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CITY COUNCIL--OFFICIAL

SPECIAL MEETING.

City Hall, New Orleans, Wednesday, January 28, 1874.

The Council met this day at 12 M. in special session.

Present—Hon. Louis A. Wiltz, Mayor, presiding, and Administrators Brewster, Calhoun, Fitzenreiter, Lewis, Schneider and Stureken.

The Mayor explained that the Council had been convened to act upon a memorial to the Legislature, adopted in committee of the whole, which memorial was reported as follows:

To the Honorable Committee of the House of Representatives, appointed to confer with the Mayor and Administrators of New Orleans, on City Affairs:

The Mayor and Administrators have the honor to lay before you their views on the affairs of the city.

Its financial condition becomes worse every year. Remedies are constantly suggested through the press and otherwise, but few or none of them touch the root of the evil. To repudiate the city debt, or a part of it, to suspend for a certain period the payment of any portion of it and of the interest thereon, to stop all public work, to put the existing corporation in liquidation and create a new one, to alter the city charter, each has its advocates, regardless of the legal difficulties and the violation of faith which stand in the way of most of the proposed plans.

The cry for a reduction of taxation is heard on every side, and is as reasonable as it is universal. The present State tax on real and personal property is two and fifteen-hundredths per cent, the city tax (including public schools) three per cent; total five and fifteen-hundreth per cent, and this in addition to certain heavy and grievous exactions, both by State and city, known as license taxes. In a prosperous community this would justly be deemed an intolerable burden; in ours it is almost equivalent to confiscation. And it is not too much to say that it has been one of the chief causes of the unexampled depression of business and depreciation of property. It is impossible that this should continue. Impositions beyond the ability of the people to pay, if persisted in, must result in the insolvency of many of the taxpayers. This condition has been so nearly reached as to attract the earnest attention of the law-making power, and it is earnestly hoped that the public distress may be relieved by wise and beneficent legislation.

To comprehend the financial situation of the city it will be necessary to exhibit, first, those classes of expenditures which are fixed by law, and which can not be diminished without legislative sanction; secondly, those over which the City Council have a certain, though not complete control.

EXPENDITURES WHICH ARE FIXED BY LAW.

The bonded and certified debt of the city was, on the thirty-first December, 1873, $22,322,965 19. By act No. 73 of the Legislature of 1872, and other acts, the Council is required to levy annually a tax sufficient to reduce, each year, the principal of the bonded debt from two to ten per cent, the rate of reduction varying according to the time the bonds have to run; and also to pay the interest on all bonds and other interest bearing obligations.

For the reduction of the principal there will be required..........		$672,896
(This does not include wharf bonds, which are payable out of wharfages; nor drainage bonds, which are payable out of the drainage tax.)		
Interest payable in 1874 on the bonded debt..................		1,375,629
(This does not include interest on wharf bonds, payable out of wharfages.)		
		$2,048,525
Metropolitan Police, for 1874		720,000
Public schools, 1874..............		400,000
Park tax..........................		163,641
Criminal justices—		
Costs and fees of criminal sheriff, including the maintenance of prisoners, 1874.......	$102,118	
Fees of clerk of Criminal Court, 1874..........	24,531	
Pay of grand and petty juries, 1874..........	45,500	
Rent of Criminal Court, 1874................	3,000	
District attorney's fees for conviction of criminals................	7,500	
Municipal police courts, 1874..................	45,000	
Coroner's fees for inquests, views and burials..................	23,412	
Pay of coroner's juries	4,610—	255,671
Expenses of Board of Health....		15,000
Expenses of Insane Asylum......		21,000
Total..........................		$3,623,837

The foregoing exhibit of expenditure, for which the Council is compelled by legislative enactment to provide by taxation, shows that a levy of a fraction under 2.77 per cent on the total valuation of all real and personal property within the city ($130,913,356) is required to meet it, leaving, out of the three per cent levied, but 23-100, or less than one-fourth of one per cent, to apply to other disbursements, many of which are of such character that it is impossible to reduce them, as will presently appear:

EXPENDITURES OTHER THAN THOSE FIXED BY LAW.

Streets		$315,797
Drainage, other than canals and levees made by the Mississippi and Mexican Gulf Ship Canal Company, under act No. 30 of 1871............................		140,600
Wharves and landings.............		82,416
Surveyor's Department..........		52,580
Waterworks........................		99,200
Public buildings..................		24,150
Public squares, pounds and cemeteries..........................		18,500
Fire department...................		162,000
Lighting city.....................		235,000
Printing..........................		17,000
City Workhouse....................		17,800
House of Refuge...................		20,520
City Attorney's department......		19,180
Law charges.......................		20,600
Contingent........................		18,000
Charity, support of orphans and aged and infirm in asylums........	$39,000	
Small-pox patients......	15,000	
Removal of sick and burial of dead.........	3,000	
Recording deaths........	800—	57,800
Making tax bills, tax registers, etc.		12,100
Salaries and office expenses of the various departments of administration, including collection of levee dues, market revenues, water rates, etc................		209,930
Reimbursement of taxes..........		1,000
Bills payable.....................		8,760
Interest on current accounts.....		5,000
Judgments.........................		15,000
Total		$1,552,933

Many of the foregoing expenditures are as imperative as those fixed by special laws, such as the fire department, lighting the city, charity, judgments, etc. Deducting from their amount $765,000 for revenues, as per accompanying statement, other than those obtained by taxation on real and personal property, there remains in round numbers $788,000 to be provided for, which would require a tax of a fraction over six-tenths of one per cent. This, with the tax of 2 77-100 per cent for expenditures, absolutely fixed by law, would make a total of 3 37-100 per cent for the two classes of expenditure herein enumerated.

The tax bills of 1873, at three per cent on an assessment of $135,891,300, amounted to $4,076,739. These taxes were collectible, in conformity with law, from the first of March to the thirty-first of July. On the date last named but $1,968,268 16 had been collected, leaving a balance of $2,108,470 84 unpaid, and on the thirty-first of December, 1873, the total amount collected during the entire year, ending that day, was $2,663,304 98, leaving an unpaid balance of $1,413,434 02, being less than two per cent collected, and a fraction over one per cent uncollected.

It may be predicted with certainty that a still smaller percentage of the taxes of the present year will be collected, from the inability of many and the unwillingness of others. What, then, is to be recommended? To reduce taxation. And how is a reduction to be effected? Not by repudiation, for it is not to be presumed that the Legislature would authorize such a measure; but even if legislative sanction could be obtained the effort to repudiate would probably be unsuccessful, as the corporation, like an individual, is amenable to law and could perhaps be compelled by judicial process to meet its obligations. To put the affairs of the city in liquidation and create a new corporation, relieved from the debt and incumbrances of the old, although advocated by many, is deemed equally impracticable. The most direct and least objectionable mode of reducing taxation would be by a curtailment of expenditure, and that can be effected to the extent of nearly a million dollars, provided the Legislature will come to the relief of the city by the passage of such laws as will authorize the reductions recommended.

EXPENDITURES THAT MAY BE LAWFULLY REDUCED.

	Estimated expenditures for 1874.	Amount to which they may be reduced.	Curtailment.
1. Appropriation for reduction of bonds.	$672,896	$521,807	$151,089
2. Metropolitan Police.	720,000	360,000	360,000
3. Park tax	163,641	Nothing	163,641
4. Criminal sheriff	102,118	50,000	52,118
5. Clerk of Criminal Court	24,531	12,531	12,000
6. Grand and petty juries	45,500	Nothing	45,500
7. District attorney's fees	7,500	3,000	4,500
8. Municipal Police Courts	45,000	20,000	25,000
9. Coroners' fees	23,412	13,412	10,000
10. Coroners' juries	4,610	Nothing	4,610
11. Insane Asylum	21,000	10,000	11,000
12. Workhouse	17,800	Nothing	17,800
13. General city expense	1,511,573	1,400,000	111,573
Total	$3,359,581	$2,390,750	$968,831

Some explanation of the reduction proposed in the foregoing table is, of course, necessary, and is accordingly submitted:

1. *Appropriation for Reduction of Bonds.*—The amount required for this purpose for 1874 in supposed conformity with law, and in recognition of the supposed rights of bondholders, is $672,896. A statement, "A," of outstanding bonds, which accompanies this, shows which of them were entitled, by the laws authorizing their issue, to an annual reduction by taxation, and which of them were not, although taxes for the annual reduction of the whole of them have been levied since 1872. This has been done in conformity with act No. 73 of the Legislature of 1872, which provides that a tax shall be levied yearly sufficient to reduce the principal of all bonds for which no other "retiring provision" exists, from two to ten per cent. If that act can be justly so construed as to confer a vested right on holders of such bonds as had not the advantage of any retiring provision in the various enactments which authorized their issue, then the whole amount of $672,896 is required, but it is the opinion of eminent jurists that this act, passed long after the issue of the bonds, confers no vested right, and that the Legislature may, at any time, without any violation of contract, repeal that part of it referred to. If this doctrine is sound, and the Legislature repeal it, but $521,807 would be required for the annual reduction of bonds entitled to such curtailment, and save to the city $151,089.

2. *Metropolitan Police.*—It is not doubted that the opinion of an immense majority of the people of New Orleans is in favor of the police being appointed and controlled by the city authorities. If they were so authorized by law, the City Council could and would maintain it at an expense of one-half the sum in the foregoing table, $360,000. If the Legislature is unwilling to turn the police over to the city it is deemed but just, as the police is essentially a State force, that the State should pay them, and exact from the city no more than the city would pay its own police ($360,000), making a saving of $360,000.

3. *Park Tax.*—Every citizen is familiar with this matter, and few hesitate to condemn it. Considering the enormous taxation to which the people are subjected without it, it should be wiped out altogether, saving $163,641.

4. *Criminal Sheriff.*—The bills of this officer against the city for 1873, amounted to $102,118, made up of two accounts—one for the feeding of prisoners in the Parish Prison during the year, 97,479 days, at sixty cents, $58,487 40; turnkey's fees, $5530; and sundry expenses, $1071 71; total, $65,089 11—the other bill for costs and fees in Criminal Court, $37,029 75. In the city were allowed to furnish provisions to prisoners, it could be done, and well done, at twenty cents per day each; and it is not doubted that a saving to the city of $50,000 can be made by a proper change in the laws of the State, and yet allow the sheriff a liberal compensation.

5. *Clerk of the Criminal Court.*—The bills of this officer for 1873 were $24,531. One-half the amount would be ample, by which the saving would be about $12,000.

6. *Grand and Petty Juries.*—Expenses last year $45,500, chiefly for certificates issued to jurors by the clerk. It is thought that the paying of jurors ought to be abandoned altogether. Their certificates are generally sold to speculators for a mere song.

7. *District Attorney's Fees.*—This officer is allowed by law $15 for every prisoner convicted. His bills last year were $7500 against the city. It is thought that a salary of $3000, to be paid by the city, would be ample, as he enjoys other emoluments, saving $4500.

8. *Municipal Police Courts.*—Estimated expense to the city per annum, $45,000. Twenty thousand is quite sufficient, saving $25,000. The number of courts might be diminished.

9. *Coroner's Fees.*—Bills last year $23,412. The duties, by an alteration of existing laws, could easily be performed at a salary of $10,000.

10. *Coroners' Juries.*—The remarks made under the head of "grand and petty juries," will apply to this item. Coroners' jurors should not be paid at all. The saving would be early $5000.

11. *Insane Asylum.*—It is thought that the State ought to bear the whole expense of lunatic asylums. The expense to the city, last year, was $21,000. If the Legislature is unwilling to relieve the city from the burden, it is hoped that they may grant partial relief by authorizing the transfer of the inmates of the city asylum to the State institution, and receive from the city on account of expenses, say one half the amount at present expended, saving to the city $10,000 to $11,000.

12. *Workhouse.*—If the changes sought in the Parish Prison should be favorably regarded by the Legislature and the city be charged with the support of prisoners, the workhouse might be abolished, saving $17,800. A police jail for the temporary confinement of petty offenders would be required, but the expense need not be much.

13. *General City Expenses.*—The budget for 1874 has been already much reduced, but it would probably be possible to deminish it to the extent of about $100,000 more.

It is earnestly hoped that the Legislature may give favorable consideration to what is here suggested for retrenchment, and, by the passage of suitable laws, enable the City Council to effect it.

The "back taxes," meaning taxes due and unpaid on the thirty-first of December, 1873, amounted to $4,168,652 13. Some of them are worthless, but there is no doubt that from $2,000,000 to $2,500,000 might be collected by the passage of a proper tax law. No release from interest or costs is recommended, as it would be unjust to the prompt taxpayer as well as the city treasury. The city, in consequence of the non-payment of taxes, has been for many years obliged to pay heavy interest on loans to meet its expenditures; and it is but just that those who, by delinquency, made such loans necessary, should reimburse the treasury for the interest. It is desirable that the city should have all the means, of which the State has the advantage, for enforcing the collection of taxes.

The floating debt of the city, in the form of certificates of appropriation, chiefly issued in 1872, and for the payment of which no provision has been made; tax warrants, etc. (see accompanying statement), amounts to $456,896 58, not including Metropolitan Police warrants, of which the sum is unknown. Act No. 73 of the Legislature of 1872 authorized the funding of all of that issued in 1871 and a portion of that issued in 1872. It is recommended that legislative authority be granted the Council to fund the remainder, not at ninety cents on the dollar for the bonds issued, as heretofore (which is a premium to the holder of floating debt of eleven and eleven-hundredths per cent), but at par.

Railroad bonds to the amount of $2,966,000 fall due the present year. There is no provision made for their payment and it is respectfully suggested that an act be passed to exchange them for gold bonds at par.

It is also suggested that the funding of certificates of appropriation and other floating debt be not made obligatory on the Council, but that it be left to their discretion to pay them out of back taxes, if sufficient should be collected to enable them to do so.

Reference is made to statements which accompany and make part of this, viz:

A. Bonds and other obligations outstanding December 31, 1873.

B. Criminal sheriff's bills for Parish Prison in 1873.

C. Criminal sheriff's bills for costs and fees in 1873.

D. Bills of clerk of Criminal Court, expenses of Recorders' Courts, Municipal Police Courts, etc., in 1873.

E. Cost of jury service in 1873.

F. Expenses of coroners in 1873.

G. Taxes, for all years, collected in 1873.

H. Taxes levied in 1873.

I. Taxes of 1873, collected in 1873.

J. Back taxes due and unpaid December 31, 1873.

K. Estimated revenues, excluding taxes, for 1874.

L. Floating debt December 31, 1873.

M. Amount required for reduction of bonds.

N. Amount required for the interest and reduction of bonds.

LOUIS A. WILTZ, Mayor, for the Council.

On motion of Mr. Schneider, the report of the committee was received.

Mr. Lewis asked to be recorded as excused from voting on that part of the memorial relating to the city park tax, but as voting for the remainder.

It was ordered that Mr. Lewis' request be granted.

Whereupon the memorial was adopted without dissent other than specified in the case of Mr. Lewis.

And, on motion of Mr. Lewis, the memorial was ordered to be spread upon the minutes, and 500 copies of it were ordered to be printed for distribution among the members of the Legislature.

Mr. Calhoun presented the annexed report in relation to the communication of Henry D. Ogden and the resolution prepared by him, and the report was received:

To the City Council of New Orleans:

The following draft of a joint resolution which it is proposed to submit to the State Legislature was, on the twenty-seventh instant, referred to the undersigned, who respectfully presents a resolution on the subject.

JOHN CALHOUN,
Administrator of Public Accounts.

The joint resolution referred to is as follows:

Joint resolution instructing our Senators and requesting our Representatives to urge the passage, by Congress, of an act in relation to the land scrips to be issued in conformity to the act of Congress of the twenty second of June, 1860.

Whereas, The cities of New Orleans and Baltimore have obtained, in the Supreme Court of the United States, a jugdment for 104,146 acres of land to be provided in certificates of location as per section sixth of the act of June 22, 1860, and further decreeing that the said cities receive patents from the United States for 9187 acres, described in said judgment; and

Whereas, The general land office proposes to make the scrips not assignable and to issue only one patent for the whole claim and that in the name of the original patentee, and that the scrip thus issued would be of little or no value and would frustrate the intention of the law;

Resolved by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That our Senators be instructed, and our Representatives be requested, to urge the passage, by the Congress of the United States, of an act directing the scrips to be issued, in the name of the claimants, in eighty acre lots, and to pass by delivery, and that a patent be issued to each locator, in his own name.

Mr. Calhoun presented the subjoined resolution, which was unanimously adopted:

Resolved, That the Mayor be requested to transmit to the General Assembly of Louisiana the draft of a resolution entitled "a joint resolution instructing our Senators and requesting our Representatives to urge the passage by Congress of an act in relation to the land scrips to be issued in conformity to the act of Congress of the twenty-second June, 1860," and that he respectfully ask its adoption by said General Assembly.

The Council then adjourned.

DANIEL SCULLY, Secretary.

Mayor Eastman, of Poughkeepsie, is a member of the New York Legislature. He attended the Republican caucus on Monday evening, and spoke in favor of Mr. Husted's nomination for Speaker, because he would expedite business. "I come here," said he, "for $3 a day, when I might make $300 elsewhere," and a voice called out from the lobbies, "You can make it here if you go the right way about it." This was too much for good nature, and, amid the laughter that greeted the sally, Eastman sat down and joined heartily in the general hilarity.

Eight men say "aye" when the name of John Smith is called in the Ohio Legislature.

DEBATES IN THE HOUSE.

Second Day's Proceedings.

New Orleans, January 6, 1874.

On resolution to appoint a committee to examine into the salaries paid State officers, offered by Mr. Hahn—

Mr. Wands—I move the adoption of the resolution, and further move that the committee already appointed to examine the books of the Auditor and Treasurer be assigned to the duty which it provides.

Mr. Hahn—The resolution is of an entirely different nature from the one under which the committee to which the gentleman has asked it to be referred was appointed. It has nothing to do with an examination as to the workings of any office. It is intended merely to ascertain the salary paid each State officer; to learn whether or not there is any excessive pay, and wherein reductions could with equity be made.

Mr. Young, of Concordia—I object to the passage of the resolution at this time. I have my own views on the subject.

Mr. Hahn (interrupting)—The gentleman has a right to express them. I am willing to accept any suggestions.

Mr. Young—I intend to express them, but I intend to embody them in a resolution of my own which I will present to-morrow.

Mr. Gair—I object to the passage of the resolution, and move to lay it on the table.

Mr. Montaldo—I rise for information. Does the resolution apply to all officers?

The Speaker—The resolution says "State officers;" it designates no particular ones. The gentleman can put his own construction on it.

Mr. Hahn—It does not apply to all State officers, only to the general State officers.

Mr. Gair's motion to lay on the table was then put and carried on a call of the yeas and nays by a vote of 54 to 24.

ON A "BROKEN COMPACT."

The Speaker—I have been charged with having broken a compact made between certain members and myself by reason of my action yesterday in administering the oath of office to certain members. I, therefore, accept the issue, and announce the following committees.

Mr. Gair—Do I understand the Speaker to say that he charges us with a violation of the compact?

The Speaker—I do not. I charge no one; but you yourself told me that it was broken.

Mr. Montaldo—I want to understand whether or not you withdraw from the compact.

The Speaker—I am not aware that you have any knowledge of the matter under discussion.

Mr. Montaldo—Perhaps I know more of it than you think I do; but whether I do or not, I have a right to ask the question, and I insist on an answer.

Speaker Lowell—I do not withdraw. What I said was for the information of certain gentlemen, parties to the compact, in explanation of my course in appointing these committees. Mr. Clerk, you will announce them.

The Clerk announced committees as recorded in the House journal of this day.

On the withdrawal of the message of Governor Kellogg, vetoing a bill for the incorporation of the town of Keachi—

Mr. Peyton—I urge that the Governor be allowed to do this. His veto was based on a misunderstanding of the facts, and when I explained them to him he very readily agreed to withdraw it. The matter is one of merely local interest, and I hope there will be no objection.

Mr. Hahn—I have no great objection to the withdrawal, but I think it is a very curious method of legislation for a member to apply to a Governor and talk him into a change of opinion expressed after a year's consideration of the subject.

Mr. Murrell, of Lafourche—I think this withdrawal is all out of order. I object to all such proceedings, Mr. Speaker, I like square dealing.

Mr. Murrell, of Madison—I do not, Mr. Speaker, see the necessity for all this discussion. I think it would be no more than just to let the Governor withdraw his message. The matter is a local measure, and if, after consultation with the Representative of the district interested, Governor Kellogg sees fit to review and reverse his action, I can not see why there should be any objections raised in this House to his so doing.

Mr. Hahn—Governor Kellogg says in his message that the bill is unnecessary and the salaries of the officers provided in it are imperfect and unjust. There has heretofore been too much executive action independent of the House. The Governors of this State have too often violated the law, and have made many curious maneuvres. Governor Kellogg considers the bill insignificant and unnecessary, and after consideration for a year solemnly vetoes it, and in an amiable moment he agrees to set aside his decisive action and oblige a member by signing it. I am not opposed to the bill, and having confidence in my friend (Mr. Peyton), if he said it was a good one I would vote for its passage over the Governor's veto, but I object to the proceeding by which he strives to bring it before the House.

Mr. Davidson—I am opposed to allowing the Governor to take back his message. I bow to all local matters at the request or suggestion of the representative, but I think the best course would be not to let it go back, but if it is a good bill to present it again, with such sections as might be considered objectional amended.

Mr. Peyton—I saw Governor Kellogg, and after telling him of the necessity of the bill, and having asked for his signature he very readily said he was willing to let it pass if he could get back his message. I can not see why the gentleman should object. In a matter of this kind the Governor should be allowed to do as he thinks proper.

Mr. Hahn—If the veto of the Governor is withdrawn, it is a question whether it is a law. The constitution does not provide for a withdrawal of a veto. If the gentleman is in earnest in referrence to the passage of the bill, let it go and be passed over the veto to-morrow. I move that the consideration of the message be postponed and made the special order of the day for to-morrow.

The motion prevailed.

Third Day's Proceedings.

New Orleans, January 7, 1874.

ON ELECTION OF OFFICERS.

Mr. Demas, of St. John the Baptist, made a motion to go into an election for doorkeeper, sergeant-at-arms and chief enrolling clerk, and taking the floor, said:

Mr. Speaker, I will state my object in making this motion. It is this: I do not think it proper and honest that we should come here, sir, and elect a set of men as officers of this House who are holding other prominent positions in the city of Orleans, as well as in the country parishes. I make this motion in order to provide for those who need it. Mr. Speaker, I understand that the present officers of the House of Representatives now are the same officers who were employed here the last session, and there are many of them holding prominent positions, and I am opposed to that. I am in favor of providing for those who are unable to provide for themselves.

Mr. D. Young, of Concordia—Mr. Speaker, we are not here to provide for anybody.

Mr. Demas—I hold that there are many officers of this House who are holding other positions, some getting $80 per month, and some some $100 a month, and there are over sixty others who are waiting to get employment as clerks, and all such other offices as that. I am opposed to that: and that is why I make this motion to go into an election of officers, and I hope that every member of this House will bear me out. I have no one that I would like to elect to any of these offices, but I would like to see those who need it fill those positions. I do not like to see men come here and get positions who are at the same time holding other prominent positions. Now, Mr. Speaker, I move that we proceed to elect every officer in this House, from the chief clerkship down to doorkeeper, and I hope that every member voting will bear in mind that he has got one thing before him, and that is when he casts his vote not to cast it for any one who holds any position for the time being. Everybody wants to live, and I believe it is the determination of the Speaker himself to provide for the poor as well as for the rich, and I think it is no more than just that we should give the patronage of this House to those that need it, and not to give it to men who are holding other positions such as police officers, who are getting from $150 to $175 a month, but give it to those poor devils who are in great need of it. I hope you will give it to the men who deserve it; I insist upon my motion that we go into an election.

Mr. J. S. Mathews, of Tensas—Mr. Speaker, I am opposed to the motion made by the gentlemen from St. John the Baptist. Every member knows very well that the House will make a change in its officers whenever they see fit. Now, if any gentleman desires to make any change of any officer or employe of the House, it is very proper for him to make a motion to elect new men to those offices, but it is not necessary to make this sweeping motion to go into a general election for every employe of the House. I have no objection to any motion, provided it is not a sweeping motion.

Mr. Paris, of Orleans—I rise to a point of order. I think the House organized yesterday.

The Speaker—The Chair so rules, that under the motion made, they re-elected everybody by acclamation.

Mr. Demas—I made my motion, so far as the officers of the House are concerned, so as to allow a general election of chief enrolling clerk. I am not going into an election for chief enrolling clerk unless I go in for doorkeeper and the rest.

Mr. Gair—I want this position, because I think it is essential that I should have it. I can not get along without it. That is why I want to go into a general election. [Laughter.]

Mr. Demas—It is not a motion, I want the Chair to understand. I want it to be reserved that we shall go into an election at some future day. I hold that the House is already organized as far as the officers were concerned. I withdraw my motion.

Mr. Demas, of St. John the Baptist, called up the following resolution, introduced by him the preceding day:

Whereas, R. T. Thompson and John Langles, from the first ward, and David Wilson and Emile Prerost, of the second ward, have been reported favorably and recommended to be seated: be it

Resolved, That they be sworn in and seated as the duly elected Representatives from the first and second wards of the parish of Orleans.

Mr. Devezin, of Orleans—I desire to ask the gentleman from St. John the Baptist whether the seats were contested.

Mr. Demas—They were not contested.

Mr. Gair—Mr. Speaker, I would like to ask this question: Have the names of their opponents ever been placed before the House.

The Speaker—I suppose that the gentleman who now holds the floor can give the gentleman the desired information.

Mr. Demas—When I introduced the resolution I offered a report of the Committee on Elections and Qualifications, I took occasion to ask the clerk to read the report, but I was refused; they had these cases under examination and have taken all the evidence offered, which has been printed and laid upon the desks of the members, as they said, I do not see the necessity of reading the entire report of the committee. Mr. Speaker, the report was adopted and further action upon the seats of the members was postponed. There is but one thing to do, and that is to call the members in. They are entitled to their seats, as has been shown by the committee appointed by the Speaker of this House. That report of the committee has been adopted, everybody voted for it, and I don't think there is any member opposed to their being sworn in and taking their seats, the constitution of the State of Louisiana provides for them, and their constituents, who are crying here every day that they are unrepresented, have no one to look to their interest, and the men that are duly elected to these honorable positions have been deprived of their seats on the floor of this house. I think, sir, it is the determination to do justice to everybody—to do justice to those who are unrepresented and have so much taxes to pay, and have no one to look to their interests. I don't think that there is a member here who understands this question that will vote against the seating of these members elect. We insist upon their taking their seats in this House. Now, I ask that the members here examine this case carefully; I ask the members to act wisely in their course. I want them to remember well that they have to go before their constituents, and they do not want to go before them with such a thing as refusing the right to this people to be represented. I think that the members here understand this question thoroughly. When the committee was appointed by this House to examine into the case, they spent a great many days examining these contested cases, taking down testimony, etc. They reported to this House that these men should be seated. They recommended that they be sworn in and take their seats. The only thing required now is that these members be called in and sworn; if we do justice to ourselves and to the people who have elected them, and we can say to them with a clear conscience that we have done our duty towards them.

The Speaker—I call the House to order. I wish the sergeant-at-arms to restore order. I think that the gentleman now holding the floor had better conclude, as his time is out.

Mr. Murrell, of Madison—I hold that the gentleman's time is out.

Mr. Demas (continuing by consent)—I want it understood that I am not a friend of one gentleman more than the other. I am a friend of the people of Louisiana. I do not know these gentlemen; I would not know them if I saw them. I know that these people are unrepresented, that they are entitled to be represented by the laws of this State and by the laws of the United States. Now, Mr. Speaker, as I am about to close, I hope that the motion to adopt this resolution will prevail, and I think that every member will vote for it, and will be prepared to go back to his people and say that I have done one good service out of many bad ones.

Mr. Devezi, of the third ward—I do not think any member will hesitate to seat these members. I do not want to consume the time of the House in debating upon this subject. The case is so plain that I do not see any use of having an hour or so of argument upon it. I hope that every member upon this floor will take it into consideration themselves and will vote for the resolution whenever called upon.

Mr. Murrell, of Madison—I would like this House to hear me on this subject. We are not to be fooled in this way. You all know, gentlemen, that last winter this same question arose in this House. I was present. Now, gentlemen, if you read the testimony of the Registrar, Mr. Blanchard, who testified before the world that these gentlemen were elected, you will find that he was the man who had the ballots in his hands, and he ought to know who was elected. I am astonished to see the House of Representatives hesitate one moment on this question. The report of the committee has been adopted, and the only thing that we have got to do is just to make a simple motion for the gentlemen to come in and take the oath. I say, Mr. Speaker, that I do not know one gentleman personally. I know them by reputation—by sight. I have not spoken to one of those gentlemen on that subject. But I think that they are entitled to their seats.

Mr. Gair—I do not propose to get up here and make speeches and arguments, like those gentlemen who have preceded me. Here we have four names appearing on the roll, sir, as members of the House of Representatives, so regarded by the legal returning board of the State of Louisiana. That is a prima facie evidence that these gentlemen have been elected. But the only plea or argument that is introduced here is that these men are not present. There have been no sworn affidavits, there have been no printed affidavits. The only thing which it is based upon is a prima facie report of the Committee on Elections and Qualifications. Of all the contested election cases conducted, they were conducted in this way. When Kellogg contested his seat against Mr. McEnery, he did not go into court upon a mere petition, but he went there upon a sworn affidavit, and he went there and showed upon sworn testimony that there had been fraud. But not a single affidavit was laid upon the members' desks in this case. I am perfectly willing to go as far as the gentleman has in seating any member who is entitled to his seat on this floor, and upon Mr. Blanchard's report. In the fourth ward, where there were six or seven candidates, that would possibly change the result. But we have got the names of these members upon our books. We do not know whether they are dead or not. These men come in on the plea of being Republicans, and ask for their seats. This is not a Republican Legislature for that purpose. It is a Republican Legislature for the purpose of doing justice by all means.

Mr. Demas—I desire to ask the gentleman whether he read the report of the Committee on Elections and Qualifications.

Mr. Gair—Now, sir, I take the position upon this floor that I took last Monday. I am prepared to seat men, but I am not willing to vote upon mere personal feeling. We are not here to serve party. I am not willing that my votes appear upon the record, allowing these men to come here and take their seats. It is not the Legislature's fault, but it is the gentlemen's fault who are making such a great fuss. I will close my remarks by saying that I do not want the Legislature to force me in a position to vote against any man's admission, but I say, sir, that there is not a syllable in that document—there is not a word of evidence in the report of the Committee on Elections and Qualifications that pleases me.

Mr. Montaldo, of Orleans—I do not see what the ideas of these gentlemen are in regard to these men. The committee had taken this case into consideration; collected all the evidence to justify them in making this report. If the committee were satisfied that these gentlemen were entitled to their seats; if they were not satisfied, they would have made a report against it; and, I think that they are fully entitled to their seats, because I examined, and felt satisfied that they were. I don't see why these members should be deprived of taking their seats in this House. We have no Representatives here from these two wards, and I think it is time that we should have them. I don't see the necessity of detaining this case any longer.

On motion to refer to the Committee on Elections and Qualifications, the yeas and nays were demanded by Messrs. Young, of Concordia, and Gair, of East Feliciana, resulting as follows: Yeas, 55; nays, 29.

ORDER OF THE DAY.

Mr. Montaldo, of Orleans, moved to postpone the order of the day for one hour.

Mr. Murrell, of Madison, moved to postpone until next Monday, at one o'clock. Carried.

The House adjourned at half-past two o'clock, until Friday, at twelve o'clock M.

OFFICIAL.

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

[General Nature—No. 107.]

An act to provide for the sale of lands of the United States containing coal.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person above the age of twenty-one years, who is a citizen of the United States, or who has declared his intention to become such, or any association of persons severally qualified as above, shall, upon application to the register of the proper land office, have the right to enter, by legal subdivisions, any quantity of vacant coal lands of the United States not otherwise appropriated or reserved by competent authority, not exceeding one hundred and sixty acres to such individual person, or three hundred and twenty acres to such association, upon payment to the receiver of not less than ten dollars per acre for such lands, where the same shall be situated more than fifteen miles from any completed railroad, and not less than twenty dollars per acre for such lands as shall be within fifteen miles of such road.

Sec. 2. That any person or association of persons severally qualified as above, who have opened and improved, or shall hereafter open and improve, any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference right of entry, under the foregoing provisions, of the mines so opened and improved; provided, that when any association of not less than four persons, severally qualified as in section one of this act, shall have expended not less than five thousand dollars in working and improving any such mine or mines, such association may enter not exceeding six hundred and forty acres, including such mining improvements.

Sec. 3. That all claims under section two of this act must be presented to the register of the proper land district within sixty days after the date of actual possession and the commencement of improvements on the land, by the filing of a declaratory statement therefor; provided, that when the township plat is not on file at the date of such improvement, filing must be made within sixty days from the receipt of such plat at the district office; and provided further, that where the improvements shall have been made prior to the expiration of three months from the passage of this act, sixty days from the expiration of said three months shall be allowed for the filing of a declaratory statement, and no sale under the provisions of this act shall be allowed until the expiration of six months from the date hereof.

Sec. 4. That this act shall be held to authorize only one entry by the same person or association of persons under its provisions; and no association of persons any member of which shall have taken the benefit of this act either as an individual or as a member of any other association, shall enter or hold any other lands under the provisions of this act; and no member of any association which shall have taken the benefit of this act shall enter or hold any other lands under its provisions; and all persons claiming under section two hereof shall be required to prove their respective rights and pay for the lands filed upon within one year from the time prescribed for filing their respective claims; and upon failure to file the proper notice, or to pay for the land within the required period, the same shall be subject to entry by any other qualified applicant.

Sec. 5. That in case of conflicting claims upon lands where the improvements shall be hereafter commenced, priority of possession and improvement, followed by proper filing and continued good faith, shall determine the preference right to purchase. And also where improvements have already been made at the date of the passage of this act, division of the land claim may be made by legal subdivisions, to include, as near as may be, the valuable improvements of the respective parties; and Commissioner of the General Land Office shall be and is hereby authorized to issue all needful rules and regulations for carrying into effect the provisions of this act.

Sec. 6. That nothing in this act shall be construed to destroy or impair any rights which may have attached prior to its passage, or to authorize the sale of lands valuable for mines of gold, silver or copper.

Approved March 3, 1873.

[General Nature—No. 79.]

An act to create a port of delivery at La Crosse, in Wisconsin, and to provide for a surveyor of customs thereat.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That La Crosse, in the county of La Crosse, and State of Wisconsin, be, and is hereby, constituted a port of delivery within the collection district of New Orleans; and there shall be appointed a surveyor of customs for said port, who shall perform the duties of such office and receive the compensation of not exceeding twelve hundred dollars per annum as salary.

Approved March 3, 1873.

[General Nature—No. 80.]

An act to prevent cruelty to animals while in transit by railroad or other means of transportation within the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no railroad company within the United States whose road forms any part of a line of road over which cattle, sheep, swine or other animals shall be conveyed from one State to another, or the owners or masters of steam, sailing or other vessels carrying or transporting cattle, sheep, swine or other animals from one State to another, shall confine the same in cars, boats or vessels of any description, for a longer period than twenty-eight consecutive hours, without unloading the same for rest, water and feeding, for a period of at least five consecutive hours, unless prevented from so unloading by storm or other accidental causes. In estimating such confinement the time during which the animals have been confined without such rest on connecting roads from which they are received shall be included, it being the intent of this act to prohibit their continuous confinement beyond the period of twenty-eight hours, except upon contingencies hereinbefore stated. Animals so unloaded shall be properly fed and watered during such rest by the owner or person having the custody thereof, or in case of his default in so doing then by the railroad company or owners or masters of boats or vessels transporting the same at the expense of said owner or person in custody thereof; and said company, owners, or masters shall in such cases have a lien upon such animals for food, care, and custody furnished, and shall not be liable for any detention of such animals authorized by this act. Any company, owner, or custodian of such animals who shall knowingly and willfully fail to comply with the provisions of this act shall, for each and every such failure to comply with the provisions of this act, be liable for and forfeit and pay a penalty of not less than one hundred nor more than five hundred dollars; provided, however, that when animals shall be carried in cars, boats, or other vessels in which they can and do have proper food, water, space, and opportunity for rest, the foregoing provisions in regard to their being unloaded shall not apply.

Sec. 2. That the penalty created by the first section of this act shall be recovered by civil action in the name of the United States, in the circuit or district court of the United States, holden within the district where the violation of this act may have been committed, or the person or corporation resides or carries on its business; and it shall be the duty of all United States marshals, their deputies and subordinates, to prosecute all violations of this act which shall come to their notice or knowledge.

Sec. 3. That any person or corporation entitled to lien under the first section of this act may enforce the same by a petition filed in the district court of the United States holden within the district where the food, care and custody shall have been furnished, or the owner or custodian of the property resides; and said court shall have power to issue all suitable process for the enforcement of such lien by sale or otherwise, and to compel the payment of all costs, penalties, charges, and expenses of proceedings under this act.

Sec. 4. That this act shall not go into effect until the first day of October, eighteen hundred and seventy-two.

Approved March 3, 1873.

[General Nature—No. 101.]

An act to authorize the interment of honorably discharged soldiers, sailors and marines in the national cemeteries of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That honorably discharged soldiers, sailors or marines, who served during the late war either in the regular or volunteer forces, dying subsequent to the passage of this act, may be buried in any national cemetery of the United States free of cost, and their graves shall receive the same care and attention as the graves of those already buried. The production of the honorable discharge of the deceased shall be authority for the superintendent of the cemetery to permit the interment.

Approved March 3, 1873.

[General Nature—No. 105.]

An act to encourage the growth of timber on Western prairies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who shall plant, protect, and keep in a healthy growing condition for ten years forty acres of timber, the trees thereon not being more than twelve feet apart each way, on any quarter section of any of the public lands of the United States, shall be entitled to a patent for the whole of said quarter section at the expiration of said ten years, on making proof of such fact by not less than two credible witnesses; provided, that only one quarter in any section shall be thus granted.

Sec. 2. That the person applying for the benefit of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before such register or receiver that said entry is made for the cultivation of timber, and upon filing said affidavit with said register and receiver, and on payment of ten dollars, he or she shall thereupon be permitted to enter the quantity of land specified; provided, however, that no certificate shall be given or patent issued therefor until the expiration of at least ten years from the date of such entry; and if at the expiration of such time, or at any time within three years thereafter, the person making such entry, or if he or she be dead, his or her heirs or legal representatives, shall prove by two credible witnesses that he, she, or they have planted and for not less than ten years have cultivated and protected such quantity and character of timber as aforesaid, they shall receive the patent for such quarter section of land.

Sec. 3. That if at any time after the filing of said affidavit, and prior to the issuing of the patent for said land, it shall be proven, after due notice to the party making such entry and claiming to cultivate such timber, to the satisfaction of the register of the land office, that such person has abandoned or failed to cultivate, protect, and keep in good condition such timber, then, and in that event, said land shall revert to the United States

Sec. 4. That each and every person who under the provisions of an act entitled "An act to secure homesteads to actual settlers on the public domain," approved May twentieth, eighteen hundred and sixty-two, or any amendment thereto, having a homestead on said public domain, who, at the end of the third year of his or her residence thereon, shall have had under cultivation for two years, one acre of timber, the trees thereon not being more than twelve feet apart each way, and in a good, thrifty condition, for each and every sixteen acres of said homestead, shall, upon due proof of said fact by two credible witnesses, receive his or her patent for said homestead.

Sec. 5. That no land acquired under provisions of this act shall, in any event, become liable to the satisfaction of any debt or debts contracted prior to the issuing of patent therefor.

Sec. 6. That the Commissioner of the General Land Office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and the receivers of the several land offices shall be entitled to receive the same compensation for any lands entered under the provisions of this that they are now entitled to receive when the same quantity of land is entered with money.

Sec. 7. That the fifth section of the act entitled: "An act in addition to an act to punish crimes against the United States, and for other purposes," approved March third, eighteen hundred and fifty-seven, shall extend to all oaths, affirmations and affidavits required or authorized by this act.

Approved March 3, 1873.

[Resolution of General Nature—No.]

Joint resolution tendering the congratulations of the American people to the people of Spain.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in the name and behalf of the American people the congratulations of Congress are hereby tendered to the people of Spain upon their recent efforts to consolidate the principles of universal liberty in a republican form of government.

That the President of the United States be, and hereby is, requested to transmit this resolution to the American minister at Madrid, with instructions to present it to the Spanish government.

Approved March 3, 1873.

[General Nature—No. 109.]

An act to extend the time for filing claims for additional bounty under the act of July twenty-eighth, eighteen hundred and sixty-six.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time for filing claims for additional bounty under the act of July twenty-eighth, eighteen hundred and sixty-six, and which expired by limitation January thirtieth, eighteen hundred and seventy-three, be, and the same is hereby revived and extended until the thirtieth day of January, eighteen hundred and seventy-four; and that all claims for such bounties filed in the proper department after the thirtieth day of January, eighteen hundred and seventy-three, and before the passage of this act, shall be deemed to have been filed in due time, and shall be considered and decided without filing.

Approved March 3, 1873.