

Said bill passed. Title as stated. Ordered to be certified to the House.

House resolution relative to the claim of Michael Ledwith, was read the first time, the rule waived, read a second and third time by its title, and passed.

Ordered to be certified to the House.

On motion, leave was granted to Mr. Forward to withdraw from the files of the Senate the petitions praying the establishment of Hila-ka County.

Bill to be entitled, An act for the payment of Overseers of Public Roads in the County of Leon, was read the second time.

Mr. Lorimer moved to amend by inserting, after the word "road," in fourth line, and after the word "treasury," in seventh line, the words "of said county."

Said motion prevailed.

The rule being waived, said bill was read a third time by its title, and on the question of its passage, the yeas and nays were:

Yeas—Mr. President, Messrs. Aldrich, Avery, Brown, Costin, Forward, Lorimer, Sanderson, D. J. Smith, J. M. Smith, Tweed, Watts, White—13.

Nays—None.

Said bill passed—title as stated. Ordered to be certified to the House.

On motion, the rule was waived, and Mr. Avery allowed to introduce the following:

WHEREAS, A difference of opinion exists as to the expiration of the term of office of the present Governor of this State:

Be it Resolved by the Senate and House of Representatives of the State of Florida in General Assembly convened, That any action or expression of opinion by this General Assembly in reference thereto, shall not be deemed as intended to be conclusive upon the question at issue, so far as the rights of the parties interested are respectively concerned.

The Senate refused to waive the rule to read said resolution a second time.

Mr. J. M. Smith moved that the Senate adjourn until to-morrow, 10 o'clock, A. M.

Said motion was lost.

Mr. J. M. Smith moved that the Senate adjourn until to-morrow, 9½ o'clock, A. M.

Said motion was lost.

On motion of Mr. Tweed, the Senate adjourned until to-morrow, 9 o'clock, A. M.

SATURDAY, January 13, 1849.

The Senate met pursuant to adjournment.
Rev. Mr. Choice officiated as Chaplain.

A quorum being present, on motion of Mr. Costin, the reading of the Journal was dispensed with.

On motion of Mr. White, the rule was waived, and he allowed to introduce a bill to be entitled, An act in relation to the Comptroller's Office;

Which was read the first time, the rule waived, read a second and third time by its title, and on the question of its passage, the yeas and nays were:

Yeas—Mr. President, Messrs. Aldrich, Brown, Costin, Crawford, Forward, Sanderson, D. J. Smith, J. M. Smith, Tweed and White—11.

Nays—Messrs. Floyd and Watts—2.

Said bill passed. Title as stated. Ordered to be certified to the House.

On motion of Mr. Forward, the Chief Secretary was authorized to employ an additional Engrossing and Enrolling Clerk for the remainder of the session.

The Secretary employed Mr. Wm. K. Beard.

On motion, a committee, consisting of Messrs. D. J. Smith, Burritt and Tweed, were appointed to wait upon and inform Gen. Thomas Brown, that the General Assembly would convene in the House this day, at 12 o'clock, M., for the purpose; and that he might, in their presence, take the oath of office as Governor elect of this State.

On motion a Committee, to act with a similar committee on the part of the House, consisting of Messrs. Tweed, Sanderson and White, were appointed to wait upon, and invite the Justices of the Supreme Court to be present at said ceremony; and also to invite that His Honor the Chief Justice administer the oath to General Thomas Brown.

Said committee were also appointed to wait upon, and inform the House hereof.

The House returned Senate bill entitled, An act supplemental to and explanatory of an act to incorporate the Atlantic and Gulf Rail Road Company, and the other acts passed at the present session, contemplating or authorizing the construction of a Rail Road, as passed by the House without amendment.

Ordered to be enrolled.

Mr. Sanderson, from the Committee of Conference, relative to Senate bill entitled, An act to authorize the Register to employ a Deputy Register, and for other purposes, reported: That the Committee had considered the matter, and recommended that the words "five hundred" in said bill, be stricken out, and "two hundred" inserted in lieu thereof.

On the question of adopting said amendment, the yeas and nays were called for by Messrs. Floyd and Brown, and were:

Yeas—Mr. President, Messrs. Aldrich, Brown, Crawford, Sanderson, D. J. Smith, J. M. Smith, Tweed and White—9.

Nays—Messrs. Floyd and Watts—2.

Said amendment was adopted.

Mr. Tweed, from a Select Committee, presented the following Report:

The Joint Committee of Conference appointed to consider the difference of the two Houses upon the bill relating to the assessment and collection of the revenue, ask leave to

REPORT:

That after consideration, they advise to strike out the third section, and recommend the passage of the bill with House amendments, adding the word "Levy" after the word "Marion," in said amendments.

C. A. TWEED,
Chairman Senate Committee.
JNO. P. BALDWIN,
Chairman House Committee.

Said amendments were adopted.

A Committee from the House informed the Senate that they had been appointed to wait upon and request the Senate to return to the House, Senate resolution relative to inauguration of the Governor elect, this day, at 12 o'clock, M.

On motion, a committee, consisting of Messrs. Tweed, White and Brown, were appointed to wait upon and return said resolution to the House.

Said committee reported they had performed the duty assigned them.

Mr. White, from a select committee, presented the following report:

The committee of conference, to whom was referred a resolution for the relief of William D. Moseley, beg leave to

REPORT:

That they have had the same under consideration, and find that, during the time that the volunteers of Captain R. G. Livingston's company were rendezvoused at Tallahassee, said Moseley advanced, or the comfort and maintenance of said volunteers, the sum of fifty dollars to George N. Barnes and mess, in payment for provisions furnished by them to said troops. The committee also find that said Moseley advanced to Captain Livingston the sum of ten dollars, to pay his expenses on a recruiting expedition to Wakulla County.— Your committee also find that said troops were without a surgeon, and were greatly in need of one, and that one could not be had except upon the individual responsibility of said Moseley, and that he thereupon became bound to pay to Dr. Treadwell the sum of three hundred dollars, and to pay his expense to and from New Orleans, if he would accompany said troops as their surgeon. That he advanced to Treadwell the sum of seventy-five dollars on this contract, and that Treadwell, in pursuance of it, proceeded with the troops, and rendered them important services up to the time of his death in Vera Cruz. The estimated expenses of Treadwell to Orleans are \$87 50. As Treadwell never came back, Moseley is not responsi-

ble to his estate for his expenses back. Upon this showing of facts, your committee think it right that the State of Florida should refund to Moseley the \$135, which he has actually advanced, as before stated, and should also pay him, to be paid by him to Treadwell's administrator, the sum of \$262 50, for which he is responsible to him. The committee think that the United States ought to pay these sums, but as they have refused to do so, it would be hard to let Moseley suffer for his kindness and humanity towards a portion of our suffering citizens, who were about to engage in the service of the country. The substitute adopted by the House in lieu of the Senate resolution, is for the exact amount of the above named sums, and therefore the committee report it back, and recommend its adoption.

THOMAS M. WHITE,
Chairman Senate Committee.
D. S. WALKER,
Chairman House Committee.

Said report was adopted, and the resolution passed.

Mr. Aldrich from the Committee on Enrolled Bills, presented the following report:

The Committee on Enrolled Bills beg leave to report as correctly enrolled, bills entitled as follows, viz:

An act supplementary to an act, passed at this session, relating to the mode of appointment and duties of Auctioneers;

An act in relation to the issuing of commissions to certain public officers;

An act to organize the County of Putnam.

LOUIS ALDRICH, Chairman.

Mr. White, from a select committee, presented the following report:

The joint select committee of conference on the bill entitled, An act to render taxation more equable by imposing a tax upon subjects heretofore exempted, and reducing the rate upon subjects now taxed,

REPORT:

That they have had the same under consideration, and have come to the conclusion to retain the 1st section of the bill, as originally passed by the Senate. Also, to strike out the 2d section of the Senate bill, and insert the amendment proposed in the House first; striking out the word ten and inserting five, so as to read, that there shall be assessed and collected a tax of five cents on each and every head. Also to amend the title of said bill as follows: a bill to be entitled, An act to reduce the rate of taxation upon subjects now taxed, and to levy a tax upon cattle of non-residents.

All which is respectfully submitted.

THOMAS M. WHITE,
Chairman Senate Committee.
JOHN P. BALDWIN,
Chairman House Committee.

Said report was concurred in and adopted.

The following message from the House was read :

HOUSE OF REPRESENTATIVES, Jan. 13, 1849.

Hon. President of the Senate :

SIR: The House has appointed Messrs. Baldwin, Hobart and Mathers, committee of conference on the part of the House, to act with a similar committee of the Senate, upon Senate bill to be entitled, An act to render taxation more equable by imposing a tax upon subjects heretofore exempt, and reducing the rate upon subjects now taxed.

Respectfully,

W. B. LANCASTER,
Clerk House of Representatives.

Also, the following :

HOUSE OF REPRESENTATIVES, Jan. 12, 1849.

Hon. President of the Senate :

SIR:—The House disagrees to Senate amendment to House resolution relative to the distribution of certain copies of Thompson's Digest.

Respectfully,

W. B. LANCASTER,
Clerk House of Representatives.

The Senate receded from its amendment.

ORDERS OF THE DAY.

House resolution relative to the safe-keeping of the Public Arms, was read the third time and passed.

Ordered to be certified to the House.

House bill to be entitled, An act to repeal an act therein named, was read the second time, and ordered to a third reading to-morrow.

House resolution for auditing E. Barnard's account, was read the first time, the rule waived, read a second and third time, and passed.

Ordered to be certified to the House.

Engrossed resolutions relative to International Exchange, were read the third time and lost.

A committee from the House returned Senate resolution relative to the inauguration of the Governor elect, this day, at 12 o'clock, M.

Resolution expressive of the sense of this General Assembly relative to the inauguration of the Governor elect at this time,

Was read and lost.

The following was ordered to be spread upon the Journal :

And now at this day come the undersigned, members of the Senate, who, on yesterday, opposed a resolution authorizing the inauguration of Thomas Brown, Governor elect, by the present General Assembly, and for reasons of said opposition have set forth the following :—

First.—That Wm. D. Moseley was elected Governor of this State for four years, and that his aforesaid term is unexpired.

Second.—That the resolution of the Senate has not been sent to the Governor of this State for approval or rejection, in conformity to the Constitution.

Third.—That the Legislature possesses no power, directly or indirectly, to settle questions, as to the term or tenure of offices of any

officers created under the Constitution of this State, which do not appertain to the Legislative departments of the government.

Fourth.—That as a reason for such inauguration, it has been asserted that Gen. Brown, the Governor elect, would not qualify, unless in the presence of the Legislature. That any such example was set by the present Governor, is not the fact. The present Governor was not inaugurated in the House of Representatives, nor in the presence of the Legislature, while in session. Nor do the undersigned believe that this Legislature possesses the power, but that it is extra Legislative, and sitting unwholesome precedents for all time to come.

They therefore, for these and other reasons, protest against the action of this Legislature upon this subject, not from any disrespect to Gen. Brown or the Whig party, but upon conscientious constitutional grounds. They will, therefore, take no part in that which they deem to be contrary to their oaths; they will simply withdraw without aiding in the inauguration; and will immediately assume their proper places, when matters strictly of a Legislative character shall be brought before the Senate.

R. J. FLOYD,
WILLIAM A. FORWARD,
J. M. SMITH,
M. C. BROWN,
JOHN COSTIN.

The undersigned concurs in the above protest, except as to what is said in relation to the propriety of the administration of the oath before the Legislature. My views on this subject are set forth in a report made by the Hon. Senator from Escambia, (Mr. Avery,) and myself, at the present session, as members of the Committee on the Executive Department.

LOUIS ALDRICH.

Mr. Burritt moved to reconsider the resolution in relation to inaugurating the Governor elect this day, at 12 o'clock, M.

On which the yeas and nays were called for by Messrs. Forward and Floyd, and were :

Yeas—Messrs. Aldrich, Brown, Burritt, Costin, Floyd, Forward, Sanderson, J. M. Smith and Tweed—9.

Nays—Mr. President, Messrs. Austin, Crawford, Lorimer, D. J. Smith, Watts and White—7.

Said motion prevailed.

Mr. Sanderson moved that the words " 12 o'clock M., this day," in said resolution, be stricken out, and the blank filled with the words " 9 o'clock this evening."

On which the yeas and nays were called for by Messrs. Forward and Floyd, and were :

Yeas—Mr. President, Messrs. Austin, Sanderson, D. J. Smith, Tweed, Watts and White—7.

Nays—Messrs. Aldrich, Brown, Burritt, Costin, Crawford, Floyd, Forward, Lorimer and J. M. Smith—9.

Said motion was lost.

Mr. White moved to strike out said words, and insert "at 8½ o'clock this evening."

On which the yeas and nays were called for by Messrs. Floyd and Forward, and were:

Yeas—Mr. President, Messrs. Austin, Lorimer, Sanderson, D. J. Smith, Tweed, Watts and White—8.

Nays—Messrs. Aldrich, Brown, Costin, Crawford, Floyd, Forward and J. M. Smith—8.

Said motion was lost.

Mr. Burritt moved that said words be stricken out, and the words "at 10 o'clock this evening," inserted in lieu thereof.

On which the yeas and nays were called for by Messrs. Floyd and Forward, and were:

Yeas—Mr. President, Messrs. Austin, Burritt, Lorimer, Sanderson, D. J. Smith, Tweed, Watts and White—9.

Nays—Messrs. Aldrich, Brown, Costin, Crawford, Floyd, Forward and J. M. Smith—7.

Said motion prevailed.

Mr. Floyd, from the committee on Enrolled Bills, presented the following Report:

The following acts and resolution are correctly enrolled, viz:

An act to provide for the payment of services rendered by Overseers of Public Roads in the county of Leon;

An act to authorize the Register of the Land Office to appoint a Deputy, and for other purposes;

An act to reduce the rate of taxation, and to levy a tax upon cattle of non residents;

Resolution relative to a distribution of Thompson's Digest to other States.

LOUIS ALDRICH, Chairman.

The House returned Senate bill entitled, An act in relation to the Comptroller's Office,

As passed by the House without amendment.

Ordered to be enrolled.

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

3 O'CLOCK, P. M.

The following message from the House was also read:

HOUSE OF REPRESENTATIVES, Jan. 13, 1849.

Hon. President of the Senate:

SIR: The House has concurred in Senate amended resolution, postponing the inauguration of the Governor elect until 10 o'clock, P. M. Respectfully,

W. B. LANCASTER,

Clerk House of Representatives.

The House returned Senate resolution relating to the sense of the General Assembly in inaugurating the Governor elect at this time, As indefinitely postponed by the House.

There being no more Orders, Mr. Floyd moved that the Senate take a recess until 10½ o'clock, P. M.

On which the yeas and nays were called for by Messrs. White and Floyd, and were:

Yeas—Messrs. Aldrich, Brown, Costin, Floyd, Forward, Ghent, J. M. Smith—7.

Nays—Mr. President, Messrs. Austin, Crawford, Lorimer, Tweed, White—6.

Said motion prevailed, and the Senate took a recess until 10½ o'clock, P. M.

10½ O'CLOCK, P. M.

The Senate resumed its session.

The following message from his Excellency the Governor was read:

EXECUTIVE DEPARTMENT, January 13, 1849.

Gentlemen of the Senate

and of the House of Representatives:

The following acts and resolutions are approved, to wit:

An act to amend an act concerning Roads and Highways, now in force in this State;

An act for the relief of the Sheriff and Tax Assessor and Collector of Hillsborough County;

An act to require licenses to be taken out by persons, and subjects not hitherto taxed;

An act for the relief of Occupying Claimants;

An act to authorize the people of Wukulla County to select their County Site;

An act for the relief of Nathan S. Watson, John T. Myrick, and James Griffin;

An act to amend an act to establish a Tariff of Fees, approved January 6, 1847;

An act to empower James C. Evans, a minor, to assume the management of his own estate;

An act to authorize and facilitate Internal Improvements, and to authorize and regulate partnerships for that purpose;

An act to authorize the administrators of the estate of Micajah Deen to sell real estate at private sale;

An act relating to the mode of appointment and duties of Auctioneers;

An act amendatory of the Pilot Laws now in force in this State;

An act to incorporate the Florida and Georgia Rail Road Company;

Preamble and resolution urging upon Congress the payment for losses sustained by the citizens of Florida during the late Seminole war;

Resolution asking an appropriation from Congress to pay so much of an account of William H. Sever as he can show by proper evidence to be due him;

Resolutions asking from Congress the grant of one hundred and sixty acres of land, &c.;

- Preamble and resolution in relation to a Light House at or near the mouth of the Suwannee River ;
- An act prescribing a general method for the issuing of Licenses, and the payment of the tax thereon ;
- An act to authorize William Tenant and John B. Tenant to establish a Ferry across Escambia River ;
- An act supplemental to an act entitled an act to grant pre-emption rights to settlers on State lands, passed at the present session ;
- An act to provide for the payment of the salary, travelling, and other expenses of the Register of Public Lands out of the public money in his hands ;
- An act to amend the laws now in force establishing a Tariff of Fees for the County of Jackson ;
- An act in relation to the organization of the Probate Court in Marion County ;
- An act to authorize Jos. M. Crews to establish a Ferry near the mouth of Ouhusta, in Columbia County ;
- An act for the protection of Slaves ;
- An act for the purpose of keeping the Indians within their boundary ;
- An act to amend an act entitled an act to regulate the Pilotage of the Bar of the River St. Johns ;
- An act to provide for the election of Judges of Probates by the People ;
- Resolution asking of Congress an appropriation for the building of a Light House at the Bar of Indian River ;
- Préamble and resolution urging upon Congress the payment of the claim of the estate of John W. Livinus ;
- Preamble and resolution asking Congress to take some action to keep the Indians of Florida within their prescribed boundary ;
- Resolution relative to the question in controversy between the North and South ;
- Resolution relative to the subject of International Exchange ;
- Preamble and resolution relative to W. Bartlett ;
- An act to prevent trespass on School, Seminary, and Internal Improvement Lands, and to recover damages for the use and occupation of the same ;
- An act supplementary to, and explanatory of, an act to incorporate the Atlantic and Gulf Rail Road Company, and the other acts passed at the present session contemplating or authorizing the construction of a Rail Road ;
- An act to amend an act authorizing the United States of America to purchase real estate in Florida for location of Arsenals, Dock Yards, Magazines, Forts, &c., passed in 1845 ;
- An act in relation to the issuing of Commissions to certain Public Officers ;
- Resolution authoring the Register of State Lands to invest moneys in his hands in the purchase of State script ;

- An act supplementary to an act passed at this session, relating to the mode of appointment and duties of Auctioneers ;
- An act making appropriations for the expenses of the fourth General Assembly of this State, and for other purposes ;
- An act to reduce the rate of taxation upon subjects now taxed, and to lay a tax upon cattle of non-residents ;
- An act to provide for the payment of services rendered by Overseers of Public Roads in the County of Leon ;
- An act to authorize certain officers therein named to continue in, and perform the duties of, their several offices until their successors are duly elected and appointed, commissioned and qualified ;
- An act for the relief of Benjamin Hays ;
- An act relative to the distribution of Thompson's Digest to other States ;
- An act explanatory of the several acts in relation to the migration of free persons of color into this State ;
- An act to amend the several acts now in force in relation to the officers of Courts ;
- An act to authorize the Register of the Land Office to appoint a Deputy, and for other purposes ;
- An act to organize the County of Putnam ;
- An act in relation to the Comptroller's office ;
- An act amendatory of the several acts now in force in relation to the assessment and collection of the Revenue ;
- An act in relation to George W. Hutchins ;
- An act in relation to the Circuit Courts of the Western Circuits of this State ;
- An act amendatory of the acts regulating Judicial Proceedings ;
- An act amendatory of the several acts in relation to Attachments ;
- An act amendatory of the acts for the appointment of Measurers of Lumber, and for other purposes ;
- Resolution relative to the distribution of Thompson's Digest ;
- Resolution for the relief of W. D. Moseley ;
- Resolution for the relief E. Barnard ;
- Resolution for the safe-keeping of Public Arms, and
- Resolution for the relief of Michael Ledwith.
- Very respectfully,
W. D. MOSELEY,
- Also the following :
- EXECUTIVE DEPARTMENT, Jan. 13, 1849.
- Gentlemen of the Senate and House of Representatives :*
- The bill entitled, "An act relating to Capital Punishments," is herewith returned without approval.
- The 4th section provides that, in all cases, where any person has been, or may hereafter be, convicted of any capital offence, and sentence of death passed, the Governor may commute the punishment, substituting imprisonment for not less than one year, in every such case, and imposing a fine, or whipping, or both, at his discretion.
- The General Assembly certainly cannot give to the Governor powers which are not conferred upon him by the Constitution. I

do not find, in that Charter of our Rights, any grant of power, after conviction in criminal and penal cases, but the power to reprieve and pardon; and to remit fines and forfeitures, &c. The right to commute punishment, under similar circumstances, would seem to be the exercise of a new power, not therein delegated, and, of course, in violation of the letter, as well as the spirit of the Constitution.

Apart from other objections, which might, it is believed, with propriety be urged to its approval, I feel myself constrained by a sense of duty, and a proper regard for what I believe to be the true intent and meaning of the Constitution, to return the bill, with this objection to its passage into a law, to the House in which it originated.

Very respectfully, W. D. MOSELEY.

On motion, the Senate took a recess for 30 minutes.

At the expiration of which time the Senate resumed its session.

A Committee from the House informed the Senate that there was no further business before that body, and that they were ready to adjourn *sine die*.

The question coming up relative to the bill vetoed by His Excellency the Governor;

The previous question was moved and carried.

The main question, Shall the bill pass over the veto of the Governor? being about to be put,

The President informed the Senate that the said bill had been torn and burnt up by Mr. Floyd, the Senator from Franklin.

Mr. J. M. Smith moved that Mr. Floyd be granted leave to explain his conduct, and to excuse himself.

Said motion was lost.

The President having vacated the Chair, Mr. White offered the following resolutions:

Resolved, That the thanks of this Senate be hereby tendered to the Honorable President for the able, impartial and dignified manner in which he has discharged his duties during the present session.

Resolved further, That the thanks of the Senate be hereby tendered to the Secretary, and other officers, for the faithful manner in which they have discharged their respective duties.

On which the yeas and nays were called for by Messrs. Floyd and Ghent, and were:

Yeas—Messrs. Aldrich, Austin, Brown, Burritt, Costin, Forward, Lorimer, J. M. Smith, Tweed, Watts and White—11.

Nays—Messrs. Floyd and Ghent—2.

Said Resolutions were adopted.

The President having resumed the Chair, responded in a feeling and eloquent address.

On motion of Mr. Burritt, the Senate adjourned *sine die*.

Attest: C. W. DOWNING,
Secretary of the Senate.

APPENDIX.

Documents Accompanying the Governor's Message.

COMPTROLLER'S REPORT.

OFFICE OF COMPTROLLER OF PUBLIC ACCOUNTS,
TALLAHASSEE, November 1, 1848.

To His Excellency WILLIAM D. MOSELEY, Governor, &c.

Sir: I have the honor to present herewith the report, required by law, of all the acts and proceedings of this office, for the fiscal year ending 31st ult.

I.—The Receipts into the Treasury during said year are the following named sources of revenue, to wit:

1. Auction taxes—for 1847,	-	-	\$982 76	
1848,	-	-	780 99	\$1,763 75
2. License taxes—for 1845,	-	-	107 88	
1846,	-	-	66 50	
1847,	-	-	508 62	
1848,	-	-	599 30	1,282 30
3. Fines, forfeitures, costs and fees—				
for 1845,	-	-	20 61	
1846,	-	-	986 52	
1847,	-	-	956 75	
1848,	-	-	495 06	1,858 94
4. General revenue—for 1845,	-	-	108 20	
1846,	-	-	4,875 63	
1847,	-	-	32,874 42	
1848,	-	-	14,005 87	51,864 12
5. Amount of an advance, in 1847, to the United States, refunded,				50 0
6. Profit and loss—for amount premium on sale of draft on New York,				18 61
Total,				56,832 72

II.—The Expenditures are the following, and upon the following accounts, to wit:

1. Legislative Department:	
(1.) Second General Assembly—	
(1846-'7)—pay and mileage of Thos. M. White, Senator,	137 00
(2.) Third General Assembly—	