States, would be discovered and preserved in such form as that the same could be used and made available in any action or proceeding instituted by complainant to determine the right to office.

All of this is specially denied by affiant as without the least foundation or appearance of truth, as well as the charge that he caused an adjournment of the board of returning officers for the purpose of concealing or covering up frauds, or to prevent the proper and legal canvass, or that he ejected F. J. Herron from the office of Secretary of State for the purposes charged.

Affiant now denies that he is a party to any plan and scheme, or conspiracy of any kind whatsoever, the object of which is to suppress or destroy, or place beyond the reach of the complainants any documents or evidence of any kind relating to the election, which might avail or aid the complainant in any suit he might have the right to bring either before this or any other court of justice.

This deponent says that said F. J. Herron was appointed by this deponent, as Governor of this State, in the year 1871, to discharge the duties of Secretary of State during the suspension of George E. Bovee, who had been elected Secretary of State at the general election of 1868, and who was suspended by this deponent for malfeasance in office; that he removed said F. J. Herron from the discharge of the duties of Secretary of State on the thirteenth of November, 1872, as he had a right to do; that at the meeting of the returning officers of election, F. H. Hatch and Durant DaPonte were duly selected returning officers; that at said meeting, Herron having been removed and Jack Wharton appointed Secretary of State, this deponent, in the presence of said Wharton and Lynch, moved the appointment of said Hatch and Durant DaPonte as returning officers, and said motion was put and declared carried, the said Lynch not voting yea or nay.

This deponent further says, that suits are now pending in the Eighth District Court, parish of Orleans, in which the said Longstreet, Hawkins, Lynch and Herron claim to be the legal returning officers, and that this suit is brought against said Wharton, DaPonte and Hatch, and this suit is undetermined, and a similar suit brought in said court by said Herron against said Wharton, claiming the office of Secretary of State, is pending already, as appears by copies of the petition in said suits herewith filed.

This deponent says that the complainant at the time of the election, on the fourth of November, 1872, and ever since, and now is a Senator of the United States.

H. C. WARMOTH.

Sworn to this nineteenth day of November, 1872.

JOHN B. WELLER,
United States Commissioner.

PETITION.

To the Honorable the Eighth District Court for the parish of Orleans:

The petition of the State of Louisiana, on the relation of the Attorney General, and on the information of the returning officers of election, to wit: Henry C. Warmoth, Frank J. Herron, John Lynch, James Longstreet and Jacob Hawkins, composing the board of said returning officers respectfully represent that the above named returning officers are duly qualified as such for making the returns of the election held in this State on the fourth of November, instant; that Jack Wharton, F. H. Hatch and Durant DaPonte are pretending to be such returning officers and attempting to act as such, and are interfering with the above named returning officers in the discharge of their duties as such officers, and especially with Frank J. Herron, James Longstreet and Jacob Hawkins, and are intruding into and usurping the office of returning officers of elections of the State, contrary and in violation of law and the rights of petitioner.

Wherefore, the premises considered, petitioner prays that said Jack Wharton, F. H. Hatch and Durant DaPonte be cited to answer this petition, and that, after all due proceedings, they be decreed to be intruders into and usurpers of the office of returning officers of election, and that Frank J. Herron, James Longstreet and Jacob Hawkins be decreed to be such returning officers, and petitioners further pray for costs and all general relief.

Simeon Belden, Attorney General, A. P. Field and J. Q. A. Fellows, of counsel.

A true copy:
ROBERT LYNNE, Deputy Clerk.

SUPPLEMENTAL PETITION.

Eighth District Court, No. 13,545. State of Louisiana, ex. rel. Attorney General, on information of F. J. Herron, vs. Jack Wharton, F. H. Hatch and Durant DaPonte.

The supplemental petition of the plaintiffs herein respectfully represents that all the allegations in the original petition are true, and in addition thereto that the attempt of the said defendants to act in the manner alleged in said petition, and are to act as returning officers of elections, and to act as such returning officers, will defeat the object of this suit and render nugatory the judgment therein prayed for, and that an injunction is necessary to prevent such a defeat of the objects of this suit, and prevent the law and the right of the State and the parties in interest from being violated.

Wherefore, petitioner prays for a writ of injunction against said Jack Wharton, F. H. Hatch and Durant DaPonte, enjoining and restraining them from in any way or manner, either directly or indirectly, sitting or acting as returning officers of elections, and especially of the election held in this State on the fourth day of November instant, or from in any manner interfering with the returning officers named in this petition, for whose benefit this suit is brought, or from intruding into or usurping the office of returning officers of elections, and from in any way interrupting or hindering the returning officers, and especially Frank J. Herron, James Longstreet and Jacob Hawkins, in the discharge or performing the duties of such returning officers, and petitioner further prays that after all due proceedings this injunction be made perpetual, and for costs and all general relief.

Simeon Belden, Attorney General, A. P. Field and J. Q. A. Fellows, of counsel.

[Affidavit.]

Personally appeared the undersigned, who, being duly sworn, says that all the allegations and statements of fact in the foregoing supplemental petition are true, and that an injunction is necessary.

F. J. HERRON.

Sworn to and subscribed before me this fourteenth November, 1872.

THOMAS LYNNE, Clerk.

Let the [illegible] to draw [illegible] be ordered to show cause on Saturday, November 16, 1872, at 11 A. M., why an injunction should not issue as within prayed for and according to law. Meanwhile, let the defendants be ordered to desist from the acts complained of until the hearing and determination of this rule.

HENRY C. DIBBLE, Judge.

New Orleans, November 14, 1872.

A true copy:
ROBERT LYNNE, Deputy Clerk.

SUPPLEMENTAL PETITION.

To the Honorable the Eighth District Court for the Parish of Orleans:

The supplemental petition of the State of Louisiana, through Simeon Belden, Attorney General, and of Francis J. Herron, Secretary of State of the State of Louisiana, with respect represents:

That these proceedings have been taken and are had with the view of maintaining the said Francis J. Herron, herewith signed with the State of Louisiana, in possession of the office of Secretary of State, which the said Francis J. Herron is now legally and actually possessing and exercising; that Jack Wharton, defendant herein, has threatened and is now attempting, in violation of the constitution and laws of the State, to take forcible possession of the office of Secretary of State of the State of Louisiana, and is, by force and arms, asserting a right to possess and exercise that office; and that the said defendant, Jack Wharton, is furthermore attempting, illegally and unconstitutionally, to exercise certain of the functions pertaining to the office of Secretary of State, which are not actually discharged in the office of Secretary of State, especially the right to sit as a member of the returning board, organized for canvassing the returns of the general election under the act relative to elections in the State of Louisiana.

The petitioner further represents: That, in order to prevent a violation of the constitution and the laws, and in order to maintain the said plaintiff in the possession of said office pending these proceedings, in conformity to the constitution and the laws, and in order to prevent the said Jack Wharton from asserting a right to, or attempting to obtain possession of the said office of Secretary of State, and in order to prevent the said defendant from attempting to exercise any of the functions of the office of Secretary of State, or doing any act pertaining to said office, and especially to prevent the said defendant from attempting to exercise the duties of a member of the returning board, under the law relative to elections in the State of Louisiana, it is necessary that a writ of injunction issue, restraining the said defendant from attempting to assert a right to the office of Secretary of State, or to exercise any of the functions of said office.

Wherefore the petitioner prays that the said Wharton be cited to answer this petition, that a writ of injunction may issue herein, enjoining Jack Wharton, defendant herein, from attempting by any manner or form to obtain possession of the office of Secretary of State of the State of Louisiana, and enjoining him, the said Jack Wharton, from asserting a right to the said office in any other manner than by legal proceedings in accordance with law, and enjoining him, the said defendant, from exercising or attempting to exercise any of the functions of the office of Secretary of State, and especially enjoining him, the said defendant, from exercising any of the functions pertaining to the office of Secretary of State, in connection with the canvass and returns of the general election held throughout the State of Louisiana on the fourth day of November, 1872. The petitioner prays for general relief and for costs.

S. Belden, Attorney General, J. Q. A. Fellows and A. P. Field, of counsel.

[Affidavit.]

Personally appeared the undersigned, who, being duly sworn, says all the facts and allegations in the foregoing petition are true.

F. J. HERRON.

Sworn to and subscribed before me, this fourteenth day of November, 1872.

ROBERT LYNNE, Deputy Clerk.

ORDER.

Let the supplemental petition be filed and the defendants cited. Let the defendants be ordered to show cause on Saturday, November 16, 1872, at 11 A. M., why an injunction should not issue as within prayed for and according to law. Meanwhile let the defendants be ordered to desist from acting or assuming to act as returning officers until the hearing and determination of this rule.

New Orleans, November 14, 1872.

HENRY C. DIBBLE, Judge.

A true copy:
ROBERT LYNNE, Deputy Clerk.

[Affidavit of H. C. Warmoth et als.]

Offered by defendants November 25, 1872.

To the Honorable Eighth District Court for the Parish of Orleans:

The petition of the State of Louisiana, through Simeon Belden, Attorney General, upon the information of Francis J. Herron, a resident of the city of New Orleans, with respect shows, that the said Francis J. Herron, joined with the State of Louisiana, is legally entitled to possession, and in actual possession of the office of Secretary of State of the State of Louisiana; that he is entitled to hold and to exercise the functions and duties of said office until his successor, elected at the general election held in the State of Louisiana on the fourth day of November, 1872, shall have been lawfully inducted into the said office.

The petitioner further represents that one Jack Wharton, a resident of the city of New Orleans, is illegally assuming to be, and is illegally asserting a right to the possession of the said office of Secretary of State, in violation of the constitution and laws of the State of Louisiana; that the said Jack Wharton has no color of right or authority to possess or exercise the functions of the said office, or to possess the said office, but that, nevertheless, he asserts himself to be, and assumes to be, Secretary of State as aforesaid, and to that extent the said Jack Wharton is illegally and unconstitutionally usurping and intruding into the said office in violation of the constitution and laws aforesaid.

The State of Louisiana, by these proceedings, joins the said Francis J. Herron herewith, and prays that the said Jack Wharton may be cited to appear and answer these proceedings, and that after all due and legal proceedings had, that he may be decreed to be usurping, intruding into and unlawfully assuming or asserting the right to exercise the functions of the office of Secretary of State as aforesaid; and furthermore, the petitioner prays that a judgment may be rendered in favor of the plaintiff and in favor of the said Francis J. Herron, Secretary of State as aforesaid, herewith joined with the State of Louisiana, decreeing the said Francis J. Herron to be entitled to have and to hold the said office of Secretary of State, and to be entitled to exercise the functions of said office, and that the decree may be so rendered as to maintain him in possession of said office until his successor has been inducted into office as aforesaid.

The petitioner prays for all such further and general relief as the exigencies of the case may demand or the law warrant, and for costs.

S. BELDEN,
Attorney General of Louisiana.
A. P. FIELD,
J. Q. A. FELLOWS,
of Counsel.

A true copy:
ROBERT LYNNE, Deputy Clerk.

[Affidavit of John McEnery.]

Offered by defendants November 25, 1872.

United States Circuit Court for the District of Louisiana. No. 3860. William P. Kellogg vs. H. C. Warmoth et als.—John McEnery, made a defendant herein, being sworn, says: That he is not a party to any plan, or scheme, or doings, by any party or person entrusted by law with any duty connected with the said election of the fourth of November, 1872, by which any other than a legal result may be accomplished, nor is he cognizant of the existence of any one to make a sham or fraudulent return or count; and he expressly denies that he is a party to any such attempts or designs, as charged in the bill; that he holds no office or commissions, and that he has nothing whatever to do with any count or return or canvass of votes, but is an entire stranger to the official conduct or private acts of any person intrusted by the laws with conducting said election.

JOHN McENERY.

Sworn to and subscribed before me this nineteenth of November, 1872.

F. B. VINOT,
United States Commissioner.

[Affidavit of Jack Wharton.]

Offered by defendants November 25, 1872.

Eighth District Court, No. 1354-6. The State of Louisiana ex rel. Attorney General vs. Jack Wharton, et als.—J. Wharton being sworn, says: That the fact set forth in the subjoined official report of the board of returning officers are true, and that the vote electing F. H. Hatch and Durant DaPonte was taken in the presence of John Lynch, who did not vote either yea or nay, and that after said Hatch and DaPonte were sworn in as members of said returning board, F. J. Herron stated that the proceedings were irregular, and proposed to said Lynch that they should withdraw, and the said Lynch, a few moments afterward, did withdraw.

OFFICE BOARD OF RETURNING OFFICERS,
New Orleans, November 14, 1872.

The board met at eleven o'clock, Tuesday, November 12, 1872, at the Governor's parlor in the State House.

Present—Messrs. Warmoth, Governor; Pinchback, Lieutenant Governor; Herron, Secretary of State, and John Lynch.

Mr. Herron raised the question of the qualifications of Messrs. Pinchback and Anderson to act as members of the board.

Mr. Warmoth asked for time to examine the question, and for the presence of Mr. Anderson.

After much debate, the board adjourned to meet at 12 M., November 13, at the Governor's office.

At 12 M. the board met pursuant to adjournment.

Present—Messrs. Warmoth, Lynch, Pinchback and Herron. Chief Justice Ludeling appeared to swear in the members of the board, and each took the oath with the exception of Mr. Pinchback.

On motion of Mr. Lynch, it was ordered that, for reason of ineligibility, Messrs. Pinchback and Anderson be not permitted to act as members of the board. Mr. Pinchback asked the opinion of the Chief Justice, who took the same view. Mr. Pinchback acquiesced in the action of the board and withdrew.

Mr. Jack Wharton then appeared, and presented a commission from the Governor as Secretary of State, exhibited his oath of office as Secretary of State and as a member of the board, and took his seat. Mr. Warmoth moved that Frank H. Hatch and Durant DaPonte be elected to fill the vacancies caused by the non-eligibility of Messrs. Pinchback and Anderson. Carried, Messrs. Warmoth and Wharton voting yea, and Mr. Lynch not voting. Messrs. Hatch and DaPonte were then sworn in by Judge Cooley, and took their seats. At this point General Herron stated that the proceedings were irregular, and left the room, followed by Mr. Lynch.

H. C. WARMOTH,
President of the Board, etc.
JACK WHARTON.

Sworn to and subscribed this sixteenth day of November, 1872, before me.

JOHN P. MONTAMAT,
Third Justice of the Peace.

H. C. Warmoth, being sworn, says that he has read the foregoing affidavit, and the facts therein stated are true.

H. C. WARMOTH.

Sworn to and subscribed this sixteenth day of November, 1872, before me.

JOHN P. MONTAMAT,
Third Justice of the Peace.

George A. Sheridan, being sworn, says he has read the foregoing affidavit, and the facts therein stated are true.

GEORGE A. SHERIDAN.

Sworn to and subscribed this sixteenth day of November, 1872, before me.

JOHN P. MONTAMAT,
Third Justice of the Peace.

United States of America, District of Louisiana: Personally appeared Henry C. Warmoth, Jack Wharton and George A. Sheridan, who, being severally sworn, declare and say that the facts, statements, averments and certificate on the first page of this sheet of paper are true.

H. C. WARMOTH,
GEORGE A. SHERIDAN,
JACK WHARTON.

Sworn to and subscribed before me, this nineteenth day of November, 1872.

JOHN B. WELLER,
United States Commissioner.

[Affidavit of F. H. Hatch and Durant DaPonte.]

Offered by defendants, November 25, 1872.

F. H. Hatch, being sworn, says: That he was called into the parlor of the Governor's office at the State House, at a meeting there on the thirteenth of November, 1872, of the returning officers of election under the State law, and was sworn in as a member of said board in the presence of John Lynch and F. J. Herron, and no objection was made thereto by said John Lynch, and the deponent as well as Durant DaPonte were sworn in by Judge Cooley.

After he was sworn in, F. J. Herron appealed to John Lynch to withdraw. Lynch replied: "I don't know about that," or words to that effect, but afterward on the importunity of said Herron, he withdrew.

F. H. HATCH.

Sworn and subscribed to before me, this eighteenth day of November, 1872.

WILLIAM GRANT,
United States Commissioner, District of Louisiana.

Durant DaPonte, being sworn, says: The facts set forth in the foregoing affidavit of F. H. Hatch are true.

DURANT DAPONTE.

Sworn and subscribed to before me, this eighteenth day of November, 1872.

WILLIAM GRANT,
United States Commissioner, District of Louisiana.

[Affidavits of Jack Wharton and H. C. Warmoth.]

Offered by defendants, November 25, 1872.

The defendant, Jack Wharton, being duly sworn, says: First—That on the thirteenth of November, 1872, he was duly appointed by the Governor of the State of Louisiana, Secretary of State of the State of Louisiana, as appears by his commission hereto annexed as part hereof.

Second—That on the same day and prior to his said appointment he resigned the office of State Assessor of the Fifth District of the parish of Orleans, as appears by a certified copy of his resignation hereto annexed.

Third—That on the same day this deponent took the oath of office prescribed by law, as appears by a certified copy thereof hereto annexed.

Fourth—That prior to the appointment of this deponent as Secretary of State aforesaid, and on the same day, to-wit: thirteenth November, 1872, the said Herron was removed by the Governor of the State of Louisiana from the performance of the duties of the office of Secretary of State, as appears by a copy of the order of removal hereto annexed as part hereof.

Fifth—That said Herron was originally appointed to perform the duties of said office of Secretary of State by the Governor of the State of Louisiana in the place of George E. Bovee, who had been elected Secretary of State at the general election held in the year 1868, and who had been suspended from the performance of the duties of said office of Secretary of State by the Governor of the State of Louisiana, as appears by a copy of the suspending order hereto annexed.

Sixth—That this deponent on his appointment aforesaid took peaceable possession of the office of Secretary of State, the seal of the State and the archives of the office of Secretary of State by virtue of said appointment, and holds the same, and proceeded to discharge the duties of his office, and the said Herron does not now hold the office of Secretary of State, or its seal, or its archives, nor was he in possession thereof at the time the petitions were filed.

Seventh—That in suit No. 35[illegible] of the docket of the Eighth District Court for the parish of Orleans the said F. J. Herron set up and relied on the removal and appointment aforesaid to discharge the duties of Secretary of State as aforesaid.

JACK WHARTON.

Sworn and subscribed to before me this eighteenth day of November, 1872.

WILLIAM GRANT,
United States Commissioner, District of Louisiana.

H. C. Warmoth, being sworn, says: That he has read the foregoing affidavit, and the facts therein stated are true.

HENRY C. WARMOTH.

Sworn and subscribed to before me, this eighteenth day of November, 1872.

WILLIAM GRANT,
United States Commissioner, District of Louisiana.

[Affidavits of Wharton, Warmoth and Sheridan.]

Offered by defendants November 25, 1872.

J. Wharton, being sworn, says: That the facts set forth in the subjoined official report of the board of returning officers are true, and that the vote electing F. H. Hatch and Durant DaPonte was taken in the presence of John Lynch, who did not vote either yea or nay, and that after said Hatch and DaPonte were sworn in as members of said returning board, F. J. Herron stated that the proceedings were irregular, and proposed to said Lynch that they should withdraw, and, and the said Lynch a few moments after did withdraw.

JACK WHARTON.

Sworn and subscribed to before me this eighteenth day of November, 1872.

WILLIAM GRANT,
United States Commissioner, District of Louisiana.

H. C. Warmoth, being sworn, says: He has read the foregoing affidavit, and the facts therein stated are true.

H. C. WARMOTH.

Sworn and subscribed to before me this eighteenth day of November, 1872.

WILLIAM GRANT,
United States Commissioner, District of Louisiana.

George A. Sheridan, being sworn, says: He has read the foregoing affidavit, and the facts therein stated are true.

GEORGE A. SHERIDAN.

Sworn and subscribed to before me this eighteenth day of November, 1872.

WILLIAM GRANT,
United States Commissioner, District of Louisiana.

[Order Suspending Bovee and Appointing Herron.]

Offered by defendants, November 25, 1872.

STATE OF LOUISIANA,
Executive Department,
New Orleans, August 29, 1871.

WHEREAS, George E. Bovee, Secretary of State, has in violation of the constitution and laws of this State caused to be promulgated as having become a law, "An act to incorporate the Crescent City Waterworks; to define its rights and duties; to punish offenses committed against the franchises of said company and the public health," with his official certificate that the foregoing act having been presented to the Governor of the State of Louisiana for his approval, and not having been returned by him to the house of the General Assembly, in which it originated, within the time prescribed by the constitution of the State of Louisiana, has become a law without his approval.

The said certificate having been made by the said Bovee with the knowledge communicated to him by the Governor of the State of Louisiana on the fourth day of May, 1871, that said bill would not become a law, or be acted upon, until the first day of the next session of the General Assembly; and

Whereas, The said Bovee has knowingly, willfully, unlawfully and with the purpose of imposing upon the people of the State as law that which he knows has not become a law;

Now, therefore, I, H. C. Warmoth, Governor of the State of Louisiana, charged with the faithful execution of the laws under the constitution of the State, do issue this my order suspending the said G. E. Bovee from the office of Secretary of State, and do hereby appoint F. J. Herron to discharge the duties of said office until the Legislature shall act upon the subject in accordance with the constitution.

Given under my hand and seal this twenty-ninth day of August, A. D. 1871, and of the independence of the United States the ninety-sixth.

H. C. WARMOTH,
Governor of Louisiana.

O. D. BRAGDON,
Private Secretary to Governor.

A true copy from the records of the office of the Secretary of State.

Y. A. WOODWARD,
Assistant Secretary of State.

[Removal of Herron and appointment of Wharton.]

Offered by defendants, November 25, 1872.

STATE OF LOUISIANA,
EXECUTIVE DEPARTMENT,
New Orleans, November 13, 1872.

WHEREAS, By an amendment of the constitution of the State, adopted at the general election held November 7, 1870, it is provided that no person who, at any time, may have been a collector of taxes, whether State, parish or municipal, or who may have been otherwise entrusted with public money, shall be eligible to the General Assembly, or to any office of profit or trust under the State government until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been entrusted.

And whereas, Official information has been received at this office that F. J. Herron is indebted to the State for moneys collected by him as tax collector in and for the Sixth District of New Orleans.

Now, therefore, I, Henry Clay Warmoth, Governor of the State of Louisiana, charged with the faithful execution of the laws under the constitution of the State, and in due observance of the provisions of the amendments to the same, do issue this my order removing F. J. Herron from the office of Secretary of State, and do hereby appoint Jack Wharton to discharge the duties of said office.

Given under my hand and the seal of the State this thirteenth day of November, 1872, and of the independence of the United States the ninety-seventh.

H. C. WARMOTH,
Governor of Louisiana.

Y. A. WOODWARD,
Assistant Secretary of State.

A true copy from the original on file in the office of the Secretary of State.

Y. A. WOODWARD,
Assistant Secretary of State.

[Commission to J. Wharton.]

Offered by defendants.

The United States of America, State of Louisiana. By Henry Clay Warmoth, Governor of the State of Louisiana.

In the name and by the authority of the State of Louisiana: Know ye, that I have nominated, constituted and appointed, and by these presents do nominate, constitute and appoint Jack Wharton Secretary of State in and for the State of Louisiana. And I do authorize and empower him to execute and fulfill the duties of that office according to law, and to have and to hold the said office, with all the powers, privileges and emoluments to the same, from and after the date hereof.

In witness whereof, I have hereunto signed my name and caused the great seal of the State to be affixed, at the city of New Orleans, this thirteenth day of November, in the year of our Lord 1872, and of the independence of the United States of America the ninety-seventh.

By the Governor:

H. C. WARMOTH.

A true copy:
Y. A. WOODWARD,
Assistant Secretary of State.

[Affidavit of O. D. Bragdon.]

Offered by defendants November 25, 1872.

O. D. Bragdon, private secretary of the Governor, deposes and says: That he was present at the meeting of the board of returning officers, and during the whole of the session on Wednesday, the thirteenth of November. That when the president of the board put the motion to select Messrs. F. H. Hatch and Durant DaPonte to fill the vacancies caused by the rejection of Messrs. Pinchback and Anderson, Mr. Warmoth and Jack Wharton voted "yea," and that Mr. Lynch did not vote "yea" or "nay," but was silent during the vote. That Messrs. Hatch and DaPonte were sworn in by W. H. Cooley, judge of the Sixth District Court of the parish of Orleans, in the presence of Mr. Lynch, who did not then or at any time during that time, nor protest against the action taken, and that it was only after Messrs. Hatch and DaPonte had taken their seats that Mr. Lynch was persuaded by the importunities of F. J. Herron to leave the board. That the said Lynch did so then, without any word of protest against the action which had been taken by the board.

The deponent further states, that Mr. Lynch took with him the minutes of the previous day's proceedings against the remonstrance of the Governor. That it is not true that a motion was made and put to elect James Longstreet and Jacob Hawkins. Mr. Herron attempted to make such a motion, but was interrupted in the midst of the attempt by the Governor, and prevented from completing the motion, nor did Mr. Lynch protest against the said Wharton taking his seat as Secretary of State, or member of the board of canvassers.

O. D. BRAGDON.

Sworn and subscribed to before me, November 18, 1872.

WILLIAM GRANT,
United States Commissioner, District of Louisiana.

[Affidavits of L. P. Blanchard, W. L. Catlin and O. D. Bragdon.]

Offered by defendants November 25, 1872.

State of Louisiana, Parish of Orleans—The undersigned personally appeared before ——, who declared and said: That it is to their knowledge that since the appointment of Jack Wharton to the office of Secretary of State, the said Jack Wharton has been in full and complete possession of the said office of Secretary of State.

That the police of the Metropolitan Police District has not been in possession of said office, but that the said Jack Wharton, by himself or his employes, have been in actual possession of said office, and all its archives, as well as the seal of the State.

W. L. CATLIN,
B. P. BLANCHARD,
O. D. BRAGDON.

Sworn and subscribed to before me this eighteenth day of November, 1872.

WILLIAM GRANT,
United States Commissioner, District of Louisiana.

[Affidavit of William H. Cooley.]

Offered by defendants November 25, 1872.

State of Louisiana, Parish of Orleans—Before me, the undersigned authority, personally appeared William H. Cooley, who, after being duly sworn, deposes and says: That on Wednesday, thirteenth November, 1872, he was present in the Governor's office, in the Mechanics' Institute, where the board of State canvassers met. That it is to his knowledge that Governor Warmoth, during the sessions of the board, made a motion that Messrs. Durant DaPonte and F. H. Hatch be declared duly appointed in the stead of Thomas C. Anderson and P. B. S. Pinchback, both determined to be incapable; that the said motion was put and carried; that John Lynch, one of the board of canvassers, was present during the whole of the proceedings, and upon the motion aforesaid of Governor Warmoth did not vote either in the negative or affirmative, but the motion having been carried, the affiant, in his judicial capacity, administered the oath of office to the said parties, to wit: Messrs. Durant DaPonte and F. H. Hatch, who thereupon took their seats at the table occupied by the board of State canvassers. Deponent further swears that during the whole of the above proceedings the said John Lynch was present, sitting at the head of the table, and only withdrew after the said DaPonte and Hatch were regularly sworn and inducted into office; and deponent further swears that the said John Lynch did not attempt to depart from the room until the said Hatch and DaPonte were sworn in, seated at the table of the board of State canvassers, and until the Governor as president of the board had declared the said board organized and ready for business, and had proceeded to break open some of the returns of the election; further, affiant says that the said John Lynch did not protest against the seating of Jack Wharton as one of the members of the board of canvassers.

W. H. COOLEY.

Sworn and subscribed to before me this eighteenth day of November, 1872.

WILLIAM GRANT,
United States Commissioner, District of Louisiana.

[Affidavit of Y. A. Woodward and O. D. Bragdon.]

Offered by defendants November 25, 1872.

Y. A. Woodward, Assistant Secretary of State, deposes and says: That he has been Assistant Secretary of State continuously for the past three months, and has had in his possession, as such, the seal of the State of Louisiana; that he turned the said seal over to Jack Wharton, Secretary of State, on Wednesday, thirteenth of the present month; that the said seal was kept in the safe of the Governor—except when in actual use—for safe keeping; and that no other seal has been in use, as the seal of the State, during the time that he has been Assistant Secretary of State; that it is not true, and can not be true, that F. J. Herron has the seal of the State in his possession.

Y. A. WOODWARD.

Sworn and subscribed to before me November 18, 1872.

WILLIAM GRANT,
United States Commissioner, District of Louisiana.

O. D. Bragdon deposes and says: That the facts as stated above he knows to be true.

O. D. BRAGDON.

Sworn and subscribed to before me November 18, 1872.

WILLIAM GRANT,
United States Commissioner, District of Louisiana.

[Affidavit of John Douglas.]

Offered by defendants, November 25, 1872.

John Douglas, being duly sworn, deposes and says: That F. J. Herron called on him on Friday, the eighth day of the present month, and ordered him to make a seal of the State of Louisiana for the office of Secretary of State. That it was to have been made by him and ready for delivery on the following Tuesday. General Herron did not call on Tuesday, but did call on the following Thursday. He then demanded the seal, which I refused to give him, for the reason that I observed by the press that he had been removed from the office of Secretary of State. He asked me if I did not know that I was liable for damages for my refusal, to which I responded that I was willing to take the responsibility. I still have the seal in my possession.

JOHN DOUGLAS.

Sworn to and subscribed before me this eighteenth day of November, 1872.

O. M. TENNISON,
Deputy Clerk, Eighth District Court.

Sworn and subscribed to before me this eighteenth day of November, 1872.

WILLIAM GRANT,
United States Commissioner.

INTERROGATORIES TO H. C. WARMOTH BY COMPLAINANT.

Filed November 20, 1872.

Circuit Court of the United States, District of Louisiana. In equity. No. 6830. William P. Kellogg vs. H. C. Warmoth et al.—And now comes the complainant herein by J. R. Beckwith and William H. Hunt, his solicitors, and exhibit and file in court interrogatories to be answered by the said defendant, H. C. Warmoth, as directed and allowed by the order of this honorable court, requiring the said defendant to show cause why he should not be punished for contempt of the orders and authority of this honorable court, as follows:

Interrogatories propounded to the defendant, H. C. Warmoth, under and in accordance with the order heretofore made in this cause, requiring him to show cause why he should not be punished for contempt of the orders of this court:

First—On what day and at what hour of the day were you served with a copy of the restraining order granted in this cause?

Second—Had you any knowledge of the existence of said restraining order before the service of a copy of the same on you? If yea, state the day and hour when you so became acquainted with the fact that said order had been allowed.

Third—Had you at the time you first knew of the existence of said order in your possession any certificate, statement of votes made by any supervisor of registration or other officer or officers of election in any manner connected with an election held in the State of Louisiana on the fourth day of November, A. D. 1872, and have you received any such document, paper, statement or certificate since the service of said order?

Fourth—Have you, since the date of service of or your knowledge of said restraining order permitted or allowed any person other than John Lynch, Frank J. Herron, James Longstreet and Jacob Hawkins to see, inspect, have access to, read or consult any paper, document, return or certificate alluded to, or in the said above propounded interrogatory, or in said restraining order, or the bill of complaint in this cause, and if so, give the names of all such persons and why they had access to the said documents, and why and for what purpose you permitted such access?

Fifth—Is it not true that you have allowed documents, statements of votes or other writings or statement referred to in the restraining order and bill of complaint herein to remain in the possession of persons claiming to act as clerks, servants, in counting or making a canvass relating to said election in any manner since the date of the service of said order on you and on your codefendants named in said order?

Sixth—Is it not true that you have publicly stated, in the presence of divers persons, that you would pay as little heed to any restraining order or injunction issued from the Circuit Court of the United States as you would heed so much waste paper or an injunction from a justices court, or words of like intent, meaning and import?

Seventh—Is it not true that you have on one or more occasions since the service of said restraining order, announced an intention to disregard and disobey the same?

Is it not true that you have opened, sealed or unsealed, packages containing statement of votes or other documents relating to an election held on the fourth day of November, A. D. 1872, the last general election since the service on you of a copy of the restraining order issued in this cause? If yea, state when, from what officer or officers or person said document, package and envelop came, and when and in whose presence the same was or were so opened, and who and what persons beside yourself have seen the same opened, or have seen any such documents.

Ninth—Is it not true that you have advised clerks which you claim to have appointed in connection with Jack Wharton, Durant DaPonte, Frank H. Hatch, or any other person or persons claiming to act as returning officers of election, that the restraining order issued in this cause did not affect them or any of them, and have you not permitted them or some of them to have custody of papers relating to said election and had knowledge of the fact that calculations, counts, statements relating to said election have been made since the service of said restraining order?

Tenth—Is it not true that you have since the date of the restraining order in this cause issued commissions to some officer or officers who was or were a candidate or candidates for election to office, either State, parochial or municipal, at the election held in this State on the fourth day of November, 1872? if yea, when did you issue such commissions, to what person or persons, and for what office or offices?

Eleventh—Is it not true that you have issued a commission to some person as sheriff of the parish of Orleans, either civil or criminal, who was a candidate for election at the last election in this State, the election referred to in the bill of complaint in this cause? If yea, state the name of the person or persons commissioned, the day and hour when such commission or commissions were delivered to such person or persons, and upon what evidence of election the same was or were issued; state particulars in full.

Twelfth—Have you done any act relating to said election referred to in the bill of complaint, or tending to make known to you or any other person or persons the result of said election since the service of the restraining order in this cause? If yea, state what you have done or what you have any knowledge of having been done, in full detail and particulars.

J. R. BECKWITH,
Solicitor for Complainant.

[Marshal's Return.]

Received by United States marshal November 20, 1872, and on the same day, month and year, served the within interrogatories on the within named H. C. Warmoth by handing the same to him in person at the Mechanics' Institute in this city.

C. R. STEELE,
Deputy United States Marshal.

INTERROGATORIES TO F. H. HATCH, DURANT DAPONTE AND JACK WHARTON BY COMPLAINANT.

Filed November 20, 1872.

Circuit Court of the United States, District of Louisiana. In equity, No. 6830.—William P. Kellogg vs. H. C. Warmoth, et al. And now comes the complainant herein by J. R. Beckwith and William H. Hunt, his solicitors, and exhibits and files in court interrogatories to be answered by the said defendants, Jack Wharton, Durant DaPonte and Frank H. Hatch, as directed and allowed by the order of this honorable court, requiring them to show cause why they should not be punished for contempt of the orders and authority of this honorable court, as follows:

Interrogatories propounded to Jack Wharton, Durant DaPonte and Frank H. Hatch, under and by virtue of the order of the court requiring them to show cause why they should not be punished for contempt of court for disobedience of its orders, and required them to answer in writing, under oath, interrogatories propounded to them:

First—Is it true that you, any, all, or either of you, have acted with the defendant, H. C. Warmoth, as returning officers to canvass or compile any of the statements of votes, made by the supervisors of registration about or concerning an election held in the State of Louisiana on the fourth day of November, A. D. 1872? If yea, state the day and hour at which you first began so to act, and the day and hour when you ceased to do any act as returning officers, and severally state the day and hour of the service of the restraining order in this cause on you respectively.

Second—Have you, or either of you, at any time since you knew of the existence of said restraining order, done either individually or collectively with each or any of you, or with the defendant, H. C. Warmoth, any act tending toward canvassing any statement of votes cast at the said election referred to in the bill of complaint? If yea, state the date and full details and particulars of such act or acts.

Third—Have you, or either of you, seen, had access to, read, or in any manner had made known to you, or either of you, the import, contents, statement or any deduction made from any statement of votes, certificate or document relating to said election referred to in the bill of complaint herein, which should properly be canvassed by returning officers of election? If yea, state what paper or document you have seen, when, where and by whose aid or connivance any such matter was made known to you.

Fourth—Is it not true that you, and each of you, have been well aware that persons claiming to be clerks appointed under alleged authority of the fifty-fifth section of "An act to regulate the conduct and maintain the freedom and purity of elections," etc., approved March 16, 1870, and a law of the State of Louisiana, have had free access to papers and documents relating to said election of November 4, 1872, and have been canvassing or examining the same since the date of the service of the restraining order in this cause? If yea, state the names of such persons and what they have done in that respect in full detail.

Fifth—Have you, or either of you, approved, made, or assisted in making, or signed, countersigned, attested or verified any statement of canvass or calculation of the vote cast, or the majority of votes cast for any person who was a candidate for office at said election, showing or tending to show the election or defeat of any such candidate, or any commission issued to any such person or persons as an officer, State, parochial or municipal? If yea, severally state in full detail all the particulars and date of all such act or acts.

J. R. BECKWITH,
Solicitor for Complainant.

MARSHAL'S RETURN OF SERVICE.

Received November 23, 1872, by the United States marshal, and on the same day, month and year served each of the within named persons with a copy hereof personally in this city, New Orleans, November 22, 1872.

CHARLES R. STEELE,
Deputy United States Marshal.

[Copy of Record of Suit No. 13,545 in the Eighth District Court for the Parish of Orleans.]

Offered by complainant November 25, 1872.

To the Honorable the Eighth District Court for the Parish of Orleans:

The petition of the State of Louisiana on the relation of the Attorney General and on the information of the returning officers of elections, to wit: Henry C. Warmoth, Francis J. Herron, John Lynch, James Longstreet and Jacob Hawkins, composing the board of said returning officers:

Respectfully represents that the above named returning officers of elections are duly qualified as such and for making the returns of the election held in this State on the fourth of November instant; that Jack Wharton, F. H. Hatch and Durant DaPonte are pretending to be such returning officers and attempting to act as such, and are interfering with the above named returning officers of elections in the discharge of their duties as such officers, and especially with Francis J. Herron, James Longstreet and Jacob Hawkins, and are intruding into and usurping the office of returning officers of elections of the State, contrary to and in violation of law and the rights of petitioners.

Wherefore, the premises considered, petitioners pray that Jack Wharton, F. H. Hatch and Durant DaPonte be cited to answer this petition, and that after all due proceedings they be decreed to be intruders into and usurpers of the office of returning officers of elections, and that Francis J. Herron, James Longstreet and Jacob Hawkins be decreed to be such returning officers.

[CONTINUED ON SIXTH PAGE.]