New Orleans Republican.

OFFICIAL JOURNAL OF THE UNITED STATES

OFFICIAL JOURNAL OF NEW ORLEANS

THE DAILY REPUBLICAN

is published every day (Mondays excepted) at No. 94 Camp street. Terms: $12 a year; $6 for six months; $3 for three months—payable invariably in advance. Single copies five cents.

Office—No. 94 Camp street.

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SELF-GOVERNMENT IN LOUISIANA.

Speech of Hon. J. R. West, of Louisiana, in the Senate of the United States, Monday, February 1, 1875.

The Senate having under consideration the resolution submitted by Mr. Schurz on the eighth of January, directing the Committee on the Judiciary to inquire what legislation is necessary to secure to the people of the State of Louisiana their rights of self-government under the constitution, Mr. West said:

Mr. President—Having already had one, though a brief, opportunity of addressing the Senate on the pending question, on which occasion I pointed out how the laws and the constitution of Louisiana had been violated in the pretended organization made under Mr. Wiltz on the fourth of last month, I feel some hesitation in again claiming the attention of the Senate, and must plead as an apology for so doing that I consider there are yet some features in the case that have not been examined and which it will be well to scrutinize. The views that I shall express to-day will therefore have at least the merit of novelty, and though I shall not be able altogether to avoid traveling in some of the sufficiently well trodden paths of others who have preceded me, yet I can promise not to weary those who will honor me with their attention, unnecessarily to the positions that I shall assume.

I propose to show from some of the pages of the recent but apparently forgotten history of Louisiana, that had it been designed by the United States authorities to overthrow constitutional government in that State and to establish military despotism in its place, there have been other and earlier opportunities of doing so. After I have spread that page before you, I shall proceed to an examination of a report of a recent superficial inquiry into the affairs of Louisiana, and shall endeavor to show that a document which is freely quoted by our opponents in this chamber as completely confounding the views of Republicans here, and as convincingly unanswerable, is simply a copy of a Democratic White League brief that deals with propositions at variance with its own facts, and presents conclusions without evidence to sustain them.

Mr. President, it is an axiom that "history repeats itself." Events that are transpiring in Louisiana to-day, and that have transpired in the past month, are not a repetition of history, but rather a continuation of an unbroken chronicle of outrage and of wrong ever since that State was admitted to the Union under reconstruction. I would ask the Senate to go back with me to an incident that occurred prior to the administration of the present chief executive, in which the military authority was interposed under somewhat similar circumstances to those of the recent action that has been so elaborately discussed here.

In 1868 one universal scene of violence, murder and killing prevailed throughout that State to such an extent that the State authorities deemed themselves powerless to suppress those disorders, and the Governor of the State appealed under the constitution to the federal government for its interposition. I read from the testimony taken in the Louisiana contested cases in 1868, in which the Governor of that State—a Governor whose title has never been questioned and who met no opposition to his authority in consequence of any illegality or insufficiency of title—that Governor, I say, addressed to the military representative of the United States in New Orleans this request:

"GENERAL—The evidence is conclusive that the civil authorities in the parishes of Orleans, Jefferson and St. Bernard are unable to preserve order and protect the lives and property of the people.

"The act of Congress prohibiting the organization of militia in this State strips me of all power to sustain them in the discharge of their duties, and I am compelled to appeal to you to take charge of the peace of these parishes and use your forces to that end.

"If you respond favorably to my request, I will at once order the sheriffs and police forces to report to you for orders.

"Very respectfully, your obedient servant,
"H. C. WARMOTH,
"Governor of Louisiana."

The General commanding, concluding very properly that such an appeal should be made to the chief executive, transmitted that appeal to Washington, and was replied to as follows:

WAR DEPARTMENT, Washington, October 26, 1868.

Brevet Major General L. H. Rousseau, Commanding Department of Louisiana, New Orleans:

Your dispatch of the twenty-sixth, forwarding a message from the Governor of Louisiana, and asking instructions, has been received. You are authorized and expected to take such action as may be necessary to preserve the peace and good order and to protect the lives and property of citizens.

J. M. SCHOFIELD,
Secretary of War.

General Rousseau, who was then in command, on the twenty-eighth day of October, 1868, issued this proclamation to the citizens of New Orleans:

HEADQUARTERS DEPARTMENT OF LOUISIANA, (States of Louisiana and Arkansas), New Orleans, Louisiana, October 28, 1868.

To the People of Louisiana:

Fellow citizens—I have received instructions from the authorities at Washington to take such action as may be necessary to preserve peace and good order, and to protect the lives and property of citizens.

* * * * * * *

So far the requisition upon the President of the United States and the action of those in authority under him was entirely legitimate. But the military commander saw proper to take certain action which is as completely a violation of the law in the case as we have had illustrated to us here in any action in the more recent case. It would seem that that military commander should have acted in co-operation with the State authorities; but he absolutely moved directly and without recognizing those authorities and reorganized the police board in the city of New Orleans, as the record shows. Here was a State then admitted to full recognition in the federal Union, represented on this floor by two Senators and at the other end of the Capitol by its competent representation; and yet on the direction that the military authorities there should take such action as would preserve the peace, they to a certain extent superseded the government, and acted without its recognition and against its inclinations.

Now, sir, I shall recur to the charge made in the words of the Senator from Ohio [Mr. Thurman]. He said:

"The great theme which now engages the American Senate is that great question of constitutional law, whether constitutional government shall be preserved in this land or military despotism take its place."

The specification of that charge has been furnished us through the information that his resolution elicited, and that specification is that General De Trobriand, acting at the request of Governor Kellogg—a request made in obedience to an appeal of fifty-two members, a majority of the Legislature then in the process of assembling, and upon the judgment of the Governor that he had exhausted all the State resources at his command to suppress a then formidable movement of domestic violence—prostrated the civil institutions of that State to federal military power, and imperiled the liberties of 40,000,000 of people. It is nowhere admitted—on the contrary, it is emphatically denied—that this action emanated from the President of the United States, or that he can in any degree be held responsible for it; and in support of that proposition I want to recur to another page of Louisiana history, showing what the President of the United States is inclined to do when he is compelled to act and when he has the proper information at his command.

I told the Senate that I should recur to some incidents of Louisiana history that had apparently escaped their recollection. Do they remember that just precisely three years preceding the events that have created so much excitement, and which have been the subject of this discussion—precisely to a day three years before these events transpired we had another event somewhat analogous in character, and the action was entirely different? On the fourth of January, 1875, General De Trobriand, at the request of a Democratic (so called) Speaker of the House, came to his relief. On the fourth of January, 1872, a conspiracy, entered into in the Legislature of Louisiana by a minority of Democrats, temporarily overthrew that House, and when their plans were foiled they appealed to the military to abolish and annihilate that House. The Legislature of Louisiana was in session on the fourth day of January, 1872. A minority of the House, having certain projects and plans, took occasion to secure the temporary control of the House by the very questionable measure which I will now recite to the Senate. At twelve o'clock on the fourth day of January, 1872, the Governor of the State, the Lieutenant Governor, four members of the Senate, and eighteen members of the House, all of them opponents of the Speaker and his combination—

"Were arrested by United States deputy marshals on writs issued by United States Commissioner Woolfley, who was till recently a clerk or deputy under Marshal Packard, on the false and frivolous charge that they were conspiring to resist the execution of the laws of the United States.

"While most of these members were absent at the Customhouse, they were delayed by the commissioner, on the pretense that he had no blank bonds, and had sent for some. Having been detained for a considerable time, they were finally released, and returned to the State House. When they returned they found that seven Republicans had been unseated, and six Democrats and Customhouse Republicans had been seated in their places, while one, the seat of Mr. Souer, of Avoyelles, was left vacant. This was done with only fifty-one members present, including the Speaker."

The Clerk of the House in this same document, testifies:

"On each question the same number of votes were cast, and there were during the transaction of all this business only fifty members present besides the Speaker.

"According to the constitution and practice of the House, fifty-two members were necessary for a quorum, there being 102 actual members of the House of Representatives."

You will see that on this earlier occasion a minority proceeded without authority of law to disorganize a Legislature of Louisiana. That movement was counteracted by the Governor of the State issuing a proclamation that same afternoon reconvening the Legislature, getting a full quorum, expunging what had been done during the day, and unseating the members who had been guilty of this violation of the laws and the constitution. Then ensued a scene of confusion, complication and disorder that put to the extreme test the powers of the executive of that State to maintain his position.

On the fifth of January, the following day, the Governor of Louisiana telegraphed to me here in these words:

"The condition of affairs is that of insurrection, and I want President Grant to instruct General Emory to use his whole force in suppressing it, and to answer me whether he will do so—either yes or no."

I did not regard that application as made in accordance with the constitution, and I replied to the Governor as follows:

"Dispatch for President received this morning and forwarded. It occurs to me that you assume a false position in asking United States troops to suppress any insurrectionary or riotous movement until you have exhausted the power of the State; meanwhile federal troops should not molest you."

As I remember, no effectual applications were subsequently made by the Governor of that State for any such military interference. But I will proceed and show who did make applications of that character, and how inconsistent those applications are with the position that the same gentlemen occupy at the present time. The Democracy of the State, speaking through its authorized body, the executive political committee of the State, the Democratic members of the bar of Louisiana, the Democratic press, the Democratic mass meetings, the Democratic judges upon the bench, besought the President to use the military power of the United States to disperse that Legislature. Judges T. Wharton Collins, of the Seventh District Court, William H. Cooley, of the Sixth District Court, and the judges of the Second and Fourth District Courts appealed to the President of the United States to declare martial law and disperse the assemblage. The collector of the port of New Orleans, the relative and personal friend of the President, made a like appeal; the United States marshal made a similar appeal, the editor of the New Orleans *Bee*, the leading Democratic organ, the expelled members of the Legislature, made a like appeal; the Mayor of the city appealed. I repeat, the executive committee of the State Central Committee of the Democratic party asked for the intervention of federal troops to abolish and disperse a Legislature the legality of which there was no question about. The leading Democratic paper in an article asked for martial law. The members of the bar of the city of New Orleans asked for martial law; the citizens in mass meeting assembled, and Louis A. Wiltz as one of them, your outraged and violated Speaker who now complains of the interposition of the army of the United States, asked the President to interpose and expel members from the Legislature.

Let us contrast the difference between that occasion and this, both with respect to what I have stated and with respect to the information that was in the hands of the President, and the solicitation to which he was subjected. His political friends—the Governor of the State, the judges on the bench, the Democratic State Central Committee, the Democrats, generally, in mass meeting assembled—appealed for the interposition of military authority. And what was the answer of the President of the United States? Because thoroughly informed (which he was not, nor were any pains taken to inform him of the recent action) of this situation, not yielding to the solicitation of either his political friends or his political adversaries, with telegrams incessantly pouring upon him to the number of fourteen, he makes but one answer, and the record of it should not be forgotten—

"Troops can not be used except under provisions of law."

That was the answer of the President of the United States when he was asked to interfere, and he is in no way responsible that his subordinates have on a different occasion taken a different view of their duty. He knew what the circumstances were; that community laid them completely and clearly before him. He could not reconcile it to his sense of duty to interpose in the organization of a Legislature. Not only was that his view at that time, but there is abundant evidence in the message he has sent to us, and there is also corroborating evidence in the manner in which the officers on duty there construed his dispatches and their instructions to show that the military interposed with extreme reluctance and only for the ultimate preservation of peace and good order. The President says in his message:

"I did not know that any such thing was anticipated, and no orders nor suggestions were ever given to any military officer in that State upon that subject prior to the occurrence.

* * * * * * *

"I have no desire to use United States troops in the domestic concerns of Louisiana or any other State.

"On the ninth of December last Governor Kellogg telegraphed to me his apprehensions that the White League intended to make another attack upon the State House, to which on the same day I made the following answer, since which no communication has been sent to him:

"'Your dispatch of this date just received. It is exceedingly unpalatable to use troops in anticipation of danger. Let the State authorities be right; and then proceed with their duties without apprehension of danger. If they are then molested, the question will be determined whether the United States is able to maintain law and order within its limits or not.'"

"I have deplored the necessity which seemed to make it my duty under the constitution and laws to direct such interference. I have always refused, except where it seemed to be my imperative duty, to act in such a manner under the constitution and laws of the United States."

Now, if there is one officer more than another in Louisiana who is peculiarly obnoxious to our friends on the other side of this chamber it is Major Lewis Merrill, the officer that a Senator here a few days ago without any warrant asserted was under arrest on the charge of arresting and handcuffing civilians. I protested against that charge at that time, because, although I could not refute it, I did not believe it was true; and the Senator did not have the information, but he asserted most positively that Major Merrill was under arrest. I desire to call the attention of the Senate to the disposition of that man, or rather to his conception of what his military duties are, and I will read briefly from his report:

"The general purpose of having the troops stationed here, I take it, I correctly understand in believing it to be to maintain, first, as far as possible, by moral influence and in the last extremity, if needful, by physical force, the supremacy of the civil law. I further suppose myself right in assuming that every officer charged with any duty in this disturbed country should carefully and steadily keep in view the fact that every power of moral suasion, and every influence toward a peaceful settlement of the disturbances should be exhausted before he would be justified in even a show of physical force; that it is his duty, first and last, to make conspicuous the fact that the military are here only to sustain the law and to assist the proper officers in enforcing it; that the community is not in a state of war, and that in all respects the usual functions of the civil law are to be appealed to for protection before any rightful use of the military can be made."

As an earnest of that officer's disposition to in no case interpose the military arm of the government in conflict with the civil authority, even when that civil authority was exerted against one of the members of his own force, one of the members who was active in his efforts to suppress violence, I will read from some of the telegrams which passed between Major Merrill and some of his subordinates. One of Major Merrill's officers was arrested by a process from one of the State courts. An attorney at law practicing in that court was employed to defend him. There were some preliminary examinations, and presently the question got into the hands of the grand jury. The attorney who was defending the officer telegraphed to Major Merrill, intimating that pending the issuance of the warrant under such an indictment the officer might make his escape. That same idea seems to have been suggested to the other military officers who were there in the immediate presence and neighborhood of that court, and they also intimated to their commander, then at Shreveport, that evasion of that writ might be had by flight or by force. Major Merrill replied:

"Let the warrant be served and obeyed."

And in reporting to his more immediate commander at New Orleans, he said:

"That grand jury have found indictment against Hodgson, and warrant will be served to-morrow morning. Have ordered positively that there shall be no evasion or interference with legal proceedings; that warrant must be answered quietly 'without any evasion whatever.'"

Mr. President, after the instances we have had recounted to us in this chamber of the safety and security with which this government has tided along until now near the completion of a century, over the varied encroachments, if I may so express it, of the military upon the civil power; after the episode of Jackson in 1815, the arrest of a member of the Legislature, and the ignoring of a writ of habeas corpus; after the dispersion of the Kansas Legislature in 1856 by federal authority, after the capture of the Maryland Legislature in 1861; after the assumption in 1868 of military control of a State in full fraternity in this Union; after the appeal by the Democratic party and the Democratic masses of Louisiana for federal interposition and for the dispersion of a legal Legislature of that State in 1872, are we to be told that the pillars of constitutional liberty should tremble because, under the orders of a Governor of a State, the military interposed and ejected from the Legislature some men that had no particle of title to be there? It is a mere sham pretension that such danger should be apprehended.

After five years of war, when the troops laid down their arms, this "imperious and ambitious" Cæsar disbanded all his great hosts after having, with a generosity that commanded the admiration of the world, paroled the hostile forces, and adjuring them to the arts of peace, bade them return to their homes, and gave them assurance that they should not be molested. I should like to have read the terms of surrender just certified to me by the War Department, as between General Lee and General Grant.

The Chief Clerk read as follows:

APPOMATTOX COURTHOUSE, VIRGINIA, April 9, 1865.

GENERAL—In accordance with the substance of my letter to you of the eighth instant, I propose to receive the surrender of the army of Northern Virginia on the following terms, to wit: Rolls of all the officers and men to be made in duplicate, one copy to be given to an officer to be designated by me, the other to be retained by such officer or officers as you may designate. The officers to give their individual paroles not to take up arms against the government of the United States until properly exchanged; and each company or regimental commander to sign a like parole for the men of their commands. The arms, artillery and public property to be parked and stacked and turned over to the officers appointed by me to receive them. This will not embrace the side arms of the officers, nor their private horses or baggage. This done, each officer and man will be allowed to return to his home, not to be disturbed by United States authority so long as they observe their paroles and the laws in force where they may reside.

U. S. GRANT, Lieutenant General.

General R. E. Lee.

HEADQUARTERS ARMY NORTHERN VIRGINIA, April 9, 1865.

GENERAL—I have received your letter of this date containing the terms of surrender of the army of Northern Virginia, as proposed by you. As they are substantially the same as those expressed in your letter of the eighth instant, they are accepted. I will proceed to designate the proper officers to carry the stipulations into effect.

R. E. LEE, General.

Lieutenant General U. S. Grant.

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE, Washington, February 1, 1875.

Official copy.

E. D. TOWNSEND,
Adjutant General.

Mr. West—All the history of General Grant's action, either as soldier or civilian, refutes even the supposition that he would ever seek by force to subvert the principles of constitutional government to a military despotism. The Democracy needed some such sham as this to delude the judgment of the people in their reflection upon their late remissness. They knew that when the people came to reflect upon the possibility of the non-coercionists again obtaining power, they would shrink from such a consummation. A magnificent vista of coming power has dazzled the vision of some Presidential aspirants; but they will find that the attempt to make the people of this country believe that the man who led the hosts of freedom is now seeking to throttle their liberties, is "the airiest bubble that ever filled" either "an empty head" or a head overcrowded with ambition.

I will digress now to say a few words in regard to an attack made upon the Supreme Court of my State. It has been stated that the *personnel* of that court was bad, and in support of that statement a decision has been cited of the Supreme Court of the United States recently rendered. That decision is not yet final, an application for a rehearing having been made by Mr. Reverdy Johnson and Judge Black on the ground, among others, that the court had misapprehended the facts of the case; and the presumption is that such eminent counsel would not apply for a rehearing in a case in which they had not been previously engaged unless there were reasonable grounds therefor. Under the circumstances, fair play and common decency would require that the decision should not be discussed in deliberative assemblies.

In much of the discussion in regard to Louisiana affairs the supreme bench of Louisiana has come in for a liberal share of reprehension. I want to show to the Senate who these men are that are so generally condemned here on ex parte testimony. To demonstrate how the chief justice of that State is regarded, in 1872 after he had been on the bench four years, and during the sitting of the Democratic convention which nominated Colonel John McEnery for Governor of the State, and in which convention he was a delegate, and the Governor that was afterward nomidated by that convention, McEnery, telegraphed to the chief justice of the State, Judge Ludeling, to know if he would accept the nomination of that convention for the office of Governor. That honor was declined. Later the delegates from several parishes to the Liberal convention which nominated Colonel Penn for Governor met at Monroe during the session of the Supreme Court, and after consultation they asked the chief justice if he would accept the nomination for Governor from that convention, and this honor also he declined. The facts in connection with the case decided by the Supreme Court of the United States were known to those delegates, as they lived in the neighborhood of the railroad which is the subject of that litigation, and among them were leading lawyers in that portion of the State. It is not amiss to state that in 1866 Judge Ludeling and some of his fellow citizens purchased at a public sale the wreck of a railroad. Their title was attacked in the State courts, and both the district court and the Supreme Court of the State decided that their title was valid. Another suit was then filed in the Circuit Court of the United States attacking the sale. The Circuit Court decided in favor of the sale, and the Supreme Court has recently reversed that decision; but an application for a rehearing is still pending in that case, as already stated.

An allusion has been made here to a dispatch sent by Colonel Casey, as if he knew or could foreshadow the opinion of the Supreme Court in its coming decision to be rendered on the Returning Board case. Nobody but Colonel Casey is responsible for that dispatch. At the date of the dispatch he was not even acquainted with the members of the Supreme Court. The Supreme Court had refused to recognize the commission of Ogden as Attorney General on the ground that it was issued in violation of law, having been issued before the canvass of the votes by either of the returning boards; and that probably was the basis of the conjecture on which Colonel Casey concluded that the Supreme Court of that State was in harmony with the Republican party.

In answer to the attack of Senators on the *personnel* of the other members of that court, I shall be excused for stating briefly who those gentlemen are who, without a hearing, are being condemned and denounced here.

The chief justice is a native of Louisiana, a man who has spent his whole life in that State, and up to this time without blemish or the slightest suspicion of disrepute. Those two conventions were composed of his life-long fellow-citizens. Those men that except to his rulings now as chief justice of the Supreme Court were perfectly willing and indeed anxious that he should become the chief executive of their party and of their people and of their State.

Mr. Justice Taliaferro is a native of Virginia; during many years parish judge under the constitution of 1812. In 1852 he was a member of the constitutional convention which met in that year. In 1861 he was elected as a Union man to the secession convention. He was one of seven of all the Union men elected to that convention who had the courage to refuse to sign the ordinance of secession. In 1868 he was elected to the constitutional convention, of which he was the president; and he was the Democratic candidate for Governor in 1868 in opposition to Governor Warmoth. He is now nearly seventy-seven years of age, and all his life he has borne an unblemished reputation.

Mr. Justice Howell is a native of Louisiana. He was several times elected to the office of district judge before the war. In 1864 he was a delegate to the constitutional convention, and in 1864 he was appointed a justice of the Supreme Court, and in 1868 he was reappointed to the same office. He also is regarded as a man of unimpeachable integrity.

Mr. Justice Morgan is a native of the State. During several years before the war he was judge of the Second District Court in New Orleans, and was afterward district attorney for the United States at New Orleans. He ranked among the foremost lawyers at the bar. Mr. Justice Wyly is a native of Tennessee, who had a large and lucrative practice in the country after the war, and in 1868 was elected district judge, and afterward appointed to the Supreme Court.

So all these attacks made upon the Supreme Court of Louisiana are made upon men who are known and have lived there their lifetimes, and because they have the independence to construe the law according to their oaths, they are subjected to denunciations unheard of elsewhere outside of Louisiana and certainly that ought not to be indulged in here.

Now, Mr. President, I will claim the attention of the members of the Senate to some of the proceedings had in the so-called investigation of the affairs of Louisiana, and the record of which proceedings is quoted here with such evident satisfaction by our friends on the other side of the chamber.

In an official report which we have here, the committee state that they undertook no investigation of the election of 1872. They announced this, and they would therefore first proceed to an examination of the acts of the Returning Board of the State in respect to the late election, and then an inquiry in reference to the White League. That was the notice given out to the contending parties in issue before that committee as to the line and scope of their proceedings. That they departed from that line and that they extended that scope without fair notice to one of the contending parties will be made apparent as I proceed.

The committee in its report first takes exception to the composition of that board, and says that the law provides that it shall consist of five persons from all political parties, and asserts that it consisted at the opening of the last session of five Republicans, and that one of them, General Longstreet, resigned, and a Conservative was taken to fill the vacancy. Well, sir, a man is no longer a Democrat in Louisiana unless he is willing to be a White Leaguer. I hold the official report of that Returning Board here, and I will state the composition of that body:

"That five persons, to be elected by the Senate from all political parties, shall be the returning officers of all elections."

The board was elected in January, 1873.

"At the time this election took place the party nomenclature of this State was Republican, Democrat, and Liberal Republican.

"J. Madison Wells then represented the Liberal Republican party, T. C. Anderson the Conservative party, James Longstreet, G. Casanave and L. M. Kenner the Republican party."

Until the final conclusion of the labors of that board J. Madison Wells, the Liberal, T. C. Anderson, the Conservative, and Oscar Arroyo, the Democrat, constituted a majority of that board, and there were but two genuine Republicans on it.

Mr. Pratt—By whom was the board appointed?

Mr. West—That board was elected by the Senate of the Legislature. So, as I said in the outset, this report dealt with propositions at variance with its own facts; and then the committee proceed to say that they think the law as to the constitution of the board was not complied with because the Democratic member on the last day of the session withdrew and left them, as they said, without a representative. I do not think that proposition is exactly sound; but I want to show what those gentlemen who take exception to that action did in a somewhat similar case when they were left in the vocative by some of the Republican members of a board retiring a little earlier, in 1873. Another Senate—because we run a double-headed machine down in Louisiana sometimes; sometimes a conflict between federal and State authority, and sometimes a conflict between State authorities—a little earlier in 1873 a rump Legislature, that sat at one time in the upper story of an oyster saloon in New Orleans, elected a returning board to canvass the votes of that State. They elected Archibald Mitchell, B. R. Forman, S. M. Thomas, O. F. Hunsaker and S. M. Todd; five men. What the politics of the first three are I can not say in the confusion down there between Conservatives, White Leaguers and Democrats. All I know is that they were not Republicans; but the other two men, O. F. Hunsaker and S. M. Todd had always been classed as Republicans, and had been elected as Republicans to the Senate. That board assumed to convene, and in less than twelve hours after it was created it presumed to count the votes of over 600 polling places in the State of Louisiana, and to transmit them to the Secretary of State as the true and lawful and correct result of the election just previously held. I say presumed to transmit them, because I hold in my hand a copy of the affidavit of two members of that board that they never signed that report; that they never examined or compiled those returns, and the whole foundation made by the Senate Committee on Privileges and Elections on the returns of the board of Louisiana, upon which the claim of Mr. McEnery is based, is proved here to have been a fraud and forgery, and the case is without foundation utterly. I will have that affidavit read so that it can be seen that the great returns which are so often claimed here as the basis for the legitimacy of the McEnery government are proved to have been forged or signed only by two members of the Returning Board; and the third Democrat stands ready and does say to-day that he never signed them. I will read the affidavit:

"Sworn statement of Oscar F. Hunsaker, chairman of the Fusion-Warmoth Returning Board, and Samuel M. Todd, a member of the same board. (See canvass of Fusion returns published in Senate report, pages eighty-one, eighty-two and eighty-three, purporting to have been signed by Hunsaker and Todd.)

"State of Louisiana, city of New Orleans. This day personally appeared before me, William Grant, United States Commissioner Samuel M. Todd and Oscar F. Hunsaker, residents of the State of Louisiana, who, being first duly sworn, depose and say: That they were members of the State Senate of the State of Louisiana, sitting in the Mechanics' Institute on the ninth day of December, 1872; that afterward, to wit, on or about the tenth day of December, 1872, said deponents left the Senate sitting at the Mechanics Institute, and united with the assemblage known as the McEnery Senate, sitting at Lyceum Hall, in the City Hall building of the city of New Orleans; that the Senate of the said McEnery assemblage proceeded to organize, and that on or about the date last named said Senate proceeded to elect a returning board or board of canvassers, who were to correct, canvass and compile the returns of election for State officers, presidential electors, etc., under act approved by H. C. Warmoth, November 20, 1872; and said deponents, to wit: S. M. Todd and O. F. Hunsaker, together with S. M. Thomas, B. M. Forman and Archibald Mitchell, were elected as said board; that the said board proceeded to organize by the election of O. F. Hunsaker, one of said deponents, president thereof; that the said returns were then produced from trunks and carpet-bags in a small room, on an upper floor of the St. Charles Hotel; that said returns were brought to said room by one O. D. Bragdon, who appeared to be in possession of the same; that said returns had been opened, compiled and canvassed before they came into the possession of said deponents and the other members of the board; that although said deponents did carefully examine said returns and made themselves cognizant of the nature of the same and the mode and manner in which said returns were compiled, and the result sought to be shown, yet said deponents, neither jointly nor separately nor in any way whatever, signed or authorized any person to sign for them the purported canvass of returns known in the Congressional report on Louisiana affairs as the 'Forman returns,' dated December 11, 1872, by which returns it was made to appear that John McEnery was elected Governor and that the Fusion State ticket was elected; neither did they or either of them at any time consent or agree that said purported canvass was or is correct, or authorize the publication of the same in any manner whatsoever; that soon after the meeting of said board of canvassers above referred to one of said board, to wit: S. M. Thomas, left the city, and if he ever resigned as a member of said returning board it was not known to either of said deponents, nor did said O. F. Hunsaker, as president of said board, ever at any time receive any indication or communication of the resignation or withdrawal of said S. M. Thomas from the said board of canvassers; and that neither of said deponents ever met or participated in any canvass of returns after said S. M. Thomas left the city, nor did they ever complete the canvass of said returns, nor did they ever authorize any person or persons to do so for them. Said deponents further state that by the pretended canvass of said returns, as published without the consent of said deponents, the returns from the following parishes are shown to have been entirely thrown out, to wit: St. Martin, Iberia, Iberville and St. James; that the said parishes were and are well known to be largely Republican, the two parishes of St. James and Iberville alone giving more than 2500 Republican majority; that there was no sufficient proof or good reason why said parishes should have been omitted; that had the vote of said parishes been included in the publication of said purported returns, as of right it should have been, it would have added several thousand votes to the Republican ticket; and deponents further say that a fair, proper and correct canvass of said returns would have shown that William P. Kellogg was elected Governor of Louisiana at the election held on the fourth of November, 1872, and said deponents verily believe that said William P. Kellogg was elected Governor of the State of Louisiana by the actual votes cast at said election.

"OSCAR F. HUNSAKER.
"SAMUEL M. TODD."

It is not my intention to open that vexed question here now. I want to show how, when some members of that board were deficient to serve Democratic purposes, and when they actually had but a minority of members available and present, some one forged the names of two of the members, and the third member to-day says that he never signed the returns.

Mr. Sherman—Is that the same of the De Feriet board?

Mr. West—That is the Forman board. When, as on this occasion, the only Democrat that they claim they could rely on, retired from the performance of his functions on the Returning Board, this committee report that that invalidated the whole proceeding; but on another occasion, when they wanted to perfect proceedings, they did not stop about the absence of two or three members, but they took occasion to falsify the returns and to send up a record here to Congress that was an absolute forgery.

Now, exception is also taken to some of the proceedings of the board. This revision of their proceedings is technical. The committee say:

"The law provided that in case of such violence, intimidation or corruption at or near either poll, either during registration or election, as prevented a fair, free, peaceable, and full vote, the commissioners of election, if the occurrence was on election day, the supervisors, if on the day of registration, should make a full, verified statement of the occurrence, and forward the same with and annexed to the returns.

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"In only a few instances were there any protests accompanying these returns."

That is to say, the revisers of the doings of the Returning Board take exception to the fact that according to their construction of the law the board departed from its true letter and exercised functions that were in no way devolved upon it by the law. Sir, had that board been held to the true letter of the law, the whole parish of Orleans, with its 13,000 Democratic majority, would have been thrown out; and the Democratic contestants before that board appealed to it to become a court of arbitration, and, however it may be contrary to law, certainly the side who have been decided for are estopped from taking exception to it. I should like the clerk to read what were the principles that guided the action of that board. Had they confined themselves to a strict observance of the law, there were only twelve polls in the city of New Orleans, that gave 13,000 Democratic majority—whether legitimate or not I will not here state—where the law had been complied with, and the other 106 could have been entirely thrown out. I should like the clerk to read that.

The chief clerk read as follows:

"When the returning officers entered on the discharge of their duties they first took up the parish of Orleans, in which there were 118 polling places. There being the returns for candidates for a municipal government, two sheriffs, and a great number of minor offices to be canvassed, it was deemed important that the elected candidates should be inducted into office as soon as possible. Immediately on entering into the canvass of the votes in the parish of Orleans it was discovered that the election had been exceedingly loosely conducted. In not probably a dozen polling places in the city had all the formalities required by law been complied with. In but a very few cases had the list of voters been kept, or, if kept, returned to the board, and many of those returned had not been signed or sworn to. In many cases the statement of votes showing who had been voted for was not kept, or, if kept, not returned to the board; and in many cases the tally sheets were not kept, and, if kept, not returned to the board; and in some cases nothing but the unsigned and unsworn-to tally sheets were all that had been returned to the board. Under such circumstances, if the board should decide that a compliance with all the forms of law would be required to enable them to canvass and compile the votes, it was evident there had been no legal election in the parish of Orleans. The board then decided that if any of the formalities required by law had been complied with, even only a tally sheet unsigned or sworn to, was returned to it by the supervisors of registration, they would, in the absence of any proof of fraud, intimidation or other illegal practice, canvass and compile the vote of such polling place. Under this ruling of the board the canvass and compilation of the vote of the entire State proceeded. It became the duty of the board to carefully examine the returns from every polling place in the State, over 650. This was done by the members of the board in person, and it occupied the board from 11 A. M. to 4 P. M., and from 6 to 10 P. M. of almost every day for a month. During this period much time was taken up by counsel, who were almost every day raising questions and making motions. It is proper here to state that when the board entered on their labors they permitted each of the political parties to be represented by counsel before the board, to make any suggestions or motions they might think proper, and this privilege was liberally availed of by counsel.

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"It was the opinion of the board that the forms of proceeding in regard to ascertaining whether the election had been affected by any riot, tumult, acts of violence, intimidation, armed disturbance, bribery or corrupt influences pointed out in sections three and twenty-six of the election law, were merely directory, and that it was the duty of the board to inquire into any of those acts, when brought to their attention by any satisfactory evidence; the board was confirmed in this view of their duty by the precedent set by the acts of the Returning Board in 1870 and 1872 (the act of 1870 on the subject is the same as the present law), and this seems to be the reasonable and proper construction of this law; this is part of the duty of the board in their work of canvassing the vote."

Mr. West—This inquiry as to the doings of that board, after contending that the board should be held to a strict construction of the law, proceeds to say: "In only a few instances were there any protests"—meaning protests according to law—"presented." The fact is that there were protests before the board from twenty-eight parishes, or one less than one-half of the entire parishes of the State. Protesting, making affidavits of riots, intimidation or violence, is not a healthy business in some portions of Louisiana. An officer of the army has been held up to censure because he, in his capacity as a citizen, interposed and made affidavits against five persons for a violation of a section of the civil rights bill; and he states in his official report what actuated him to do it. "My name was appended to the affidavit, because any one else who signed it would have been killed, and not to constitute myself prosecutor, which I have not done."

The United States commissioner resident at Shreveport, when urged to a faithful discharge of his duty by this military officer, replied that it would be certain death for anybody to initiate such proceedings; and the committee says that reports were scarce and could not be had. That is what the committee says, but the board say that they had reports from twenty-eight parishes notwithstanding. The gravamen of the charge against this Returning Board is that they changed a return from twenty-nine majority Democratic to a tie, and the principal efforts to establish that fact are directed to the four parishes of Bienville, Grant, De Soto and Winn, and I may here, in passing, comment upon some alleged facts presented here by a Senator a few days ago, who prefaced his remarks by saying that he did not want to be interrupted and consequently corrected.

I heard a Senator here offer an admonition to his fellows not to take newspaper reports as a record of what was being done, not to draw a picture of society from newspaper reports; but the same Senator, in order to establish a fact before the Senate, chose to ignore official documents lying on his desk and under his eye and rely upon a newspaper for his facts, and he had to search very industriously to find that newspaper, because it was only in one newspaper that that error was committed. With the official report of this committee before him, with the report of the Conservative members of that so-called Legislature, he chose to ignore them and to avail himself of a typographical error made in one paper in this city in order to get thirteen votes for his candidate.

Mr. Thurman—Who does the Senator allude to? I am not conscious of having referred to any newspaper.

Mr. West—I did refer to the Senator, and I will tell him why I referred to him.

Mr. Thurman—To what newspaper did I refer? If I did so, I have forgotten it.

Mr. West—I did not say that the Senator quoted a newspaper, but I say he quoted a fact erroneously and accidentally misstated in that paper, in support of his proposition when an official document was on his desk—

Mr. Thurman—What was it?

Mr. West—I will state. He said that there were seventy-one votes cast when Mr. Wiltz was elected. The report of this committee, which I am now discussing, says fifty-eight. The report of the Conservative body says fifty-eight. These were before the Senator on his desk; but the morning *Chronicle* in this city, the day that happened, made a typographical error and gave blank credit for fourteen votes by mistake. I do not know whether that is the identity of the Senator's information or not, but such are the facts.

Mr. Thurman—I made no reference to the *Chronicle*, but I should be perfectly willing to take the Senator's statement if fifty-eight is not a quorum and two over. But I had (and I will bring it into the Senate to show to the Senator but I will not interrupt him too much) precisely the statement which I read.

Mr. West—If I have not st