New Orleans Republican.

OFFICIAL JOURNAL OF THE UNITED STATES

OFFICIAL JOURNAL OF NEW ORLEANS

OFFICIAL JOURNAL OF THE FIFTH GENERAL ASSEMBLY OF THE STATE OF LOUISIANA.

SENATE.

Thirty-ninth Day's Session.

SENATE CHAMBER, New Orleans, February 21, 1876.

The Senate met pursuant to adjournment at twelve oclock M., the Hon. C. C. Antoine, Lieutenant Governor and President of the Senate, in the chair.

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

Present—Messrs. Alexander, Allain, Blackburn, Blunt, Breaux, Chadbourn, Detiege, Dumont, George, Goode, Greene, Herwig, Landry, Ogden, Pollard, Robertson, Stamps, Steven, Sypher, Twitchell, Weber, Wharton, White, Young—24.

Absent—Messrs. Anderson, Brewster, Burch, Cage, Eustis, Gla, Grover, Harper, Kelso, Kelly, Masicot, Whitney—12.

Prayer was offered by the Rev. Mr. Dardis.

The journal was read, corrected and approved.

PETITIONS AND MEMORIALS.

Senator Alexander presented the petition of Lewis B. Kerr, a resident of the parish of Catahoula, asking for relief and an extension of time for the payment of his taxes, which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Senator Sypher, chairman of the Committee on Finance, submitted the following report:

COMMITTEE ON FINANCE, New Orleans, February 21, 1876.

To the Honorable President and Members of the Senate:

Your Committee on Finance, having had under consideration House bill No. 340, entitled act to authorize, with the consent of a popular vote, a special tax on property in the city of New Orleans in favor of the New Orleans Pacific Railway Company, to provide for the submission of the question at a special election, to provide for the securing and collection of the tax, if voted, to impose certain duties on State officers of election, and on the city officers, and to punish violations of this act, to authorize the issue of a tax stock, etc., report the same favorable, Hon. Thomas A. Cage dissenting.

Hon. E. D. White will make a minority report.

Also, Senate bill No. 163, entitled an act to establish a board of audit for the parish of Caddo, and report the same favorably.

Also Senate bill No. 117, an act to amend and re-enact section 184 of the Revised Statutes; defining the manner in which warrants shall be drawn by the Auditor of Public Accounts, and report the same favorably.

Also, Senate bill No. 110, an act requiring the Auditor of Public Accounts of the State of Louisiana to issue warrants on the State Treasurer in favor of constitutional officers of the State for the payments of their salaries, etc., and report the same unfavorably.

Also, Senate bill No. 166, an act entitled an act to appropriate certain funds for the removal of obstructions in the channel of False river, in the parish of Pointe Coupee, and report the same back with the recommendation that it be referred to the Committee on Canals, Drainage and Internal Improvements.

Respectfully submitted,
A. J. SYPHER, Chairman.

The report lies over.

Senator White submitted the following minority report on House bill No. 327:

NEW ORLEANS, February 19, 1876.

To the Honorable President and Members of the Senate:

The undersigned member of your Committee on Finance begs leave to report by minority on House bill No. 327, known as the premium bond bill. The magnitude of the interests involved, the gravity of the financial situation of the city of New Orleans, for the relief of which the bill was intended, a deep solicitude for the alleviation of the burdens resting upon the taxpayer, to whom the bill affords present and permanent relief, joined with a due regard for the public creditor and the future prosperity of the entire people of the city of New Orleans, impel the minority to state fully his reasons for dissenting from the unfavorable report of the majority of the committee.

The necessity of some legislative relief for the city in her embarrassment is universally conceded. The bonded debt, all expressly authorized by various legislative acts, is as follows:

Consolidated bonds, issued in 1852, under authority of section thirty-seven, act No. 71, approved February 23, 1852, maturing in 1892	$4,444,000
Municipality bonds issued in 1851, under authority of ordinances of municipalities, maturing in 1876	3,250
Railroad bonds, issued in 1854, under authority of act No. 108, approved March 15, 1854, maturing in 1874	2,855,000
Pontchartrain railroad bonds, issued in 1854, under authority of act No. 110, approved March 15, 1854, maturing in 1884	113,000
Seven per cent bonds of 1869, issued in 1869, under authority of section one, act No. 49, approved February 27, 1869, maturing in 1894	2,849,500
Seven per cent bonds of 1870, issued in 1870, under authority of section forty-one, act No. 7, approved March 16, 1870, maturing in 1895	3,000,000
Jefferson City bonds, various under authority of sections thirty-five and thirty six, act No. 7, approved March 16, 1870	295,000
Street improvement bonds, issued in 1871, under authority of section thirteen, act No. 40, approved March 13, 1871, maturing in 1911	446,000
Street assessment bonds, issued in 1874, under authority of section thirteen, act No. 40, approved March 13, 1871, maturing in 1884	9,450
Ten per cent bonds, issued in 1871, under authority of act No. 100, approved May 1, 1871, maturing in 1881	1,143,600
Gold consolidated bonds, general series, issued in 1872, under authority of act No. 73, approved April 26, 1872, maturing in 1922	2,518,000
Gold consolidated bonds, drainage series, issued in 1872, under authority of act No. 73, approved April 26, 1872, maturing in 1922	1,665,000
Waterworks bonds, issued in 1869, under authority of act No. 40, approved April 1, 1833, maturing in 1899	1,392,400
Carrollton bonds, issued in 1872, under authority of annexation act of 1874, No. 71, maturing in 1892	194,250
McDonogh school bonds, issued in 1864, under authority of act No. 111, approved March 16, 1861, maturing in 1914	109,000
Fink Asylum bonds, issued in 1864, under authority of act No. 111, approved March 16, 1861, maturing in 1914	48,000
Million loan bonds, issued in 1868, under authority of act No. 52, approved September 5, 1868, maturing in 1872	24,150
Total	$21,109,600

Making a total aggregate of $21,109,600.

The certified debt to about $1,000,000, the floating debt to $1,000,000, making about a total indebtedness of $23,000,000. This enormous debt is represented by an assessment of real estate amounting on the rolls of 1874 to $105,901,565, and from this amount is to be deducted a large sum of property not properly the subject matter of taxation, and the assessment at its just value would probably not exceed $80,000,000. The interest alone as required by law amounts annually to $1,400,000 a year, which, joined to the sinking funds and amounts required to pay matured bonds, would compel the levy on the property of the taxpayer of a tax of certainly six, and probably seven per cent. Under this appalling condition of things the city has become utterly crippled, her finances involved in almost bankruptcy, her obligations dishonored. Her government struggling under impossible legal duties has endeavored by every honorable means to carry on the necessary functions of municipal existence. The property of the taxpayer, oppressed by too onerous present and prospective taxation, has lost or is gradually losing its capacity for payment. The creditor, with the suspension of payment of interest, has found his security decreasing in value, and, in consequence, a large capital has been withdrawn and the commercial prospects of the city become materially overcast. To remedy these evils the plan, of which the bill unfavorably reported on was the exponent, has been presented by the city government. The examination of its details at present is unnecessary, because the majority have thought proper to overlook them and to predicate their report upon supposed questions of law. The results to be accomplished by the plan may be succinctly stated as follows:

1. The immediate reduction of taxation to a point nearly 100 per cent below the rat of the past year, and security against inordinate taxation in the future.

2. The curtailment of the amount to be paid by the city by $1,000,000 this year, and the postponement of the sinking funds, as well as by the regulation of the sums to be paid in the future within reasonable limits.

3. The payment to the creditor of the entire principal of his debt, calling upon him for a partial remission of interest and extension of principal, rendered necessary by the deplorable condition of the city, and consonant with his interest by augmenting the solvency of the debtor, and hence enhancing the value of his security.

4. By providing rateably for the payment of principal and interest, thus securing the gradual extinction of the debt and saving the transmission to posterity of too great a burden, while protecting the present.

Your minority deem well to say that the bill thus calculated to relieve the community has been matured by the city government, has received the practical sanction of an already happy execution; has been accepted by creditors to the amount of over $4,000,000; has been recommended by the executive, indorsed by the Chamber of Commerce, approved by the Property Holders' Union, and sanctioned by the unanimous voice of the House of Representatives. Under these circumstances, your minority feels that grave indeed would be the responsibility assumed by him did he join in the unfavorable report. The presumed reasons of law by which the committee deemed it necessary to report unfavorably are as follows:

1. That the larger portion of the city debt now outstanding was without consideration, or for a consideration of Confederate money.

2. Because this being the case, was available even against a third innocent holder.

3 Because the entire debt, except the $4,444,000 consolidated bonds were without legal authority for their existence.

Your minority is at a loss to know upon what the majority base the first proposition. The entire debt, as previously shown, has express legislative sanction. The consolidated bonds, it seems, the majority do not question. The railroad bonds were authorized by legislative act, and ratified by a vote of the people. The municipality bonds preceded the consolidated. The Pontchartrain bonds likewise were voted for and authorized. The seven per cents of 1869 were issued under the sanction of legislative authority, and used in retiring the city notes and outstanding floating debt of the city which had accumulated during the United States military government and subsequently. The seven per cents of 1870 were issued for a like purpose. If these two series are those intended to be animadverted on by the committee, it need only be remarked that the impression or opinion of the committee is wholly without foundation of fact. The first series were entirely issued by the Southern Bank, the then Fiscal Agent, and bear almost entirely the signature of Thomas Layton, Esq., its president, who then, as now, was the agent or representative of a large number of holders of consolidated bonds. The second series were issued by the New Orleans and Citizens' Bank, under like circumstances, for a few city notes yet outstanding for arrears due school teachers, Firemen's Association, etc. Of the first series $612,000, which had been given to pay a debt due to the trustees of the Fink and McDonogh school funds, were issued to Thomas Layton, Esq., president, and sold by him, under the authority of the Council, and the proceeds applied by the Southern Bank to the payment of debts due the Firemen's Association, Gas Company, etc. The Jefferson City bonds result from annexation, as do the Carrollton. The street improvement and assessment bonds were authorized by legislative act, and represent work done or property paid for under contract. The ten per cent bonds likewise represent judgments, contracts, etc. The gold consolidated represent debts due the Firemen's Association, the Gas Company, judgments, and a large amount of railroad bonds which had matured and were thus converted. The Fink and McDonogh school bonds represent a balance due these funds. The million loan, that amount actually borrowed by the city. All the foregoing bonds were issued at or about par, and they constitute the total amount of the city bonded indebtedness. The recapitulation suffices to give a complete answer to the facts assumed by the majority of the committee. If the committee intended to say that in the past many acts of extravagance had been committed; that the government had been conducted with too much expense, they were justified in many particulars. If they intended to confound the act of extravagance with the evidence of debt issued for the purpose of paying not the contractor, but a third party, they were, in the opinion of the undersigned, obviously wrong. To say that a fraudulent contract can be annulled would, under proper restrictions, be correct; but to say that the obligations issued to a third party to obtain money even although used for the payment of the contract, are null, violates in the opinion of the undersigned the most elementary notions of law and equity and amounts to the rankest repudiation. All the bonds are now in the hands of third holders and are, hence, if originally authorized by legislative act, removed beyond the question of fraud. Negotiable in their form, they carry the immunity of negotiable paper. The majority have expressed an opinion to the contrary, founded upon the case of police jury vs. Britton, 15 Wallace, page 570. In this case, however, the bonds were held not good because not authorized by legislative act; the court expressly saying that even if fraudulent when issued under the authority of a legislative act they could be enforced by a third holder. Thus, the committee have mistaken the case of a police jury issuing bonds without authority with the case of bonds issued by the city under the express authority of the Legislature. In this connection the minority deems it well to say that his opinion in so grave a matter is entirely unbiased by political opinion because of the importance of the subject, and the fact that the entire bonds now stigmatized by the majority as fraudulent, were issued by the direction of Legislatures almost entirely Republican; that at the extra session of 1875, a bill was reported from the Finance Committee through the Hon. W. W. Wharton, then chairman and now reporting with the majority, making it obligatory on the city to pay her entire bonded debt with gold interest, and the bill was voted for by the Hon. M. H. Twitchell, now reporting with the majority herein.

The third objection stated by the majority is the existence of a claim alleged by the holders of consolidated bonds as to the nullity of certain issues of city bonds growing out of a restriction imposed on the city by the act of consolidation, act No. 71 of 1852. The clause relied on is as follows:

"SEC. 37. From and after the passage of this act no obligations or evidence of debt except those herein authorized shall be issued by the city of New Orleans or under its authority; nor shall any loan be contracted unless the same be authorized by a vote of the qualified electors of said city."

The majority of the committee consider this clause to have operated as a contract with the consolidated creditor; that hence all subsequent legislative acts authorizing the issuing of an evidence of debt by the city of New Orleans are unconstitutional, and that all other debts of the city of New Orleans are null and void. Before answering this objection it is necessary to notice a gross mistake of fact fallen into by the majority of the committee, which is that a very large portion of the debt is by no one plausibly pretended to come within the reach of the clause relied on. These items of debt are as follows:

Railroad	$2,855,000
Pontchartrain	113,000
Municipalities	3 250
Waterworks	1,392,400
Carrollton	194,250
Jefferson City	295,000
McDonogh	109,000
Fink Asylum	48,000
Gold consolidated bonds, issued as above stated, for railroad bonds matured and thus extended	572,000
Seven per cent bonds of 1869, belonging to the McDonogh and Fink funds, sold as above stated by Thomas Layton, Esq., under authority of the city government, like all other city bonds, afterward given in payment to said funds	612,000
Total	$6,193,900

These items are said to be necessarily beyond any question, even if the clause of the act of 1852 receives the scope contended for by the majority of the committee, because the municipality bonds were authorized to be issued in 1851, before the consolidated act; because the Waterworks bonds, although issued in 1869, were authorized by the act No. 40 of 1833; because the Pontchartrain bonds and the railroad bonds issued in 1854 were submitted, by the provisions of the acts authorizing their issue, to a vote of the people, and because the gold consolidated stand in the place of the railroad bonds for which they were issued; because the Carrollton and Jefferson city bonds result from debts contracted by them respectively, and not by the city of New Orleans, and because the Fink and McDonogh funds, as well as the bonds held by said funds, represent an obligation due by the city under the condition of the legacies constituting in no sense the contraction of a debt. Thus, even granting the correctness of the legal views of the committee, they have actually recommended the repudiation of over six millions of debt equally as sacramental as the consolidated, the payment of which last the committee seems to think imperative.

Your minority, however, can not agree with the majority in their construction of the act of 1852, and while differing he does not desire to express settled opinions on a matter which he considers as solely properly determinable by judicial conclusion. He however thinks:

1. That the restriction in the act of 1852 forms no part of the consolidated bonds, and was simply a restriction on the power of the city, which the Legislature was competent to remove and did remove by subsequent acts.

2. That although the consolidated bonds were necessarily contracts as regards the provisions for their payment, the restraining clause in the act was a limitation on the city which engendered no privity of contract between the city and the consolidated creditors in that regard.

3. That the limitation in its terms was applicable only to bonds issued by the city of New Orleans under her own authority, and not under the authority of legislative acts.

This view of the matter was certainly the one entertained contemporaneously with the passage of the act of 1852, and subsequently by the consolidated bondholders themselves. We have already shown that the issue of 1869 was made by the Southern Bank, itself a large holder of consolidated bonds. Your committee is under the impression that a recent decision of Judge Woods has settled this question; but in this they are mistaken. The suit in which the decree was rendered asked the recognition of the consolidated bonds, the nullity of all other bonds, and the recognition of the consolidated creditors' right to a sum of money on deposit to the credit of the interest due on the consolidated bonds. Before judgment all but the right to claim the interest was withdrawn by the plaintiffs, and a decree was rendered recognizing the right of the consolidated creditors to the interest fund deposited to their credit, the judge expressly saying that "so much of the act of 1852 as provided for the levy of interest was a contract," excluding by implication all expression of opinion on the clause in the act now relied on and claimed by the committee to have been decided. In this connection, the minority deems it well to say that in a large number of suits instituted by the city against taxpayers, the defense that no tax to pay interest was legal except the interest tax on consolidated bonds has been expressly negatived by the Supreme Court of the State; that judgments have been rendered against the city on other than consolidated bonds, both in the Circuit Court of the United States and in the State courts, to a large amount.

Your minority has examined this question simply because of what he deems erroneous views expressed by the majority of the committee. Granting all the conclusions of law come to by the majority, they furnish no valid objection to the act, because it proposes to give no greater sanction to any of the debt than it now has. The debt being already authorized by legislative act, if null, because these legislative acts were not submitted to a vote of the people, will be equally so if transformed under the proposed bill. Thus the act will simply secure the people from too great taxation, and the city from embarrassment without impairing any defense existing or supposed to be existing. The majority of the committee seem to admit this proposition, but predicate their objection on the fact that payment will continue to be made under the premium bond act, until the legality of any questioned may have been decided. This is at once answered by the statement that if the act be not passed the city must continue her payments under existing laws until final decision rendered, and will thus pay out in five years four or five times the amount required under the premium bond plan. The committee moreover say that the act proposes to pay the consolidated creditors in full. The act furnishes no warrant for this assertion. It proposes to pay all the creditors alike. True, the consolidated creditors have a claim to interest, but so have the others. True, the consolidated creditors have obtained recognition of this right; but so also have the others. The act calls upon all for a like sacrifice in the interest of ultimate payment. The majority have been entirely negative in their actions, but the policy pointed out may be summarized as follows: Repudiation first, and legal examination afterward. This policy, in the opinion of the minority, would be fatal, because—

1. It would compel the exaction from the community of the present enormous burdens, allow the accumulation of interest at the rate of $4700 a day, and thus so increase the debt should final decision be in favor of the creditor, as to render all settlement hopeless.

2. Because it would hurry the city into hopeless litigation, during the existence of which all prosperity would be blighted.

3. Because, during its existence property would depreciate, and prosperity depart under the fear of the burden, to result from the possible issue of the legal struggle.

4. Because of the moral obloquy attending so gross a violation of good faith.

5. Because it would entail in the confusion following the practical cessation of the municipal government, the closing of schools, thus prostrating the present, and transmitting to the future possible relief, but probable bankruptcy and ruin.

In opposition the act proposes—

1. To convert the debt at once into such form as to enable the city, without undue exactions, to carry on her government and relieve her people.

2. In converting to waive no legal defense, so that whatever may be the issue, she and her people will be the gainers.

3 To give not only present relief, and thus open the way to renewed future prosperity, and saving, without any sacrifice of legal right, the consequences of a problematical, a disastrous litigation.

4. Saving dishonor of repudiation, and manifesting a desire to do all possible for the performance of obligations.

Between these alternatives, your committee can not hesitate.

Respectfully,
EDWARD D. WHITE.

Senator Anderson, Chairman of the Committee on Judiciary, submitted the following report:

COMMITTEE ON JUDICIARY, New Orleans, February 21, 1876.

To the Honorable President and Members of the Senate:

Your Judiciary Committee respectfully return House bill No. 145, which had been recommitted, entitled an act to amend and re-enact section 1021 of the Revised Statutes of the State of Louisiana, and recommend that the title of the act be amended by adding to the word "Louisiana," in the third line of the title, the words "and to repeal section 1172 of the Revised Statutes of Louisiana," and that the second section of the bill be amended by adding between the word "that," in first line of said section, and word "this," in second line, "section 1172 of the Revised Statutes of Louisiana be and is hereby repealed, and that."

On Senate bill No. 85, entitled an act fixing the fees of the clerks of the district courts throughout the State, the parish of Orleans excepted, and providing the manner of collecting the same, report favorably.

THOMAS C. ANDERSON, Chairman;
E. L. WHITNEY.
EDWARD D. WHITE.

The report lies over.

Senator Maiscot, chairman of the Committee on Enrollment, submitted the following report:

COMMITTEE ON ENROLLING AND ENGROSSING, New Orleans, February 21, 1876.

To the Honorable President and Members of the Senate:

Your Committee on Enrolling and Engrossing bills beg leave to report the following bills as having been duly enrolled, viz:

Senate bill No. 94, an act for the relief of E. C. Hart, deceased, late of the parish of Caddo; to reduce the tax assessment of 1873 and 1874, and to remit penalties.

Senate bill No. 61, an act to amend and re-enact article 575 of the Code of Practice.

Also, the following as duly engrossed, viz: Senate bill No. 66, an act authorizing the school board of the parish of Tensas to sell at public auction, to the highest bidder, certain school lands in said parish.

Very respectfully,
J. A. MASICOT, Chairman.

Senator Breaux, chairman of the Committee on Agriculture, Commerce and Manufactures, submitted the following report:

COMMITTEE ON AGRICULTURE, COMMERCE and Manufactures, February 21, 1876.

To the Honorable President and Members of the Senate:

Your committee beg leave to report favorably on Senate bill No. 286, an act entitled an act relative to the office of master and wardens of the port of New Orleans, to repeal section 2217 of the Revised Statutes of Louisiana, and to abolish the charge of $3 for rendering their services to sea-going vessels, substitute for House bill No. 97.

Respectfully submitted,
JOHN E. BREAUX, Chairman.

The report lies over.

Senator Burch, chairman of the Committee on Penitentiary, submitted the following report:

COMMITTEE ON PENITENTIARY, New Orleans, February 21, 1876.

To the Honorable President and Members of the Senate:

Your Committee on Penitentiary having had under consideration Senate joint resolution No. 4, relative to the lease of the State Penitentiary, beg leave to report back said joint resolution without action, owing to certain information necessary not having, up the present time, been furnished to the committee.

J. HENRI BURCH, Chairman;
GEORGE Y. KELSO,
WILLIAM HARPER,
JAMES H. GROVER.

The report lies over.

The following was submitted by Senator Burch, as part of the report:

NEW ORLEANS, February 19, 1876.

Hon. J. Henri Burch:

I have received your notice to appear as a witness before your committee, but had previously arranged to leave the city on "important business" for a few days, so can not attend for several days. I will, however, order a copy of the permit granted by Governor Warmoth, the original of which is in P. C. Cavillier's, notary, records (and forms a part and portion of the lease), forwarded to you for your and the committee's use. Your obedient servant,

S. L. JAMES.

Senator Twitchell, chairman of the Committee on Corporations, submitted the following report:

COMMITTEE ON CORPORATIONS AND Parochial Affairs, February 21, 1876.

To the Honorable President and Members of the Senate:

Your Committee on Corporations herewith report favorably upon House bill No. 198, entitled an act granting exclusive ferry privileges to Victorine Maignaud, across the Mermentau river, at his residence on the stage route, in the parish of St. Landry, and crossing into the parish of Calcasieu.

Respectfully submitted,
M. H. TWITCHELL, Chairman.

The report lies over.

Mr. Wharton, chairman of the Committee on Railroads, submitted the following report:

COMMITTEE ON RAILROADS, New Orleans, February 21, 1876.

To the Honorable President and Members of the Senate:

Your Committee on Railroads, to whom was referred House bill No. 339, an act to authorize and require police juries in certain parishes to submit ordinances to the popular vote of said parishes with reference to subscription to the stock of the New Orleans Pacific Railway Company, etc., beg leave to report the same favorably.

Respectfully,
W. W. WHARTON, Chairman.
Hon. Thomas A. Cage, dissenting.

The report lies over.

Senator Harper, chairman of the Committee on Canals and Drainage, submitted the following report:

COMMITTEE ON CANALS, DRAINAGE AND INLAND Navigation, February 21, 1876.

To the Honorable President and Members of the Senate:

Your Committee on Canals, Drainage and Navigation having had under consideration Senate bill No. 148, entitled an act to improve the navigation of Bayou Teche, above St. Martinsville, and to grant to F. N. Pharr the privilege of constructing locks therein, and the right to charge toll for passing through said locks, report favorably and recommend its passage.

Respectfully submitted,
WILLIAM HARPER, Chairman.

The report lies over.

By unanimous consent Senator Alexander introduced the following concurrent resolution:

Concurrent resolution for the relief of L. B. Kerr, of the parish of Catahoula.

The resolution was referred to the Committee on Finance.

INTRODUCTION OF BILLS BY UNANIMOUS CONSENT.

By Senator Weber:

Senate bill No. 173, entitled an act to provide for the better management of the Poydras funds in the parish of Pointe Coupee, and to repeal all homestead and exemption laws and privilege claims as against said funds.

The constitutional rules being suspended by a four-fifths affirmative vote of the Senate, the bill was placed on its second reading and referred to the Committee on Judiciay.

By Senator Weber:

Senate bill No. 174, entitled an act to amend sections one, two, three, four and five of an act entitled an act to grant additional privileges to the Clinton and Port Hudson Railroad Company, approved March 18, 1858.

The constitutional rules being suspended by a four-fifths affirmative vote of the Senate, the bill was placed on its second reading, and referred to the Committee on Railroads.

By Senator Wharton.

Senate bill No. 175, entitled an act to reduce and equalize, and to provide for the fees, dues and charges to be paid by vessels entering the ports of Louisiana; for the expenses of examination, inspection, cleansing and fumigation and quarantine.

The constitutional rules being suspended by a four-fifths affirmative vote of the Senate, the bill was placed on its second reading and referred to the Committee on Health and Quarantine.

By Senator Breaux:

Senate bill No. 176, entitled an act to enable the people living on the west side of Bayous Fordoche and Grosse Tete, in the parish of Pointe Coupee, to protect themselves from overflow by creating a levee district.

The constitutional rules being suspended by a four fifths affirmative vote of the Senate, the bill was placed on its second reading, and referred to the Committe on Lands and Levees.

Senator Young, by unanimous consent, introduced a list of reform measures as proposed by the Property Holders' Union.

SPECIAL ORDER OF THE DAY.

House bill No. 146, being the special order of the day, was taken up.

Senator Wharton moved to postpone the special order until 3 P. M.

Senator Young moved to lay the motion on the table.

The Senate refused to lay the motion on the table.

Senator Burch moved to postpone the further consideration of the bill until Thursday next.

Senator Young moved to lay the motion on the table, and called for the yeas and nays, resulting as follows:

Yeas—Brewster, Detiege, George, Goode, Herwig, Kelly, Ogden, Robertson, Steven, White, Whitney, Young—12.

Nays—Alexander, Anderson, Blackburn, Blunt, Burch, Cage, Chadbourn, Dumont, Gla, Greene, Harper, Masicot, Pollard, Stamps, Sypher, Twitchell, Weber, Wharton—18.

Absent—Allain, Breaux, Eustis, Grover, Kelso, Landry—6.

The Senate refused to lay the motion on the table.

The question recurring upon the motion of Senator Burch, it was adopted and the further consideration of the bill was postponed until Thursday next.

House bill No. 158, entitled an act to provide an annual pension for the surviving veterans of the war of 1812 to 1815, who participated in the siege or battles of New Orleans, in December, 1814, and January, 1815, as well as for the surviving widows of such veterans; to fix and determine the mode and cost of ascertaining who shall receive such pension, and to repeal all other laws hitherto enacted on the same subject matter, being the special order of the day, was taken up, and, on motion of Senator Wharton, postponed until 3 P. M.

INTRODUCTION OF BILLS ACCORDING TO PREVIOUS NOTICE.

By Senator Dumont:

Senate bill No. 177, entitled an act to authorize the Governor of this State to appoint a road master, who shall have charge of and establish toll-gates, and collect toll on the road passing through the prairies between New Orleans and the English Turn, in the parish of Plaquemines, on the right bank of the Mississippi river.

The constitutional rules being suspended by a four fifths affirmative vote of the Senate, the bill was placed on its second reading, and referred to the Committee on Corporations.

By Senator Dumont:

Senate bill No. 178, entitled an act to provide a form of government for the administration of the affairs of the city of New Orleans; to provide for a Common Council, its organization and qualification of its members; the legislative powers of the Common Council; a municipal election; the city officers, their qualifications, powers and duties; Departments of Improvements, Streets and Landings; a law department; provide for the compensation of all officers; for the removal and suspension of the same; prohibiting any member of the Common Council from being interested in his private capacity in any purchase or contracts for labor or material of any description furnished to the city; and providing for an almshouse, and to repeal all acts and ordinances or parts of acts and ordinances inconsistent therewith.

The constitutional rules being suspended by a four-fifths affirmative vote of the Senate, the bill was placed on its second reading.

The bill was calendared.

By Senator Goode:

Senate bill No. 179, entitled an act to require property seized under execution or under a writ of seizure and sale to be subject to the privileges and mortgages existing thereon, which are superior in date or rank to the debt of the seizing creditor.

The constitutional rules being suspended by a four-fifths affirmative vote of the Senate, the bill was placed on its second reading and referred to the Committee on Judiciary.

Senator Brewster, from the Committee on Education, submitted the following report:

COMMITTEE ON PUBLIC EDUCATION, New Orleans, February 17, 1876.

To the Honorable President and Members of the Senate:

Your committee have had under consideration Senate bill No. 89, entitled an act to unite the Louisiana State University, as now established and located near Alexandria, in the parish of Rapides, and the Agricultural and Mechanical College, as now established and located in the parish of St. Bernard, into one and the same institution of learning, to be known and designated under the name and title of the Louisiana State University, and to establish and locate the same at Baton Rouge, in the parish of East Baton Rouge, and herewith submit a substitute therefor, and respectfully recommend the passage thereof, and for the following reasons:

Your committee believe that the passage of an act which would, as Senate bill No. 89 proposes to do, merge the Louisiana Agricultural and Mechanical College with the Louisiana State University, would violate the provisions of the act of Congress, approved July 2, 1862, under and by virtue of which the Agricultural and Mechanical College derives its land grant fund. That such union as proposed would therefore cause the forfeiture to the United States of said fund, and defeat the very objects sought to be obtained by the bill, and plunge both institutions into irrevocable ruin.

Your committee believe that by removing the location of the Agricultural and Mechanical College to Baton Rouge, and rendering necessary the resale of its property acquired in St. Bernard parish for an experimental farm, a loss would be sustained which, as it would fall upon the land grant fund, the State would be bound by the terms of the act of Congress to make good.

Your committee believe that Senate bill No. 89 provides for the instruction within the united institutions of branches of learning which it is unnecessary and unadvisable to unite with an agricultural and mechanical college, and that it is at all times inexpedient to have taught at the expense of the public.

Your committee are persuaded that in the present state of popular education of Louisiana, and in the present poverty of the treasury, the State should become responsible for the instruction of her people in the ordinary and indispensable branches of an English education only, and that to private enterprise should be left the education in law, medicine and the more elegant branches of classical and general learning, of those who seek such instruction. The liberality of the general government having provided for the education of our sons in the agricultural and mechanical arts and sciences, the State can afford thereto such moderate assistance as the acceptance of the act of Congress has imposed upon the State; further than that your committee believe we should not go.

Further, your committee find the Louisiana State University, as they believe, hopelessly involved in debt—sinking deeper and deeper therein year by year—and already responsible for a load of indebtedness which it is entirely impossible for the State to discharge.

Your committee are of the opinion that the time has arrived when, however disagreeable the necessity, duty requires that the affairs of the State University be wound up, and the indebtedness of the institution discharged with the property thereof.

Among the provisions of the substitute bill submitted to your consideration will be found such as are intended to effect that purpose, and effect it in such a manner as to preserve to the cause of education and the Agricultural and Mechanical College the library and educational apparatus of the older institution.

Your committee append to this report a statement of the assets and liabilities of the State University, upon which they will remark, that many of the credits of the institution are nearly worthless; others will greatly shrink from their apparent value when an attempt is made to realize thereon, and that the real estate, though undoubtedly once worth the amount credited therefrom, is valued at a sum much greater than could possibly be obtained therefor.

In fact, your committee do not hope or believe that the property and credits of the University will produce any appreciable surplus over and above the amount of its cash liabilities, or that should a settlement and liquidation of its affairs be long delayed, anything will remain.

For these reasons we earnestly recommend the passage of the substitute for Senate bill No. 89, herewith submitted.

Respectfully,
O. H. BREWSTER, Chairman;
GEORGE Y. KESO.

We, the undersigned members of the Committee on Public Education, would most respectfully recommend that this substitute be indefinitely postponed.

Respectfully,
J. HENRI BURCH,
F. S. GOODE,
S. B. STAMPS,
E. L. WEBER.

Statement of liabilities and assets of the Louisiana State University, October 4, 1875:

LIABILITIES.

Balance due on general accounts	$51,036 90
Balance due to professors	41,402 75
Balance due to employes	16,548 85
Balance due to cadets	1,975 83
Total	$110,964 33
Note at Metropolitan Loan and Savings Bank	400 00
Note at Mechanics and Traders' Insurance Company	650 00
Note at Louisiana National Bank	1,650 00
Cash loan from John Klein & Co.	50 00
Cash loan from W. C. Black	150 00
Total	$113,864 33

ASSETS.

Balance of cash on hand	$18 12
Balance due from J. & O. Arbour	40
Balance due from Deaf and Dumb Asylum	20 16
Balance due from J. Mulcahy	6 65
State warrant No. 5953, date September 4, 1874, for one-half of annuity—interest on security bonds, 1874	4,080 00
State warrant No. 630, date January 29, 1875, for back interest on seminary fund	200 00
*Balances due from cadets of former sessions, as per accompanying abstract	8,759 26
Balance of annuity—interest on seminary bonds for 1874, for which no warrant has been issued	4,080 00
Annuity—interest on seminary bonds for 1875, for which no warrant has been issued	8,160 00
Interest on city consolidated bond, seminary fund, for 1874 and 1875, for which no warrant has been issued	120 00
Interest on Vicksburg, Shreveport and Texas railroad bond, seminary fund, for 1874 and 1875, no warrant yet issued	120 00
Maintenance and tuition of beneficiary cadets, first quarter, 1873—Expense incurred and claim approved by State Auditor, but no appropriation made by the Legislature, and no warrant issued	11,550 00
Total	$37,114 59
Liabilities	113,864 33
Balance of liabilities over assets	$75,749 74

[E. & O. E.] D. F. BOYD, Superintendent.

* Balances due from cadets of former sessions, mostly worthless.

Adendum statement of liabilities and assets of the Louisiana State University, October 4, 1875:

PROPERTY ASSETS.

Movable property at Baton Rouge, academic, military and subsistence material, as per property return, valued at	$110,039 15
Real estate near Alexandria, Rapides parish, valued at	50,000 00
Undivided half of tract of land, 813 acres, more or less, situated in Catahoula parish, valued at	508 15
Total	$160,547 30
Balance of cash liabilities over cash assets	76,749 74
Balance of property assets over cash liabilities	$83,797 56

Total loss (discount) on State notes and State warrants since 1866 to date, issued to cover minimum estimate of expense in United States treasury notes, as per abstract, $132,576 66.

NOTE—The University has in trust 200 stands of Enfield rifles, and 400 models of the United States patent office not included in the above valuation.

[E. & O. E.] D. F. BOYD, Superintendent.

On motion of Senator Burch the bill was ordered printed in the journal.

The bill reads as follows:

Senate bill No. 180, substitute for Senate bill No. 89:

An act to transfer the library and educational apparatus of the Louisiana State University at Baton Rouge to the Louisiana Agricultural and Mechanical College as now established and located in the parish of St. Bernard; to provide for the settlement of the affairs of said University, and for the liquidation and payment of the debts thereof, and for other purposes.

SECTION 1. Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That sections 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1340, 1341, 1342, 1343, 1344, 1345, 1346 and 1347 of the Revised Statutes of the State of Louisiana, are hereby repealed; that the institution in said section 1331 described as the Louisiana State Seminary of Learning and Military Academy, and by the ninth section of act No. 88 of the session of 1871 under the title of the Louisiana State University, and by said ninth section located and established temporarily at Baton Rouge, is hereby abolished, and the corporation entitled the Board of Supervisors of the Louisiana State Seminary of Learning and Military Academy, constituted by section 1331 of said Revised Statutes, is hereby dissolved.

SEC. 2. Be it further enacted, etc., That the Governor of the State, the Superintendent of Public Education and the Treasurer of the State, with two discreet and able persons, citizens of this State and not in office therein, one of whom shall be appointed by the Lieutenant Governor and President of the Senate and one by the Speaker of the House of Representatives, shall be and are hereby constituted a board of commissioners for the settlement of the affairs of the Louisiana State University at Baton Rouge, and all and singular the effects and estate thereof, both real and personal, are hereby confided to said board of commissioners, in trust, and for the purposes of this act. The Governor of the State shall be ex-officio president of said board, and the State Treasurer shall be ex-officio treasurer thereof. Said board shall at its first meeting, and within thirty days after the passage of this act, organize by the election of a secretary, who shall not be a member of said board, and shall make and order the promulgation, in such manner as the majority of said board may direct, of rules for the transaction and dispatch of business.

SEC. 3. Be it further enacted, etc., That said board of commissioners are hereby authorized and directed to transfer to the board of control of the Louisiana Agricultural and Mechanical College, as now established and located in the parish of St. Bernard, the library, cabinet, museums and the other educational apparatus now in use at and by the Louisiana State University, as abolished by this act.

SEC. 4 Be it further enacted, etc., That the said board of commissioners shall, under such rules and regulations as may be determined upon by a majority thereof, audit all debts of or claims against said Louisiana State University or the board of supervisors thereof, and should allow a reasonable time, not less than one year from and after the passage of this act, for the presentation of the same, and shall make such regulations respecting the payment of the same not inconsistent with existing laws or this act as may seem expedient in the premises.

SEC. 5. Be it further enacted etc., That said board of commissioners shall, under such regulations, in such manner as a majority thereof may determine, proceed with as little delay as may be consistent with the interests of the creditors of said University, to dispose of, sell or transfer all and singular, the effects and property of said University, both real and personal, the proceeds of which shall be paid to the treasurer of said board of commissioners in trust, and shall constitute a fund primarily for the payment of all the debts of said University, or pro rata thereupon so far as said fund may extend, and secondarily for the benefit of the Louisiana Agricultural and Mechanical College aforesaid. From said fund shall first be paid, and in the order in which the same were audited for payment, all valid debts of said Louisiana State University heretofore existing, and after all said debts have been fully paid, if any surplus shall remain, said surplus shall be transferred to the Louisiana Agricultural and Mechanical College, aforesaid, and the treasurer of the board of control thereof shall receive and receipt for the same, and such surplus so transferred, as herein provided, shall be held by said Agricultural and Mechanical College, and used in perpetuity upon the same terms and conditions under which said college holds and uses the fund derived from the sale of land and land scrip granted by the United States. Said board of commissioners shall, at the next session of the General Assembly, and at each regular session thereof thereafter, report thereto each and every act by them done under or by virtue of this act, and not later in each session than the fourth Monday thereof, and shall, in addition, make such recommendations, and ask for such legislation as in their judgment the due execution of their trust may require; and at the session of the General Assembly next succeeding the complete execution of the trust and duties imposed upon them by this act, shall report the same and ask to be discharged from the same; whereupon if after due consideration of the doings of said board of commissioners they shall appear to have duly executed the trust and duties imposed upon them by this act, for the best interest of the State and of the creditors of said University, the General Assembly shall grant such discharge and to the non-official members and to the secretary of said board such compensation for their services as may appear reasonable.

SEC. 6. Be it further enacted, etc, That all laws and parts of laws inconsistent herewith are hereby repealed, and that this act shall take effect and be in force from and after its passage.

Senator White introduced joint resolution No. 12, entitled joint resolution submitting an amendment creating a special court of appeal.

The constitutional rules being suspended by a four-fifths affirmative vote of the Senate, the joint resolution was placed on its second reading and referred to the Committee on Judiciary.

By Senator Gla:

Senate bill No. 181, entitled an act for the relief of J. E. Burton, supervisor of registration for the parish of Carroll, and for the relief of his clerks, W. J. Cooke and N. E. Larche.

The constitutional rules being suspended by a four-fifths affirmative vote of the Senate, the bill was placed on its second reading, and referred to the Committee on Claims.

By Senator White:

Senate bill No. 182, entitled an act in relation to the competency of judges to try cases wherein the counsel are connected by blood or affinity to the judge, and to regulate the appointment of attorneys for absent heirs and of absent defendants.

The constitutional rules being suspended by a four-fifths affirmative vote of the Senate, the bill was placed on its second reading and referred to the Committee on Judiciary.

Senator Wharton called up the majority report of the Committee on Finance on House bill No. 327, entitled an act to adjust, regulate and provide for the bonded debt of the city of New Orleans; to authorize the exchange of bonds of the city of New Orleans for other bonds to be issued on the plan known as the premium plan: to adopt and give legislative sanction to the said plan, as set out in ordinances Nos. 3130 and 3233, Administration series of the city of New Orleans, approved on May 25 and August 31, 1875; to provide a fund to meet the semi-annual payments of the said bonds known as premium bonds; to create a commission in the interest of creditors, and to give said commission the direction, control and management of the semi-annual allotments under said premium bond plan; to limit by contract the contracting of debt by the city of New Orleans; to limit taxation for all purposes therein, and to give relief to arrear taxpayers; to provide for the exchange of said premium bonds for other bonds in a certain contingency.

The majority and minority reports were read.

Senator Robertson moved that the further consideration of the reports and bill be postponed, and made the special order of the day for Thursday at one o'clock.

Senator Wharton moved to lay the motion on the table.

Senator Robertson called for the yeas and nays, resulting as follows:

Yeas—Alexander, Blunt, Breaux, Brewster, Burch, Cage, Chadbourn, Dumont, Gla, Harper, Herwig, Kelso, Landry, Masicot, Stamps, Sypher, Twitchell, Weber, Wharton, Whitney—20.

Nays—Allain, Blackburn, George, Goode, Greene, Grover, Kelly, Ogden, Pollard, Robertson, Steven, White, Young—13.

Absent—Anderson, Detiege, Eustis—3.

The motion was laid on the table.

Senator Allain moved that further consideration of the bill be postponed until Wednesday.

Senator Wharton moved to lay the motion on the table.

Senator Allain called for the yeas and nays resulting as follows:

Yeas—Alexander, Anderson, Blunt, Breaux, Brewster, Burch, Cage, Chadbourn, Dumont, Gla, Harper, Herwig, Kelso, Masicot, Stamps, Sypher, Twitchell, Weber, Wharton, Whitney—20.

Nays—Allain, Blackburn, Detiege, Goode, George, Greene, Grover, Kelly, Ogden, Pollard, Robertson, Steven, White, Young—14.

Absent—Eustis, Landry—2.

The motion was laid on the table.