

monwealth, relating to the subjects embraced in the presentment of the Grand Jury of St. John's County, were read the second time; and ordered to be engrossed for Monday.

Having gone through with the orders, on motion, the Senate adjourned until Monday 11 o'clock.

MONDAY, 7th December, 1846.

The Senate met pursuant to adjournment and a quorum being present the journal of Saturday's proceeding was read and approved.

Mr. Lorimer gave notice that he would on some future day ask leave to introduce the following bills, viz:

A bill to be entitled an act to regulate the commonwealth Solicitor's fees, and to alter their mode of collection, also

A bill to be entitled an act to admit Wilkinson Call to practice law in the state of Florida.

Mr. Broward gave notice that he would on some future day ask leave to introduce a Bill on the subject of Judges of the Circuit courts holding extra terms for the trial of criminal offences against the laws of this state.

Mr. Broward moved that the secretary of state be requested to furnish the committee on elections with a copy of the election returns of Walton county, or any other document he may be in possession of in relation to the contested election between the Hon. D. G. McLean and John Ghent who contests the seat of the said D. G. McLean.

Which motion prevailed.

Mr. McLean offered the following preamble and resolutions:

WHEREAS it is desirable that some measure should be adopted to establish a perpetual system of public schools for the benefit of every neighborhood in this state no matter how small or obscure such neighborhood may be; and whereas it is well known that a large number of the sixteenth sections in this state are valueless, so much so that no benefit can ever be realized from them in some counties; and whereas it is believed that the funds which may arise from said land, together with the other available means which are intended to be applied to the use of common schools, will never be sufficient to accomplish the object intended with equal justice to the citizens of this state, inasmuch as it is believed that most of the valuable townships in this state are settled by persons of wealth, while the less valuable townships are more densely populated by persons of moderate circumstances; which class compose a large majority of our population, thereby rendering the means now intended for a general system of public schools in this state very unequal among her citizens, and in many instances a large number of the poorer class of our population would be wholly deprived of the inestimable bounty allowed by the

general government for the diffusion of a general system of education.

Be it therefore Resolved, That the committee on schools and colleges be respectfully and earnestly requested to ascertain as near as possible the number of sixteenth sections in this state which are of value, and whether the valuable 16th sections if appropriated to the benefit of their respective townships will not be bestowing their benefits to the use of the wealthy class of our population, to the exclusion of the poorer class.

Be it further resolved, That said committee be requested to take into consideration the propriety of converting all the 16th sections in this state to the use of the state at large, and also as to the propriety of converting the interest of the funds which may arise from the lands now granted by the general government for internal improvement and seminaries of learning in this state until said interest together with the other available resources would be considered sufficient for the establishment of a permanent school for the benefit of every neighborhood in this state.

Be it further Resolved, That if said committee should approve of the propositions suggested in the foregoing resolutions they be and they are hereby requested to draw a memorial requesting congress to authorize the General Assembly of this state to dispose of said lands for said purposes.

Which were read and adopted.

Mr. Fairbanks, from the Judiciary committee made the following report:

The Committee on the Judiciary, to whom was referred the Bill to be entitled, "An act taxing law suits to pay Jurors," beg leave respectfully to

REPORT:

That they have had the same under consideration, and concur in the objects of the Bill, that provision should be made by law, for the payment of jurors. In their opinion, jurors are equally entitled to compensation for their services, with any other class of public servants. Upon a careful examination of the Bill, and its several provisions, the following considerations have presented themselves:

By the ninth clause of the Declaration of Rights, contained in the first article of the Constitution of this State, it is declared "That all Courts, shall be open, and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered, without sale, denial or delay." That by the provisions of said bill, it is proposed to assess upon each person, who shall seek a remedy for an injury done him in his lands, goods, person or reputation, by due course of law in the Courts of this State, a tax of fifty cents, upon each hundred dollars claimed in the declaration, or three dollars in each case where no sum is stated. That this tax, and the en-

† The payment of juries is amerced upon the plaintiff in every case, and thus is in the nature of a fine and punishment upon him to whom, in the language of the Constitution, the Courts shall always be open for remedy by due course of law, for injuries done him &c., and that thus the injured party is taxed, while the defendant wrong doer escapes. That by the last clause of said bill, the Judges of the Courts of this State, are required to order a discontinuance of every suit brought in such Courts, in which the plaintiff has failed to pay such amercement or tax.

Your Committee submit whether provisions of such a nature, do not conflict with the spirit of the Constitution, and of the declaration that right and justice shall be administered without *sale, denial or delay*.

Your Committee would further observe, that the proposed tax is much higher than any other tax, prescribed by the laws of this State, where a specific sum per hundred dollars is prescribed, and that the sum or claim upon which the suit is brought, may have already + paid the tax assessed by law, upon "money at interest," and may therefore, in both of these particulars, be considered as conflicting with the provisions of the Constitution, which requires an equal and uniform mode of taxation.

The services of Petit jurors, are in the first instance required in suits between the State and the citizen, and secondly between one citizen and another. The services of Grand Jurors, are services rendered exclusively to the State, and generally equal in amount those of the Petit Jurors. So that it may fairly be assumed, that three-fourths of the entire jury service, is rendered in matters pertaining to the State. It is submitted then whether it is fair and equitable to assess upon the class of citizens who may be so unfortunate, as to be driven into Courts of law, for the maintenance of their just rights or redress for injuries sustained in their goods, person lands, or reputation, the whole expense of maintaining † the jury system, the bulwark of our "liberties."

With equal justice, may all the expenses of our Courts be so assessed.

Your Committee further suggest, that such a mode of paying juries, is variable, uncertain, unequal and insufficient.

As the views entertained by the Committee, are in reference to the policy and nature of the bill, and not its form, the same is herewith returned to the Senate, without amendment and the Committee respectfully request to be discharged from a further consideration of the same.

† G. R. FAIRBANKS, *Chairman, Judicial Committee.*

Which was read and placed among the orders.

Mr. Fairbanks from the committee on the Judiciary to which was referred a bill to be entitled an act to provide for the payment of Treasurer's certificates, reported said bill back to the senate

without amendment which report was received and the bill placed among the orders.

Mr. Fairbanks from the committee on claims and accounts made the following report:

The Committee to whom the bill entitled an act for the benefit of Buckingham Smith, was referred beg leave to

REPORT:

That they have examined the same and that it appears that the said Buckingham Smith for whose benefit said bill is intended was one of the clerks of the St. Joseph convention for the purpose of forming the constitution of this State. That the whole of the amount due him has not yet been paid and that they are satisfied that the claim is just and correct. That the same is represented as being the only claim of the nature remaining unpaid and that the same was incurred not as a territorial expense but as an incidental expense in the formation of a State Government and would have been paid by the State had the functions of State Government been immediately assumed after the adoption of said constitution. The committee are of opinion that the peculiar nature of the claim entitles Mr. Smith to the passage of the said bill; and return the same without amendment.

Respectfully submitted,

G. R. FAIRBANKS, *Chairman.*

Which was read and the bill reported on placed among the orders.

Mr. Carter from the committee on taxation and revenue made the following report.

†The committee on "Taxation and Revenue" to whom was referred a bill to be entitled "an act for the relief of aged, idiotic, insane and crippled persons from paying a poll tax in this state;" and also a bill to be entitled "an act to exempt certain persons from the payment of capitation tax" have had the subject under consideration and ask leave to,

REPORT:

That the committee are of opinion that the clause of the constitution which provides that "taxation shall be equal and uniform throughout the state" cannot be so construed as to include insane and idiotic persons, nor could the General Assembly have intended the Revenue law passed at its last session to have that force and effect—but on the contrary omitted to exempt them. The committee are not informed that the law has been enforced on that class of citizens, nor do they believe such case would probably occur; the committee however heartily concur in the justice and propriety of exempting from capitation tax all persons who are by age and infirmities exempt from militia duty, and all who are insane and idiotic. x The revenue law should at the present session, be revised and amended and all action on that subject be condensed in one act, so that the law may be readily referred to and †

easily comprehended; with these views the committee return the bills to the senate and ask to be discharged from further consideration of the subject. All of which is respectfully submitted,

J. CARTER, *Chairman.*

Which was read and the bills reported back placed among the orders.

Mr. Carter from a select committee made the following report:

The Select committee to whom was referred the Petition of Daniel Morgan and Levi Wright have had the same under consideration and ask leave to

REPORT: That the petitioners Daniel Morgan and Levi Wright were first and second lieutenants in a company of mounted volunteers, commanded by captain Wm. H. Payne, organized in Columbia County, the latter part of the year 1838, (as alleged by the petitioners) under authority, and by commissions from His excellency R. K. Call, then Governor of Florida. That the company was mustered into service—that they furnished their subsistence and forage for which they have not been paid, (nor for the time served) by the United States nor by the authorities of Florida. That the death of captain Payne subsequent to their discharge, the petitioners believe, is the reason why they have not been paid.

The committee have not before them legal testimony upon which to found a decision on the justice of the claim, but they deem it a duty to remark that the petition is addressed in a manner respectful, and merits in the opinion of the committee, a similar consideration.

The petitioners ask, in behalf of themselves and their company, that such Legislative action be had as will place their claim before Congress, that it may there receive such action as to that body may seem just and proper. This request the committee deems reasonable, and cannot in justice to the claimants be refused.

In order that the matter may be fully and legally investigated, and if found meritorious, such facilities afforded by the authorities of the state, as will secure to them that compensation to which they may be justly entitled. The committee for that purpose submit the following resolution, recommend its adoption and ask to be discharged from further consideration of the subject. All of which is respectfully submitted.

J. CARTER, *Chairman.*

Which was received and the resolution reported read the 1st time and ordered for to-morrow.

The following communications were received from the Clerk of the Supreme Court, viz:

OFFICE OF THE CLERK OF THE SUPREME COURT, }
Tallahassee, December 7th, 1846. }

Hon. President of the Senate :

Sir: The supreme court of this state at its last session ordered the clerk thereof to procure a seal for said court with the device and motto of the seal of the late court of appeals, and with the words "Supreme Court of the State of Florida" inscribed thereon. In obedience to said order a seal has been procured, and as the act organizing the supreme court requires such seal to be adopted by law, I have taken this mode of communicating to the general assembly the fact that the same has been so ordered and procured, in order that the general assembly may take such action upon the matter, as it may deem expedient. I enclose herewith an impression of said seal in wax for the inspection of the senate.

Very Respectfully, Your obt. serv't.,

M. D. PAPY.

OFFICE OF THE CLERK OF THE SUPREME COURT, }
Tallahassee, Dec. 7, 1846 }

Hon. President of the Senate, Sir: In obedience to an order of the supreme court I have the honor to enclose herewith a copy of the Rules adopted by the supreme court at its last Session for the government of the practice in said supreme court; and also for the government of the practice in the circuit courts of this state.

Your obedient servant,

M. D. PAPY.

Which were read and referred to Judiciary committee.

ORDERS OF THE DAY.

A bill to be entitled an act so to amend the constitution of this state as to extend to all free white male inhabitants, being citizens of the United States who shall have resided in the state one year, the elective franchise, made the first special order for to-day, was read the second time and ordered for to-morrow.

A bill to be entitled an act so to amend the constitution of this state as to make the sessions of the Legislature biennial instead of annual, made the special order for to-day, was read.

On motion the Senate went into committee of the whole on said bill, Mr. Carter in the chair. After some time spent in considering the same, the committee rose, reported progress and asked leave to sit again. Which report was received and leave granted the committee to sit again to-morrow.

Resolution relating to the great seal of the state, was read the second time and laid on the table.

Resolutions in relation to the presentment of the Grand Jury of St. Johns county, was read the third time and adopted. — Ordered that the same be certified to the House.

Resolution relative to an adjournment sine die, was read the second time and postponed until to-morrow.

Resolution relating to the chaplain of the Senate, was read the second time and laid on the table.

On motion the Senate took a recess until 3 o'clock, P. M.

3 o'clock, P. M.

A quorum being present, the Senate proceeded with the
ORDERS OF THE DAY.

An engrossed bill entitled an act to incorporate the St. Augustine Fire Engine Company, was read a third time, and postponed until to-morrow.

The following bills, reported to the Senate this morning, was called up and postponed until to-morrow, viz:

A bill entitled an act to exempt certain persons from the payment of capitation tax; also,

A bill to be entitled an act for the relief of aged, idiotic insane or crippled persons from paying a poll tax in this state, also

A bill to be entitled an act to provide for the payment of Treasurers certificates, also

A bill to be entitled an act for the benefit of Buckingham Smith, also,

A bill to be entitled an act taxing law suits to pay jurors.

The Senate received from the house a bill to be entitled an act to change the names of William Jefferson Cauthon and others therein named, which was read the first time and ordered for to-morrow; also,

Preamble and resolutions in relation to the haul-over on the Atlantic Coast, which was read the first time and ordered for to-morrow.

On motion the Senate adjourned until to-morrow 11 o'clock.

TUESDAY, 8th December, 1846.

The Senate met pursuant to adjournment, and a quorum being present the journals of yesterday's proceedings was read.

Mr. Austin gave notice that he would on some future day ask leave to introduce a bill, limiting and restricting the period of the Sessions of the General Assembly of this state.

Mr. Johnson gave notice that he would on some future day ask leave to introduce a bill to be entitled an act to regulate patrols in this state and for other purposes.

On motion of Mr. Kelly a committee on the part of the Senate of two were appointed on the subject of the Joint Rules adopted by the two Houses.

Messrs. Kelly and Carter were appointed said committee.

On motion of Mr. Bird a resolution relating to the Chaplain of