New Orleans Republican.

OFFICIAL JOURNAL OF THE UNITED STATES

OFFICIAL JOURNAL OF NEW ORLEANS

THE COURTS.

Superior District Court.

State of Louisiana, on information of F. A. Monroe, vs. E. Meunier.—The following opinion of the court was delivered by Judge Hawkins on Monday:

This case has been argued on the exception to the right of plaintiff to maintain the action. It is claimed by counsel for plaintiff that the action is two-fold in its character. It is brought for two purposes, under different statutes—first, under the intrusion in office act, and again under another statute, or alleged statute, which authorizes a contest of the election held, at which this office was voted for.

One of the counsel maintains that it is essentially an action under the intrusion act, and not a suit at all to contest the election. The other contends that it is both an action to contest the election and the right to hold the office. This last action must be brought by the Attorney General, and his signature appears. That formality of course has been complied with. The question as to the character of the action must be determined by the averments of the petition and the subsequent conduct of the plaintiff.

It is urged that the action is not a contest for the office, but that it is to contest the election simply. That is the position of the plaintiff. It is urged by defendant that it is an action to contest the election, and that the question arising under the intrusion act can not be entertained. The construction which the defendant places upon this action for the purpose of maintaining its character is involved in his answer to the notice served upon him prior to the institution of the suit. The plaintiff insists that the action is not prescribed because he could not know the result of the election and whether to commence a suit to contest the election at all until the result had been declared by the returning officers. Then it must be inferred that that was his view, that he meant to file a contest for the office, because he was desirous of avoiding the prescription urged against him. He would not seek to avoid prescription unless he considered that that was the character of the action he had presented before the court, because the other action under the intrusion act is not limited to ten days, and it would make no difference so far as the ten days were concerned.

It appears clearly enough that it is essentially an action to contest the election, and the important question to be considered is, whether you can cumulate these two actions. The law has provided a mode of procedure to contest the election, and has provided a very different mode, in which a different result is sought, in proceedings of *quo warranto*, or under the intrusion act. So that the exception that it was not brought within the delay allowed must determine this case, because the only action before the court is to contest the election, and the notice has not been given within the legal delay. There may, however, be some equitable excuse, because the party could not know the result, and could not know whether he was obliged to commence the action or not; and the rule which requires the limitation to date from the day of the election is harsh, because in many instances it might deprive parties from making the contest. I will therefore pass over that in order to consider another question.

It then becomes necessary to notice whether the action to contest the election can be maintained, because there is no law authorizing it, and whether it is a judicial question of which courts can take cognizance at all. The authorities cited from California by one of the counsel were predicated on a statute of that State authorizing and empowering judicial inquiry into the election. In New York it is not clear whether there is such a statute, but the inference is that there is. But there is no statute in Louisiana authorizing such a proceeding as to district judges. It is clear enough from the constitution that no such statute could be enacted, as it would clearly involve an inquiry into the election itself, if the case was opened, unless it was limited by statute. If, under its general jurisdiction, without limitation, the court would enter upon such an inquiry, it would be practically another election, held under the supervision of the court, and that would be a non-judicial function imposed upon the court, which the constitution forbids, Art. 82.

I therefore conclude that this question being non-judicial in character, and one which the court is not authorized to entertain, but forbidden, it is an inquiry which I could not enter upon or entertain under a statute if one were in existence. But there is no such statute in existence authorizing this mode of procedure, and the only mode by which the title to an office can be inquired into is by proceedings under the intrusion act. The present action not having been brought under that statute, I can not entertain the case at all.

The exceptions are sustained and the suit dismissed.

State of Louisiana vs. Charles Clinton, Auditor, et al., George A. Sheridan, intervenor.

Same vs. same and Antoine Dubuclet, Treasurer, New Orleans, Mobile and Texas railroad, intervenor.

Ordered that an appeal be granted to the Supreme Court, returnable on the third Monday of March, 1873.

State of Louisiana, ex rel. Patrick Irwin et al. vs. city of New Orleans.—Judgment rendered in favor of relator and the New Orleans City Railroad Company, and writ of mandamus made peremptory, requiring the city of New Orleans to cause Poland street, from Peters to Dolhonde street, a distance of twenty squares, in the Third District, to be widened not less than sixty feet in addition to its present width, on the lower or north side thereof, and to cause banquettes to be made not less than twelve feet in width each side of said street. It appears that relators own a majority of the property fronting upon the street in this locality.

Second District Court.

The following successions have been opened in this court: Mrs. Sarah M. Chappell, wife of Henry C. Dibble; Omer Debergue, wife and daughter, Marie Julie Debergue.

Fourth District Court.

J. Sharp McDonald vs. John Wilson—Judgment for plaintiff in the sum of $777 55, with interest.

J. Riviere vs. H. B. Foley and Mrs. M. M. Foley.—Civil sheriff ordered to show cause why he should not turn over to plaintiff the proceeds of the sale of the premises.

Sixth District Court.

Mr. John Miller has instituted suit in this court to recover the sum of $450, the damage he has suffered in the loss of a certain dog. The petition sets forth that on the night of the first of August, 1872, about ten o'clock, petitioner's watch dog, of Newfoundland breed, was poisoned by the adjoining neighbors, Joseph Kurtz and his wife, who maliciously threw poison to the said dog of the Newfoundland breed, who died in consequence of taking the same into his system. Hence the suit.

The defendants, for answer, put in a general denial: "Denying specially that the said dog was worth any money; that the plaintiff had no right under the existing laws and ordinances to keep a dog; that he had not paid the tax of $2 required by the City Council; that the dog did not wear the metal plate as required by law; that plaintiff's dog had never been on the street when police officers had orders to poison all dogs without the aforementioned plate.

"Your respondents now aver that the dog had the most loud, hideous and unbearable bark and howl imaginable, and that the said dog was a nuisance." "That the wife of the respondent was in a delicate state of health, and required the greatest possible silence for her recovery." That the above said dog, during the whole of each and every night of his existence while in possession of plaintiff, kept up a continuous and hideous and irritating bark and howl, furious and detrimental to your respondents' health and to their needful rest.

That the said furious and irritating bark drove away respondents' sleep, and rendered their existence unbearable.

Wherefore respondents pray that this case be tried by jury, that the claim be rejected, and that they have judgment against plaintiff for the sum of $5000, which they ask in reconvention.

THE SENATE YESTERDAY.

Thirtieth Day's Session.

SENATE CHAMBER,
New Orleans, February 11, 1873.

The Senate met pursuant to adjournment, and was called to order by Hon. C. C. Antoine, Lieutenant Governor of the State and President of the Senate.

On call of the roll the following Senators answered to their names:

Messrs. Alexander, Barber, Blackburn, Blunt, Burch, Brewster, Greene, Harris, P. F. Herwig, Harper, Ingraham, Kelso, Masicot, Pollard, Stamps, Sypher, Twitchell, Weber, Wharton—19.

The President of the Senate announced a quorum present.

Prayer by the Rev. Bishop John M. Brown.

The reading of the minutes of yesterday's proceedings was dispensed with, and the President announced that the journal stood approved, after the same had been corrected.

EXECUTIVE COMMUNICATION.

STATE OF LOUISIANA,
Executive Department,
New Orleans, February 10, 1873.

To the Honorable President and Members of the Senate:

I am directed by his excellency the Governor to inform you that he has this day signed a bill originating in your honorable body, making an appropriation for an office for the Attorney General of the State.

H. CONQUEST CLARKE,
Private Secretary.

Mr. Burch, chairman of the Committee on Enrollment, submitted the following report:

COMMITTEE ON ENROLLMENT,
February 11, 1873.

To the Honorable President and Members of the Senate:

Your Committee on Enrollment beg leave to report as having been duly enrolled the following bills:

Senate bill No. 3, entitled joint resolution asking Congress to give its material assistance in the suppression of slavery in the island of Cuba.

Also, Senate bill No. 22, entitled an act punishing extortion in office by the public officers of the State of Louisiana, of parishes, judicial and other districts, and of cities and towns incorporated or having governments authorized by law.

Also, Senate bill No. 30, an act for the relief of the *Semi-Weekly Louisianian*, a newspaper published in the city of New Orleans.

Respectfully,
J. HENRI BURCH, Chairman.

REPORTS OF COMMITTEES.

Mr. Anderson, chairman of the Committee on Judiciary, reported the following bill as a substitute for Senate bill No. 24:

A bill to be entitled an act to exempt from seizure and sale, under execution, property, real and personal, to the value of $2500, stating the manner and how said valuation shall be ascertained, and prescribing penalties for the violation of any provisions of this act, and prescribing the duties of the district attorneys and parish attorneys relative thereto, and to repeal all laws contrary to or in conflict with this act.

Lies over.

RESOLUTIONS.

Mr. Barber submitted the following resolution:

Resolved, That the Committee on Railroads and Internal Improvements be and are hereby authorized to employ an expert, and that he be paid out of the contingent fund of the Senate.

On motion of Mr. Barber the Senate rules were suspended and the resolution was adopted.

REPORTS LYING OVER.

Mr. Burch called up Senate joint resolution:

WHEREAS, The Governor of the State has ordered an election to fill vacancies now existing in the Senate; and

Whereas, The law governing said election requires that the State Senate shall elect a returning board; therefore, be it

Resolved, That, in accordance with said law, this Senate will proceed to the election of said returning board.

Mr. Burch moved to make the resolution the special order for one-quarter to one o'clock P. M.

Adopted.

Mr. Stamps called up Senate bill No. 27, a bill to be entitled an act to incorporate the city of Kenner, in the parish of Jefferson, left bank of the Mississippi river, State of Louisiana, and provide for the government of the same.

The bill was made the special order of the day for one o'clock Saturday next, February 15.

Mr. Sypher, by unanimous consent, introduced the following entitled bill:

An act to abolish the term of the Supreme Court at Opelousas, and to change the time of holding the term of that court at Monroe.

The bill was read the first time.

The constitutional rule was suspended by a four-fifths vote, and the bill read the second time.

Mr. Harris moved the bill be considered engrossed.

Mr. Kelso moved to refer the bill to the Committee on Judiciary.

Mr. Sypher moved to lay the motion to refer on the table, and called for the yeas and nays.

Pending the motion the Senate went into executive session.

Executive session having been raised, the pending question was resumed, being the call of the yeas and nays, on the motion of Mr. Sypher to lay on the table the motion to refer to the Judiciary Committee.

The following vote showed a tie:

Yeas—Alexander, Barber, Butler, Burch, Harris, P. F. Herwig, E. F. Herwig, Sypher, Twitchell, Weber—10.

Nays—Blunt, Blackburn, Brewster, Greene, Ingraham, Kelso, Masicot, Pollard, Stamps, Wharton—10.

The President gave the casting vote in the affirmative.

The Secretary declared that the Senate had tabled the motion to commit.

The bill was left on second reading, and the special order of the day was taken up.

SPECIAL ORDERS.

The special order of the day was taken up, being the following resolution:

WHEREAS, The Governor of the State has ordered an election to fill vacancies now existing in this Senate; and

Whereas, The law governing said election requires that the State Senate shall elect a returning board; therefore, be it

Resolved, That in accordance with said law this Senate will proceed to the election of said returning board.

The resolution was adopted.

Mr. Burch put in nomination the following names as a returning board to be voted for under section two, act No. 98, approved November 20, 1872: James Longstreet, Orleans; John Lynch, St. Bernard; J. Madison Wells, Rapides; Gadanne Casanave, Orleans; Louis M. Kenner, Orleans.

The Senate proceeded to elect by viva voce vote for each member separately.

Mr. Burch nominated James Longstreet.

The Secretary called the roll.

Messrs. Alexander, Anderson, Barber, Butler, Blunt, Blackburn, Brewster, Burch, Greene, Harris, P. F. Herwig, E. F. Herwig, Harper, Ingraham, Kelso, Masicot, Pollard, Stamps, Sypher, Twitchell, Weber—21.

The President announced that the Senate had made choice of James Longstreet a member of the returning board.

Mr Harris moved that the Senate proceed to the election of another member of the returning board.

Mr. Lynch was put in nomination and voted for by the following Senators:

Messrs. Alexander, Anderson, Barber, Butler, Blunt, Blackburn, Brewster, Burch, Greene, Harris, P. F. Herwig, E. F. Herwig, Harper, Ingraham, Kelso, Masicot, Pollard, Stamps, Sypher, Twitchell, Weber—21.

The President declared that the Senate had elected John Lynch, of St. Bernard, a member of the returning board.

The Senate then proceeded to ballot for the third member of the said returning board.

J. Madison Wells, of Rapides, was put in nomination, and voted for by the following Senators:

Messrs. Anderson, Barber, Butler, Blunt, Blackburn, Brewster, Burch, Greene, Harris, P F. Herwig, E. F. Herwig, Harper, Ingraham, Kelso, Masicot, Pollard, Sypher, Stamps, Twitchell, Weber—20.

Nay—Alexander—1.

The President then announced that J. Madison Wells was duly elected a member of the returning board.

The Senate then proceeded to ballot for the fourth member of said returning board.

Gadanne Casanave was then put in nomination, and voted for by the following Senators:

Messrs. Alexander, Anderson, Blackburn, Barber, Butler, Blunt, Brewster, Burch, Greene, Harris, P. F. Herwig, E. F. Herwig, Harper, Ingraham, Kelso, Masicot, Pollard, Stamps, Sypher, Twitchell, Weber—21.

The President then announced that the Senate had made choice of Gadanne Casanave, of Orleans, a member of the returning board.

The Senate then proceeded to the election of the fifth member of the said returning board.

Louis M. Kenner, of Orleans, was then put in nomination, and voted for by the following Senators:

Messrs. Alexander, Anderson, Barber, Butler, Blunt, Blackburn, Brewster, Burch, Greene, Harris, Harper, P. F. Herwig, E. F. Herwig, Harper, Ingraham, Kelso, Masicot, Pollard, Stamps, Sypher, Twitchell, Weber—21.

The President then announced that the Senate had made choice of Louis M. Kenner, of Orleans, as a member of the returning board.

The President then officially announced that the Senate had elected and constituted, under the law of the State, the following as the board of returning officers for the State of Louisiana:

James Longstreet, of Orleans; John Lynch, of St. Bernard; James Madison Wells, of Rapides; Gadanne Casanave, of Orleans; Louis M. Kenner, of Orleans.

Mr. Burch called up the special order of the day, fixed for 2 P. M., a bill entitled an act granting corporate privileges to the inhabitants of the city of Baton Rouge, parish of East Baton Rouge, and to provide for the government of the affairs thereof; and to repeal and act entitled "an act relative to the police and government of the city of Baton Rouge," approved April 2, 1853; and to repeal an act to provide for the government of the city of Baton Rouge, approved March 8, 1856, and to repeal all acts amendatory thereto.

The bill being on second reading, was read, and, on motion of Mr. Burch, considered engrossed.

Under a suspension of the constitutional rule, the bill was read the third time and finally adopted, its title to stand.

INTRODUCTION OF BILLS.

Mr. Harris introduced the following bill by unanimous consent:

An act entitled an act to amend an act entitled an act to amend sections seven, eight and seventy of an act entitled an act to regulate the conduct and maintain the freedom and purity of elections, to provide the mode of making returns thereof, to provide for the election of returning officers and defining their powers and duties, to prescribe the mode of entering upon the rolls of the Senate and House of Representatives, and to enforce article 103 of the constitution.

Bill read first time.

Constitutional rule was suspended and the bill read a second time.

The bill was consided engrossed and ordered to a third reading and read.

The bill finally passed with its title.

UNFINISHED BUSINESS.

Mr. Barber called up House bill No. 116, entitled an act to admit American citizens who have studied law in the legal institutions of France, Germany and England, and who have been admitted to practice in the superior courts of those respective countries, to practice in the several courts of Louisiana.

The bill was taken up and read the third time and finally adopted with its title.

Mr. Harris moved to adjourn until Thursday next.

The President then announced that the Senate stood adjourned till Thursday, February 13, 1873, at twelve o'clock M.

Houston and New Orleans.

The *Union* learns that a number of strong New Orleans houses contemplate establishing branches of their business in Houston. The *Union* adds:

Now that the completion of the New Orleans road inside of eighteen months is pretty well assured, it is certainly good policy on the part of New Orleans merchants to get into position here, in order to hold their customers now disposed to trade northward or with Galveston. We want wholesale merchants, with full stocks, to aid Houston in maintaining her commercial position. Whatever contributes to this result will in like measure benefit New Orleans, when railroad connection is established. With railroad and improved water communication open to New Orleans, as it soon will be, Houston and New Orleans will be able to work in harmony to secure the trade of Texas for Southern centres. At present, while the foreign trade of New Orleans is increasing rapidly, her domestic trade is depressed. There is no better way for her to preserve close relations with all that part of Texas formerly trading with her than to be ready to sell them goods in Houston. A strong combination of first class New Orleans houses would attract to Houston a trade, a large portion of which would naturally flow toward New Orleans after the railroad is completed. Our real estate owners should begin to consider this question, so that if more buildings are to be needed they may provide them.

Rise in the River—Danger Apprehended.

The Tensas *Journal* says:

The Mississippi river at this point is swelling pretty rapidly. We fear that we shall have very high water this year, and we are not prepared for it. If the weather should turn warm enough to thaw the ice in the upper rivers, the water will go over the crevasses at Disharoon and Diamond Island, which will submerge our parish and cause the loss of property enough to almost buy out an ordinary Legislature.

The Donaldsonville *Chief* says:

The river is rising rapidly, and a constant stream of driftwood rushes past here. A gentleman informs us that he has the word of a raftsman that a large block of ice lodged against his raft, which was fastened to the river bank a mile or so above town, one day last week. It is very seldom that ice is seen floating in the river below Vicksburg, and we never before heard of its reaching a point so far south as this.

OFFICIAL.

Laws of the United States Passed at the Third Session of the Forty-Second Congress.

[GENERAL NATURE—No. 1.]

An act to authorize the construction of bridges across the Ohio river, and to prescribe the dimensions of the same.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any persons or corporations, having lawful authority therefor, may hereafter erect bridges across the Ohio river, for railroad or other uses, upon compliance with the provisions and requirements of this act.

SEC. 2. That every bridge hereafter erected across the Ohio river, above the mouth of the Big Sandy, shall have at least one span of a height of not less than ninety feet above low water, and of not less than forty feet above local highest water, measured to the bottom chord of the bridge: that every bridge hereafter erected across the Ohio river below the mouth of the Big Sandy, shall have at least one span of a height of not less than one hundred feet above low water, and of not less than forty feet above highest water, measured to the bottom chord of the bridge: that this high span shall give a clear opening of at least four hundred feet between the piers, measured at right angles to the current at every stage, and that it shall be placed over the main channel of the river used by boats during ordinary stages of water; provided, however, that any one company, lawfully authorized by the States of West Virginia and Ohio, is hereby authorized to construct a bridge across the Ohio river, from the city of Wheeling, in the State of West Virginia, to the opposite side of said river within the State of Ohio, with a span over the main channel of not less than three hundred and fifty feet in length, and in all other respects conformable and subject to the provisions of this act, so far as the same are applicable to bridges about the mouth of the Big Sandy; and provided, that in case this high span is not over the low-water channel, suitable arrangements be made elsewhere to permit the passage of single boats under the bridge at low water; that all bridges over the Ohio river below the Covington and Cincinnati suspension bridge, shall have, in addition to the high span prescribed above, a pivot draw, giving two clear openings of one hundred and sixty feet each, measured at right angles to the current at the average stage of water in the river, and located in a part of the bridge that can be safely and conveniently reached at that stage, and that said draw shall be opened promptly, upon reasonable signal, for the passage of boats whose construction shall not be such as to admit of their passage under the stationary spans of said bridge, except when trains are passing over the same; but in no case shall unnecessary delay occur in opening the said draw before or after the passage of trains.

SEC. 3. That the piers of the high span and the piers of the draw shall be built parallel with the current at that stage of the river which is most important for navigation: and that no ripraps or other outside protection for imperfect foundation will be permitted in the channel-way of the high-span, or of the draw openings.

SEC. 4. That any person, company, or corporation authorized to construct a bridge across the Ohio river shall give notice, by publication for one week in newspapers having a wide circulation, in not less than two newspapers in the cities of Pittsburg, Cincinnati, and Louisville, for bridges, above the mouth of the Big Sandy, and in the cities of Pittsburg, Cincinnati, Louisville, St. Louis, Memphis, and New Orleans, for bridges below the mouth of the Big Sandy, and shall submit to the Secretary of War, for his examination, a design and drawings of the bridge and piers, and a map of the location, giving, for the space of at least one mile above and one mile below the proposed location, the topography of the banks of the river, the shore lines at high and low water, the direction of the current at all stages, and the soundings accurately showing the bed of the stream, the location of any other bridge or bridges, and shall furnish such other information as may be required for a full and satisfactory understanding of the subject by the Secretary of War; and if the Secretary of War is satisfied that the provisions of the law have been complied with in regard to location, the building of the piers may be at once commenced; but if it shall appear that the conditions prescribed by this act can not be complied with at the location where it is desired to construct the bridge, the Secretary of War shall, after considering any remonstrances filed against the building of said bridge, and furnishing copies of such remonstrances to the board of engineers provided for in this act, detail a board composed of three experienced officers of the corps of engineers, to examine the case, and may, on their recommendation, authorize such modifications in the requirements of this act, as to location and piers, as will permit the construction of the bridge; not, however, diminishing the width of the spans contemplated by this act; provided, that the free navigation of the river be not materially injured thereby.

SEC. 5. That all parties owning, occupying or operating bridges over the Ohio river shall maintain, at their own expense, from sunset to sunrise throughout the year, such lights on their bridges as may be required by the lighthouse board for the security of navigation; and all persons owning, occupying or operating any bridge over the Ohio river shall, in any event, maintain all lights on their bridge that may be necessary for the security of navigation.

SEC. 6. That any bridge constructed under this act, according to its limitations, shall be a lawful structure, and shall be recognized and known as a post route, upon which, also, no higher charge shall be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States than the rate per mile paid for the transportation over the railroads or public highways leading to said bridge; and the United States shall have the right of way for postal telegraph purposes across any such bridge; and in case of any litigation arising from any obstruction or alleged obstruction to the navigation of said river, created by the construction of any bridge under this act, the cause or question arising may be tried before the district court of the United States of any State in which any portion of said obstruction or bridge touches.

SEC. 7. That the right to alter or amend this act, so as to prevent or remove all material obstructions to the navigation of said river by the future construction of bridges, is hereby expressly reserved, without any liability of the government for damages on account of the alteration or amendment of this act, or on account of the prevention or requiring the removal of any such obstructions; and if any change be made in the plan of construction of any bridge constructed under this act, during the progress of the work thereon or before the completion of such bridge, such change shall be subject to the approval of the Secretary of War; and any change in the construction, or any alteration of any such bridge that may be directed at any time by Congress, shall be made at the cost and expense of the owners thereof.

SEC. 8. That joint resolution number ten, approved April seventh, eighteen hundred and sixty nine, authorizing the construction of a bridge over the Ohio river at Paducah, be, and the same hereby is, repealed.

SEC. 9. That the provisions of an act entitled "An act to provide for the better security of life on vessels propelled in whole or in part by steam," etc., approved February twenty-eighth, eighteen hundred and seventy-one, so far as they relate to the limitation of steam pressure of steamboats used exclusively for towing and carrying freight on the Mississippi river and its tributaries, are hereby so far modified as to substitute for such boats one hundred and fifty pounds of steam pressure in place of one hundred and ten pounds, as provided in said act for the standard pressure upon standard boilers of forty-two inches diameter, and of plates of one-quarter of an inch in thickness; and such boats may, on the written permit of the supervising inspector of the district in which such boats shall carry on their business for a period of twelve months from and after the passage of this act, be permitted to carry steam above the standard pressure of one hundred and ten pounds, but not exceeding the standard pressure of one hundred and fifty pounds to the square inch.

J. G. BLAINE,
Speaker of the House of Representatives.
SCHUYLER COLFAX,
Vice President of the United States and President of the Senate.

Approved, December 17, 1872.
U. S. GRANT.

[GENERAL NATURE—No. 3.]

An act for the reduction of officers and expenses of the internal revenue.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on the first day of July, eighteen hundred and seventy-three, or at such time prior thereto, in the districts respectively, as the Commissioner of Internal Revenue may find practicable, the offices of assessor and assistant assessor of internal revenue shall cease to exist; thereupon all duties imposed by law on assessors and assistant assessors, except as hereinafter otherwise provided, be, and the same are hereby, transferred to and imposed upon collectors of internal revenue, to be performed by them or their deputies; and that all returns and reports required by law to be made to the said assessors and assistant assessors shall be made to the said collectors, or to their deputies: and that each of said assessors shall, prior to the date aforesaid, and at the time set therefor by the Commissioner of Internal Revenue, transfer to such revenue officer as may be designated by the Commissioner of Internal Revenue for that purpose all books, papers and other property belonging to the government in his possession, or in that of any of his assistant assessors, and shall file with his final account an inventory thereof in detail, with the receipt of said revenue officer therefor; and from the time set for said transfer, his office and that of his assistants shall cease.

SEC. 2. That the Commissioner of Internal Revenue is hereby authorized and required thereafter to make the inquiries, determinations and assessments of the following taxes, to wit:

For deficiencies imposed by the provisions of section twenty of an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July twentieth, eighteen hundred and sixty-eight, as amended by subsequent acts.

Semi-annually, upon the deposits, capital, and circulation of each person, bank, association, company, or corporation engaged in the business of banking, imposed by the provisions of section one hundred and ten of an act entitled "An act to provide internal revenue to support the government and to pay interest on the public debt, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four, as amended and supplemented by subsequent acts.

Upon articles provided for in section five, and in the first proviso of section fourteen of an act entitled "An act to amend existing laws relating to internal revenue, and for other purposes," approved March second, eighteen hundred and sixty-seven.

Upon tobacco, snuff and cigars, provided for in section sixty of an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July twentieth, eighteen hundred and sixty-eight, as amended by section thirty-one of an act entitled "An act to reduce duties on imports and to reduce internal taxes, and for other purposes," approved June sixth, eighteen hundred and seventy-two.

Upon legacies and successions, and of all other internal revenue taxes liable to be assessed, or accruing under the provisions of former acts; and the said Commissioner shall certify such assessments, when made, to the proper collectors, respectively, who shall proceed to collect and account for taxes so certified in the same manner as assessments on lists are now collected and accounted for.

SEC. 3. That all special taxes imposed by law, accruing after April thirty, eighteen hundred and seventy-three, including the tax on stills, or worms, shall be paid by stamps denoting the tax, and the Commissioner of Internal Revenue is hereby authorized and required to procure appropriate stamps for the payment of such taxes; and the provisions of section twenty-six and one hundred and one of an act entitled, "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July twentieth, eighteen hundred and sixty-eight, and all other provisions of law relating to the preparation and issue of stamps for distilled spirits, fermented liquors, tobacco and cigars, so far as applicable, are hereby extended, so as to include such stamps, and the Commissioner of Internal Revenue shall have authority to make all needful rules and regulations relative thereto. Every person engaged in any business, avocation, or employment, who is thereby made liable to a special tax, except tobacco peddlers, shall place and keep conspicuously in his establishment or place of business all stamps denoting the payment of said special tax; and any person who shall, through negligence, fail to so place and keep said stamp shall, upon conviction, be sentenced to pay a penalty equal to the special tax for which his business rendered him liable, and the costs of prosecution; but in no case shall said penalty be less than ten dollars. And where the failure to comply with the foregoing provision of law shall be through willful neglect or refusal, then the penalty shall be double the amount above prescribed; provided, that nothing contained in this section shall change, or in any way affect the liability of any person for exercising or carrying on any trade, business or profession, or doing any act for the exercising, carrying on or doing of which a special tax is imposed by law, without the payment thereof.

SEC. 4. That each collector of internal revenue shall, under regulations of the Commissioner of Internal Revenue, place and keep conspicuously in his office, for public inspection, an alphabetical list of the names of all persons who shall have paid special taxes within his district, and shall state thereon the time, place and business for which such special taxes have been paid.

SEC. 5. That section one hundred and ten of an act entitled "An act to provide internal revenue to support the government, to pay interest on the public debt, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four, as subsequently amended, be so amended that the returns therein required to be made shall be made and rendered semi-annually on the first day of December and the first day of June, in duplicate: one copy of which shall be transmitted to the collector of the proper district, and one copy to the Commissioner of Internal Revenue.

SEC. 6. That the act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July twentieth, eighteen hundred and sixty-eight, as amended by subsequent acts, be further amended as follows, to wit:

That section five be amended so that the duplicate statement therein required to be retained by the assistant assessor of the district shall, from and after the time when the office of said assistant assessor shall cease, be transmitted by the collector to the Commissioner of Internal Revenue.

That section nineteen be amended so that one of the duplicate returns therein required to be sent to the assistant assessor of the district shall, from and after the time when the office of said assistant assessor shall cease, be transmitted by the collector to the Commissioner of Internal Revenue.

That section twenty-eight be so amended that all of the additional commission of one-half of one per centum therein allowed shall be paid to the collector receiving the tax on all spirits produced after the office of the assessor shall cease under the provisions of this act; provided, that the total net compensation of collectors as now fixed by law shall not be thereby increased.

That section fifty-nine be so amended that in case any peddler refuses to exhibit a proper certificate from the collector of his or her district, and fails to show cause why the property seized shall not be forfeited, proceedings for its forfeiture shall be taken and had under the general provisions of the internal revenue laws relating to forfeitures.

That the provisions of section one hundred and three be extended and made applicable to the provisions of this act.

SEC. 7. That section forty three of an act entitled "An act to reduce duties on imports and to reduce internal taxes, and for other purposes," approved June sixth, eighteen hundred and seventy-two, be, and the same is hereby, repealed.

SEC. 8. That the Commissioner of Internal Revenue shall, under the direction of the Secretary of the Treasury, require that each collector of internal revenue shall, before entering upon the duties prescribed by this act, give additional bond, conditioned that said collector shall faithfully perform the duties of his office according to the provisions of existing laws or of laws hereafter enacted.

SEC. 9. That the Commissioner of Internal Revenue be, and hereby is, authorized to designate one of the heads of division as chief clerk of the bureau without additional compensation.

Approved December 24 1872.

[GENERAL NATURE—No. 4.]

An act to provide for holding adjourned terms of the Supreme Court of Arizona.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the supreme court of the Territory of Arizona may hold adjourned terms thereof at any time and place in said Territory agreed upon by a majority of the judges of said court at any regular term thereof. The order for an adjourned term shall be signed by a majority of the judges thereof at a regular term of said court and entered upon the minutes of the court, and any business which such court might do at any regular term thereof may be done at such adjourned term; and the clerk of said court shall be entitled to such mileage for attendance at such adjourned term as is by law allowed the marshal of the district of Arizona for his attendance upon the courts in said Territory.

Approved December 24, 1872.

[GENERAL NATURE—No. 5.]

An act making appropriations to supply deficiencies in the appropriations for the service of the government for the fiscal year ending June thirty, eighteen hundred and seventy-three, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated for the service of the year ending June thirtieth, eighteen hundred and seventy-three, for the purposes hereinafter expressed, namely:

POSTOFFICE DEPARTMENT.

For the manufacture, engraving and printing of postal cards for the service of the quarter ending June thirtieth, eighteen hundred and seventy-three, fifty thousand dollars.

For registry-locks, to be used on through mail routes for pouches containing registered letters, three thousand dollars.

COAST SURVEY.

For replacing old and worn-out vessels for service in the coast survey, one hundred and fifty thousand dollars.

For continuing the survey of the Atlantic and Gulf coasts and Lake Champlain, including compensation of civilians engaged in the work, and excluding pay and emoluments of officers of the army and navy and petty officers and men of the navy employed in the work, twenty thousand dollars.

CENSUS.

For a deficiency in the appropriations for the expenses of the ninth census, twelve thousand dollars.

REBEL RAM "ALBEMARLE."

To enable the Secretary of the Navy to pay the captors of the rebel ram "Albemarle," in accordance with the decree of the district court of the United States for the District of Columbia, two hundred and two thousand nine hundred and twelve dollars and ninety cents.

PATENT OFFICE.

For photo lithographing, or otherwise producing copies of drawings of current and back issues of patents from the patent office, and for reproducing back numbers of the *Patent Office Gazette*, twenty thousand dollars.

DISTRICT OF COLUMBIA.

To enable the Secretary of the Interior to pay the expenditures made by the board of public works of the District of Columbia for paving roadway, and curbing and paving sidewalks; grading, sewerage and other improvements upon and adjoining the property of the United States in the District of Columbia, one million two hundred and forty-one thousand nine hundred and twenty dollars and ninety-two cents, or so much thereof as may be necessary; provided, that all payments under this appropriation shall be made only upon vouchers approved by the officer in charge of the public buildings and grounds of the district, after full examination and measurement of the said improvements, and the approval of the prices claimed therefor; and provided further, that the said board of public works be, and they are hereby, prohibited from incurring or contracting further liabilities on behalf of the United States in the improvements of the streets, avenues, and reservations beyond the amount of appropriations previously made by Congress, and from entering into any contract touching such improvements on behalf of the United States, except in pursuance of appropriations made by Congress.

Approved January 8, 1873.

[GENERAL NATURE—No. 6.]

An act to amend the one hundred and thirty-third section of an act approved June eighth, eighteen hundred and seventy-two, entitled "An act to revise, consolidate, and amend the statutes relating to the Post-office Department."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section one hundred and thirty-three of the act entitled "An act to revise, consolidate, and amend the statutes relating to the Post-office Department," approved June eighth, eighteen hundred and seventy-two, be so amended as to authorize the transmission by mail of packages of seeds, cuttings, bulbs, roots, and scions, of any weight, for each of such packages, not exceeding four pounds, at a rate of postage of one cent for each two ounces or fractions of an ounce of such package or packages; provided, that all mail matter of the third class must be prepaid in full in postage stamps at the office of mailing.

Approved January 9, 1873.

[GENERAL NATURE—No. 7.]

An act making appropriations for the payment of invalid and other pensions of the United States for the year ending June thirtieth, eighteen hundred and seventy-four.

Be it enacted by the Senate and House of Representates of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the payment of pensions for the fiscal year ending the thirtieth of June, eighteen hundred and seventy-four.

For army pensions to invalids, widows and dependent relatives, revolutionary pensions, and pensions to soldiers of the war of eighteen hundred and twelve, and for furnishing artificial limbs or apparatus for resection, with transportation, or commutation therefor; also, for compensation to pension agents, and the expenses of the several agencies, and for fees for preparing vouchers and administering oaths, as provided for by the acts of April twenty-fourth, eighteen hundred and sixteen; July fourth, eighteen hundred and thirty-six; May fourteenth, eighteen hundred and forty-six; February twentieth, eighteen hundred and forty-seven; February second, eighteen hundred and forty-eight; July twenty-first, eighteen hundred and forty-eight; July twenty-ninth, eighteen hundred and forty-eight; February third, eighteen hundred and fifty-three; June third, eighteen hundred and fifty-eight; July fourteenth and seventeenth, eighteen hundred and sixty-two; June thirtieth, eighteen hundred and sixty-four; June sixth and July twenty-fifth, eighteen hundred and sixty-six; July twenty-seventh, eighteen hundred and sixty-eight; June seventeenth and July eighth and eleventh, eighteen hundred and seventy; February fourteenth, eighteen hundred and seventy-one; and February twentieth, eighteen hundred and seventy-two; and all other pensions provided by law, thirty million dollars.

For navy pensions to invalids, widows and dependent relatives, and pensions to sailors of the war of eighteen hundred and twelve, and for furnishing artificial limbs or apparatus for resection, with transportation or commutation therefor, compensation to pension agents, expenses of agencies and fees for preparing vouchers and administering oaths, as provided by the acts of April twenty-third, eighteen hundred; February twentieth, eighteen hundred and forty-seven; August eleventh, eighteen hundred and forty-eight; July fourteenth and seventeenth, eighteen hundred and sixty-two, June thirtieth, eighteen hundred and sixty-four; June sixth and July twenty-fifth, eighteen hundred and sixty-six; March second, eighteen hundred and sixty-seven; July twenty-seventh, eighteen hundred and sixty-eight; June seventeenth and July eighth and eleventh, eighteen hundred and seventy; and February twentieth, eighteen hundred and seventy-two; and all other pensions provided by law, four hundred and eighty thousand dollars; provided, that the appropriation aforesaid for navy pensions, and the other expenditures under that head, shall be paid from the income of the navy pension fund, so far as the same may be sufficient for that purpose.

Approved January 10, 1873.

[GENERAL NATURE—No. 8.]

An act supplemental to and amendatory of an act entitled "An act to prescribe the mode of obtaining evidence in cases of contested elections," approved February nineteen, eighteen hundred and fifty-one.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all contested election cases the time allowed for taking testimony shall be ninety days, and the testimony shall be taken in the following order: The contestant shall take testimony during the first forty days; the returned member during the succeeding forty days; and the contestant may take testimony in rebuttal only during the remaining ten days of said period. Such testimony in rebuttal may be taken on five days' notice. Testimony may be taken at two or more places at the same time.

SEC. 2. Depositions of witnesses residing outside of the district and beyond the reach of a subpena, may be taken before any officer authorized by law to take testimony in contested election cases in the district in which the witness to be examined may reside.

SEC. 3. That the party desiring to take a deposition or depositions under the provisions of this act, or of the act to which this is an amendment, shall give the opposite party notice, in writing, of the time and place, when and where, the same will be taken, as well as of the name of the witness or witnesses to be examined, and of the name of an officer before whom the same will be taken. The notice shall be personally served upon the opposite party, or upon any agent or attorney of his authorized by him to take testimony or cross-examine witnesses in the matter of such contest, if, by the use of reasonable diligence, such personal service can be made; but if, by the use of such diligence, personal service can not be made, the service may be made by leaving a duplicate of the notice at the usual place of abode of the opposite party. The notice shall be served so as to allow the opposite party sufficient time by the usual route of travel to attend, and one day for preparation, exclusive of Sundays and the day of service. And the taking of the testimony may, if so stated in the notice, be adjourned from day to day. The notice, with the proof or acknowledgment of the service thereof, shall be attached to the depositions when completed. The party notified as aforesaid, his agent or attorney, may, if he see fit, select an officer (having authority to take depositions in such cases) to officiate, with the officer named in the notice, in the taking of the depositions; and if both such officers attend, the depositions shall be taken before them both, sitting together, and be certified by them both. But if only one of such officers attend, the depositions may be taken before and certified by him alone. It shall be competent before the parties, their agents, or attorneys authorized to act in the premises, by consent in writing, to take depositions without notice; and it shall also be competent for them, by such written consent, to take depositions (whether upon or without notice) before any officer or officers authorized to take depositions in common law, or civil actions, or in chancery, by either the laws of the United States or of the State in which the same may be taken, and to waive proof of the official character of such officer or officers. Any written consent given as aforesaid shall be returned with the depositions; and every such officer so chosen by the parties, their agents or attorneys and officiating, shall have all the powers in the premises that are conferred by the act to which this is an amendment upon the officers named therein. At the taking of any deposition under this act, or the act to which this is an amendment, either party may appear and act in person, or by agent or attorney.

SEC. 4. All officers taking testimony to be used in a contested election case, whether by deposition or otherwise, shall, when the taking of the same is completed, and without unnecessary delay, certify the same, and carefully seal and immediately forward the same, by mail, addressed to the Clerk of the House of Representatives of the United States, Washington, D. C., and shall also indorse upon the envelope containing such deposition or testimony the name of the case in which it is taken, together with the name of the party in whose behalf it is taken, and shall subscribe such indorsement. Upon the written request of either party, the Clerk of the House of Representatives shall open any deposition at any time after he shall have received the same, and he may furnish either party with a copy thereof.

Approved January 10, 1873.

[GENERAL NATURE—No. 9.]

An act to amend section twelve of an act entitled "An act to authorize the appointment of shipping commissioners," etc., approved June seven, eighteen hundred and seventy-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twelve of the act entitled "An act to authorize the appointment of shipping commissioners," etc., approved June seven, eighteen hundred and seventy-two, be amended by adding to said section the following proviso: "provided further, that this section shall not apply to masters of vessels when engaged in trade between the United States and the British North American possessions, or the West India islands, or the Republic of Mexico."

Approved January 15, 1873.

[GENERAL NATURE—No. 10.]

An act to prevent certain officers of the United States and Territories from practising as attorneys or solicitors in courts of the United States in certain cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no clerk, assistant or deputy clerk, of any Territorial, district or circuit court, or of the Court of Claims or the Supreme Court of the United States, or marshal or deputy marshal of the United States within the district for which he is appointed, shall act as a solicitor, proctor, attorney or counsel in any cause depending in either of said courts, or in any district for which he is acting as such officer.

SEC. 2. That whosoever shall violate any provision of this act shall be stricken from the roll of attorneys by the court upon complaint, upon which the respondent shall have due notice, and be heard in his defense; and in the case of a marshal or deputy marshal so acting, he shall be recommended by the court for dismissal from office.

Approved January 15, 1873.

[GENERAL NATURE—No. 11.]

An act to amend an act entitled "An act relating to members of Congress, heads of Departments and other officers of the government," approved June eleventh, eighteen hundred and sixty-four.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of an act entitled "An act relating to members of Congress, heads of Departments, and other officers of the gov-