

The same, from the committee on enrolled bills reported as correctly enrolled, "An act to authorise the county court of Franklin county to levy a tax for the building a jail in said county."

Also, "An act to amend an act entitled an act to incorporate the subscribers to the Union Bank of Florida."

A preamble and resolution in relation to a certain preamble and resolution adopted by the late Convention held at St. Joseph, was again read. On the question to postpone said resolution to 1st April next, the yeas and nays were called by Messrs. Berthelot and Bailey, and were yeas—Messrs. Bailey, Berthelot, Duval, Marvin, Walker, Wright, 6; nays—Mr. President, Messrs. Dupont, Hart, Hawkins, Mills, 5; so the resolution was postponed.

On motion of Mr. Hawkins the resolution offered by him this morning was taken up, read, and on motion ordered for to-morrow.

The Senate then adjourned until to-morrow 10 o'clock.

FRIDAY, MARCH 1, 1839.

The Senate met pursuant to adjournment and yesterday's proceedings were read.

On motion of Mr. Wright the resolution before offered by him in relation to the printing of the acts of the Legislative Council, was taken from the table and placed among the orders of to-day.

Mr. Dupont offered the following:

Be it resolved, That a committee of two members of the Senate be forthwith appointed to confer with such committee as may be appointed on the part of the House of Representatives upon the propriety of rescinding the 10th joint rule and that they be directed to confer and report as soon as practicable, which was twice read and adopted. Messrs. Dupont and Marvin were appointed said committee.

Mr. Wright offered a resolution for the compensation of members and officers of the Senate, which was read and placed among the orders of to-day.

Mr. Berthelot, from the committee on enrolled bills, reported as correctly enrolled a resolution requesting certain citizens therein named, to represent the people of Florida in the Southern Commercial Convention to be held in Charleston. Also an act to provide for the appointment of weighers of cotton for the city of Tallahassee and town of St. Marks.

The House, on a former day, postponed indefinitely an act for the relief of Dr. Richard Weightman; on motion said bill was laid on the table.

An act in addition to an act entitled "an act to prevent the future emigration of free negroes and mulattoes to this Territory, and for

other purposes, approved Feb. 10, 1832," was read and indefinitely postponed.

"An act to amend the several acts to incorporate the Lake Wimico and St. Joseph Canal and Rail Road company," was read twice, and ordered for to morrow.

"An act for the relief of Levi J. Bell, jailer of Gadsden county," was read twice and referred to the committee on claims:

A bill entitled "an act to alter and fix the terms of the Superior courts of the Apalachicola district," was twice read, and referred to a select committee, consisting of Messrs. Hawkins and Walker.

A bill entitled "an act to alter and fix the terms of the Superior courts in the Middle District of Florida," was twice read and referred to a select committee, consisting of Messrs. Duval, Dupont, and Bailey.

"An act to authorise the Brunswick and Florida Rail Road company to extend their improvements into the Territory of Florida," was read twice and ordered for to morrow.

The Chair decided that the twenty sixth rule of the House, requiring bills to be read on three different days, except by unanimous consent, was waived by a vote of the Senate, although three members voted against waiving the rule and insisted that the bill should have three different readings upon three different days. Whereupon Mr. Marvin took an appeal from this decision to the Senate on which the yeas and nays were called, and were yeas, Messrs. Bailey, Duval, Dupont, Hawkins, Walker, Wright, 6, Nays, Messrs. Hart, Mills, and Marvin, 3. So the decision of the chair was sustained:

An act providing that each county shall provide for the expenses of keeping prisoners in custody for the offences committed in said county, was read a third time and passed; ordered that the title be as above.

The Senate went into committee of the whole on a bill to be entitled "an act to create a body corporate and politic by the name of the St. Joseph Chamber of Commerce;" after sometime spent in its consideration the committee rose and reported the bill as amended, which was concurred in; the bill was read a third time by its title and passed; ordered that the title be as above.

An act to amend the several acts incorporating the town of Marianna, was read a third time and passed; ordered that the title be as above.

The Senate in committee of the whole, Mr. Marvin in the chair, again took up an act requiring the institution of legal proceedings against certain banking incorporations; after sometime spent in its consideration the committee rose, reported progress, and asked leave to sit again.

The House passed without amendment and sent back to the Senate an act to amend an act passed Jan. 31, 1838, entitled "an act to incorporate the city of Apalachicola."

The House of Representatives sent to the Senate the following message viz:—

HOUSE OF REPRESENTATIVES

March 1st, 1839.

It is ordered to be certified to the Senate, that the House have concurred in the resolution of that Honorable Body to appoint a joint committee to confer with a committee of the House, upon the propriety of rescinding the 10th joint rule, and that Messrs. Blount and Fitzpatrick are appointed on the part of the House.

Att. J. B. LANCASTER,
Clerk H. R.

An act to establish a ferry across the Apalachicola river, at or near its junction with the Bay of Apalachicola, was read a third time and passed; ordered that the title be as above.

On motion of Mr. Duval the Senate took up an act to authorize the Governor of Florida to raise troops for the defence of the frontier and for other purposes, before passed by the House, with sundry amendments, which was read and concurred in by the Senate.

An act to incorporate the city of Pensacola was read and passed as amended; ordered that the title be as above.

An act to authorize James M. Harris to build a dam and lock across the St. Marks river, was read a third time and passed without amendment; ordered that the title be as above.

An act to repeal an act entitled "an act to call a convention for the purpose of organizing a State Government" was read a third time, and on the question of its final passage, the yeas and nays were called, and were, yeas—Mr. President, Messrs. Duval, Dupont, Mills, 4; nays—Messrs. Bailey, Berthelot, Hart, Hawkins, Marvin, Walker, and Wright, 7; so said bill was lost:

March 1st, 1839.

The committee of conference between the Senate and House of Representatives, beg leave to recommend that the tenth joint rule be so amended as to allow the transmission of bills between the two houses during this day.

CAS. H. DUPONT,
WM. MARVIN,
THOS. M. BLOUNT,
R. FITZPATRICK.

An act to amend the several acts and in addition to the acts relating to county courts and for other purposes, was read a third time and passed; ordered that the title be as above.

Mr. Dupont offered a substitute for the resolutions before introduced by Mr. Duval, in relation to the report of the Auditor before made to the Senate in obedience to a resolution of the Senate, calling for the same, which was received, read, and upon the question of its final passage the yeas and nays were called for by Messrs. Marvin and Duval, and were, yeas—Mr. President, Messrs. Bailey, Duval, Dupont, Hart, Hawkins, Mills, Walker, and Wright, 9; nays—Messrs. Berthelot and Marvin, 2; so said resolutions were adopted.

The House sent to the Senate their concurrence in the following report, viz:—

Resolved, That the Committee of Conference between the Senate and House of Representatives beg leave to recommend that the tenth joint rule be so amended as to allow the transmission of bills between the two houses this day.
C. H. DUPONT,
W. MARVIN,
THOS. BLOUNT,
R. FITZPATRICK.

An act to divorce Mary A. F. Howard from her husband Ora Howard, was read a third time, and upon the question of its final passage the yeas and nays were called by Messrs. Berthelot and Mills, and were, yeas—Mr. President, Messrs. Hart, and Mills, 3; nays—Messrs. Bailey, Berthelot, Duval, Dupont, Hawkins, Marvin, Walker, and Wright, 8; so said bill was lost.

The Senate went into committee of the whole on a bill to be entitled "an act concerning the introduction into and traffic in slaves in this Territory;" after sometime spent in its consideration the committee rose and reported progress and asked leave to sit again; the report was concurred in.

On motion, the Senate took a recess until 4 o'clock.

4 o'clock, March 1st, 1839.

The Senate met pursuant to adjournment. The Senate in committee of the whole, Mr. Hart in the chair, again took up the bill to be entitled "an act concerning the introduction into and traffic in slaves in this Territory;" after sometime spent in its consideration the committee rose and reported as amended, which was concurred in; the bill was then read a third time, and upon the question of its final passage the yeas and nays were called by Messrs. Dupont and Berthelot, and were, yeas—Messrs. Bailey, Duval, Dupont, Hawkins, Marvin, Walker, and Wright, 7; nays—Mr. President, Messrs. Berthelot, Hart, and Mills, 4; so said bill passed; ordered that the title be as above.

The resolution before offered by Mr. Hawkins, in relation to the time of adjournment was laid on the table.

The Senate went into committee of the whole on a bill to be entitled "an act for the relief of Maj. Chas. Mapes," Mr. Marvin in the chair; after sometime spent in its consideration, the committee rose, and reported the bill amended, the report concurred in. The bill was read a third time and passed; ordered that the title be as above.

The resolution in relation to the printing of the acts of the Legislative Council, was again read, amended, and adopted.

A bill to be entitled "an act to incorporate the Marianna Steam Saw Mill Company," was read a third time, and passed; ordered that the title be as above.

A resolution offered by Mr. Wright in relation to the compensation of the members and officers of the Senate, was laid on the table until to-morrow.

Mr. Duval introduced a resolution authorizing the Governor to appoint an agent to proceed to Washington, and lay before the President of the United States the situation of the Florida frontier, was twice read, the rule being waived, and adopted.

An act in addition to an act relating to crimes and misdemeanors, approved Feb. 10, 1832, was again read, and upon the question of the adoption of the 1st section of the same, the yeas and nays were called by Messrs. Mills and Berthelot, and were, yeas—Mr. President, Messrs. Mills and Wright, 3; nays—Messrs. Bailey, Berthelot, Duval, Dupont, Hart, Hawkins, Marvin, and Walker, 8; so said section was lost.

A resolution passed by the House in relation to the representation of Calhoun, Franklin, and Columbia, was read a first and second time, and on the question of its adoption, the yeas and nays being required by Messrs. Hawkins and Berthelot, and were, yeas—Mr. President, Messrs. Duval, Hawkins, Mills, Walker, and Wright, 6; nays—Messrs. Bailey, Berthelot, Dupont, Hart, and Marvin, 5; so said resolution passed.

A bill for the relief of Wm. G. Davis, was again taken up, and upon the question of its final passage, the yeas and nays were called by Messrs. Mills and Duval, and were, yeas—Mr. President, Messrs. Hart, Hawkins, Mills, and Wright, 5; nays—Messrs. Bailey, Berthelot, Duval, Dupont, Marvin and Walker, 6; so said bill was lost.

The House adopted and sent back to the Senate a resolution before adopted by the Senate, in relation to remunerating John P. Duval, Esq., for the completing and revising the laws of the Territory of Florida.

Also passed an act to incorporate the trustees of the Presbyterian Church at Tallahassee.

An act to extend the jurisdiction of Justices of the Peace in this Territory, was indefinitely postponed.

A preamble and resolution asking the establishment of a Post Office at Eucheeanna, and an appropriation for the repair of the road from Lagrange to Marianna, was twice read and adopted.

An act for the relief of Benjamin G. Thornton, with the accompanying documents, was referred to the committee on the state of the Territory.

An act to raise a fund by taxation for the education of poor children, was read a third time and amended; ordered that the title be as above.

An act concerning appeals from Justices' Courts was read and laid on the table.

His Excellency, the Governor, by his private Secretary, Mr. Copeland, transmitted to the Senate the following message:

EXECUTIVE OFFICE,

Tallahassee, Feb. 27, 1839.

To the Senate and House of Representatives of the Legislative Council of Florida.

GENTLEMEN: I have approved and deposited in the office of the Secretary of the Territory the following acts:

"An act to amend an act entitled an act relating to crimes and misdemeanors, approved Feb. 10, 1832."

"An act for the relief of Esther Sparkman."

And I have disapproved and herewith return the act entitled "an act to divorce Martha P. Blackwell from her husband Jacob Blackwell."

I have deliberately considered the facts set forth by the petitioner in this case, and although her claims to relief are deemed meritorious and excite just sympathy, I believe she will find that relief in the Superior court for the county in which she resides, and her application should be made to that tribunal. The laws of the Territory having conferred jurisdiction on the Superior courts to grant divorce in all cases, where just cause is shown. I consider it both unnecessary and improper for the Legislature to interfere with that jurisdiction. The institution of marriage is one of the most sacred and important regulations of society; it was ordained by the Creator of man for our happiness and elevation in the scale of being.— Though a civil contract, it is of divine origin, and should not be annulled on trivial grounds; nor should too great facilities be offered for this purpose. The divine, as well as the municipal law of every civilized country, has erected certain barriers for the protection of the marriage right, and the good morals of society require that those barriers should not be passed except for substantial reasons. Cases frequently arise where justice to the injured party, no less than humanity, demands a dissolution of the marriage tie.

But the calm deliberations of a court of equity is better calculated to render important justice than a legislative body, too often excited to action by sympathy, and the ex parte testimony produced by the applicant. In the case of Esther Sparkman, when the bill of divorce has been approved, the relief required could not be obtained from the courts of justice. This individual resides in the county of Columbia, where, from the constant incursions of the Indians, and the consequent disturbed state of society, no term of the Superior Court has been held for the last three years, nor is there a prospect of a session being held in that county within any reasonable time for the future. These considerations have induced me to approve the act for her relief, when under different circumstances, even with the same meritorious claims to approval, it would have been rejected.

I have also disapproved and herewith return the act entitled "an act to authorize George Frederick Hamilton and Louis Schmidt to dispose of real estate and other property by lottery." This act ap—

...pears to have been passed on the petition of Messrs. Hamilton and Schmidt asking for the right to dispose of certain valuable real estate in the city of New Orleans, by lottery. The application for this privilege, in a Territory beyond the jurisdiction of the State in which the property is situated, is calculated to create an unfavorable impression, which has not been removed by any explanation I have received on the subject.

The bonus of \$20,000, given to the Territory in consideration of this extraordinary grant of privilege, should be no inducement for an act which without it would be deemed exceptionable. The morals and character of the Territory should not become articles of exchange in the hands of foreign brokers. The Legislative Council has, during its present session, created the most severe penalties against other species of gambling, not more objectionable than the lottery system. I have most cordially approved of these enactments and cannot, consistently with my views of propriety, give my sanction to the unbounded license granted to Messrs. Hamilton and Schmidt, to draw lotteries within this Territory; the act for this purpose is therefore disapproved.

R. K. CALL,
Governor of Florida.

An act to amend the several acts now in force in relation to elections, was read.

The President determined the 26th rule could not be waived if there were one objection on the question "will the Senate sustain the chair;" the yeas and nays were called by Messrs. Mills and Marvin, and were, yeas—Mr. President, Messrs. Berthelot, Duval, Dupont, Hart, and Mills, 6; nays—Messrs. Bailey, Hawkins, Marvin, Walker, and Wright, 5; so the chair was sustained.

An act to incorporate a company to be called the St. Marks Rail Road Company, was read.

Mr. Dupont, the rule being waived, offered the following resolution:

Be it resolved, that the 26th and 36th rules for the government of the Senate, be and the same are hereby rescinded and made void, which was read.

An act to organize the county of Calhoun, and for other purposes, was read.

His Excellency, the Governor, by his private Secretary, Mr. Copeland, sent to the Senate the following message:

EXECUTIVE OFFICE,
Tallahassee, March 1, 1839.

To the Senate and House of Representatives of the Legislative Council.

GENTLEMEN: I have approved and deposited in the office of the Secretary of the Territory the following acts:

- "An act to incorporate St. Paul's Church, Quincy, Florida."
- "An act to constitute a board of wardens, commissioners of pi-

Hotage, &c. for the port of Jacksonville and other places therein provided for.

- "An act concerning the county site of Hamilton county."
- "An act for the relief of Christopher Edwards."
- "An act for the relief of Christopher Fletcher."
- "An act for the relief of George Walker."
- "An act to amend an act entitled an act to incorporate the subscribers to the Union Bank of Florida."
- "An act to authorize the county court of Franklin county to levy a tax for building a jail in said county."
- "An act to amend the act incorporating the city of St. Joseph."
- "An act for the relief of Wilkins C. Smith."
- "An act to authorize the trustees of the Calhoun Academy in the county of Madison to rent the school lands."

And I have disapproved and herewith return the act entitled "an act for the relief of Calhoun county." The preamble as well as the provisions of the act, assumes the fact that the Territory has no right to collect the tax on the sale at auction of certain lots in St. Joseph, in consequence of an exemption from such tax, specially granted by the Legislative Council, prior to the sale of the lots. — Now if the truth of this proposition be admitted, it is evident that the present Legislature has no right to cause to be collected or to appropriate the fund arising from such taxation. Nor does the willingness or unwillingness of the parties, to pay the amount, provided such dues and taxes be relinquished to the county of Calhoun for county purposes, change the nature of the case. If the parties are not bound to pay this tax into the Territorial Treasury, but are willing, nevertheless, to pay it to the county court for county purposes, they may do so under their own violation, while we have no right by law, to require it to be done.

But I entertain a different opinion from that expressed in the preamble, and in the act itself. I consider the law exempting the sale of lots at St. Joseph from the tax required to be paid on all other sales at auction in this Territory, as unconstitutional. I believe the Territory has a just demand against the St. Joseph company for the amount of the taxes on the sale at auction, that we have a right to collect that tax, and that it would be an act of injustice to the other counties to appropriate the general revenue to local purposes in the county of Calhoun, when all others are compelled to resort to a county tax for the very same purposes; the act is therefore disapproved.

R. K. CALL,
Governor of Florida.

The Senate then adjourned until to-morrow 10 o'clock.

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