

rule waived, read the second time by its title, and referred to the Committee on Claims and Accounts.

On motion of Mr. Sanderson, said Committee were instructed to combine said claim with that of W. D. Moseley.

On motion of Mr. Floyd, the Senate adjourned until Monday, 11 o'clock, A. M.

MONDAY, December 18, 1848.

The Senate met pursuant to adjournment.

Rev. Mr. Choice officiated as Chaplain.

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

On motion of Mr. Sanderson, Mr. Forward was added to the Committee on Taxation and Revenue.

Pursuant to previous notice, Mr. Forward introduced a bill to be entitled, An act to prescribe an equal and uniform mode of taxation, and for other purposes.

Which was, on motion of Mr. Forward, read the first and second time by its title, and referred to the Committee on Taxation and Revenue.

On motion of Mr. Floyd, ordered that 75 copies of said bill be printed.

Pursuant to previous notice, Mr. Moseley introduced a bill to be entitled, An act to compel the Judges of the Circuit Courts to hold the terms of Court at the times and places prescribed by law.

Which was read the first time, ordered to a second reading tomorrow, and on motion of Mr. Sanderson, 75 copies ordered to be printed.

Pursuant to previous notice, Mr. Forward introduced a bill to be entitled, An act establishing a Common School System for the State of Florida.

Which was, on motion of Mr. Floyd, read the first time by its title.

On motion of Mr. Forward, ordered that said bill be laid upon the table, and 75 copies be printed.

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

The Committee on Enrolled Bills, beg leave to report a bill to be entitled, An act requiring Solicitor's to make reports of the state and progress of cases, civil and criminal, in which the State is a party, as correctly entolled.

LOUIS ALDRICH, Chairman.

Mr. White presented the memorial of the Board of County Commissioners of Jackson County, praying that the taxes to be assessed and collected in said County for two years be applied to the erection of a Court House, &c.

Which was read, and on motion of Mr. Avery, referred to the Committee on Taxation and Revenue.

Mr. Ghent presented the memorial of Thomas Liscoe, of Walton County, praying to be relieved from the capitation tax.

Which was read, and referred to a select committee consisting of Messrs. Ghent, Floyd, and Moseley.

Mr. Lorimer, from the Committee on Schools and Colleges, presented the following minority report:

The undersigned, one of the Committee on Schools and Colleges, to whom was referred the bill entitled, An Act to provide for the Sale of the 16th sections granted by Congress to the State for the support of Public Schools, and for consolidating the School Fund, not concurring in the views, nor assenting to the reasoning of the majority of the Committee, respectfully submits the following

REPORT:

"In consideration of concessions made by the State of Florida in respect to the Public Lands," the act of Congress grants to the State "section number sixteen in every township, or other lands equivalent thereto, for the use of the inhabitants of such township, for the support of Public Schools.

It is not at all necessary, in the opinion of the undersigned, in order to arrive at a just and proper understanding of this law, to look into or ascertain the nature, character or extent of the concessions alleged to have been made by the State in respect of the Public Lands. Whether these concessions secured the enactment or not, by which the sixteenth sections were granted to the State for the purposes therein mentioned, or in whatever light they were regarded by Congress, whether as constituting a consideration of such great moment as to induce the grant, still the object, purport and meaning of the act of Congress would be altogether unexplained, (if indeed there was any doubt as to its design,) by reference to the consideration as expressed in the law, or by argument founded upon the nature and extent of that consideration.

If the law of Congress had simply declared that, in consideration of concessions and renunciations made by the State, there be granted to her the sixteenth section in every township, there would be no doubt of the power of the Legislature over such sections, and no question as to the right of the State to dispose of, or manage the land so granted, in such a manner as to the Legislature might seem meet and proper. There would clearly be no doubt as to the power and right of the State over such a fund under the grant of the kind and description just alluded to; but it is obvious that the consideration expressed would throw no light upon the meaning of the law, as to whether the lands so granted should be consolidated, or whether the sections granted should be disposed of each for the benefit of the township in which it lies. It might, indeed, be argued with a great deal of force, in such a case, that the fund so granted should be consolidated—that the lands should be sold, and the proceeds distributed upon some just and equitable principle among the people of the State, for such purposes as the Legislature might designate. But

this argument would be founded upon the absolute, unqualified and unconditional nature of the grant, and upon the manifest policy and duty of the State, so to manage and dispose of a fund over which it has absolute control, as to subserve and promote the general interests of the people, whether the fund so granted be appropriated to purposes of Education, Internal Improvements, or other useful objects. Equality would, in such a case, be equity—and justice and propriety would dictate the distribution of the fund in such a manner as to confer upon every portion of the State, as nearly as possible, equal advantages and equal benefits.

But in the case under consideration, how is it possible to entertain a doubt as to the power of the Legislature? How can it be argued that it is the duty of the Legislature, irrespective of the terms of the grant, to do one thing or another in respect of the lands granted to the State? It is not a case involving a question of policy or propriety in regard to the disposition and distribution of a fund over which the State has absolute control. The question is not presented: what shall we do with the fund—how shall we manage it—how dispose of it, for the benefit of the whole people of the State? That is a question, which, in the opinion of the undersigned, could only be presented if the grant was absolute, and no purposes or objects—no uses, and no persons by whom the fund is to be used, were pointed out and designated by the act of Congress. But is this so? Do not the terms of the act clearly define the objects and purposes of the grant? Do they not define the uses and the persons by whom it is to be used!

The sixteenth section in every township is to be *used* by the *inhabitants* of such township "for the support of Public Schools."

"The support of Public Schools" is the object to which the sixteenth section in every township is to be applied—and the inhabitants of such township are the *uses*, or the recipients of the benefits to be derived from the sixteenth section lying in the township they inhabit. Could language be more plain, or strong, than that employed by the act to designate the uses and purposes of this fund, and the persons by whom it is to be used?

The import and meaning of the law of Congress are in the opinion of the undersigned, perfectly clear and obvious. There is no doubtful language employed; the words are not dubious, and we are therefore not compelled to resort to any of the rules or methods of discovering the intention of the Legislature or "the true meaning of the law," which are laid down by Blackstone and other writers, for arriving at such intention or ascertaining such meaning in doubtful and uncertain cases.

Were there any doubt or uncertainty, these rules of interpretation might be invoked; but where no doubt exist as to the meaning of the law—where the words are not dubious, with what propriety can it be argued that, though the law is clear, explicit, and free from doubt, yet it would be unjust, unequal, and inequitable, to suffer the clear and distinct expression of the will of the National Legislature to be car-

ried out, in the mode and manner, and for the particular purposes and uses pointed out by their own solemn enactment.

It is proposed to consolidate a fund which has been granted to the State by Congress, upon the assumed ground that such consolidation is necessary to do full and equal justice. This fund was owned by the grantor before the grant. The grantor of any fund or species of property, it will not be denied, has a right to prescribe the conditions, objects, purposes, and uses of the things granted. The Government of the U. S. in the most solemn manner has made this State a grantee of certain lands, not absolutely and unconditionally, but for certain defined and expressed purposes. And not only pointing out beyond the possibility of a doubt, the purposes and object of the grant—but the particular persons by whom the grant is to be enjoyed—namely, the inhabitants of each township, who are to be the recipients of the benefits, be they what they may, to be derived from the sixteenth section in their township. Would the passage of the bill which the majority of the committee recommends to the favorable consideration of the Senate, carry out the intention of the grantor? Would not the fund granted for the use of each township be diverted from its appropriate purpose, and converted into a general fund such as never could have been contemplated by Congress? Had such an idea ever occurred to that body—had they designed that in any possible event or contingency such a disposition as the one recommended might be made, it would have been authorized by language and in terms as clear and as unequivocal as the contrary intention is expressed in the act referred to.

What then is the position of the State in reference to this fund? Manifestly that of a trustee. And the inhabitants of the several townships the "*cestui que trust*," or persons for whose benefit the trust is held according to the terms of the law imposing that character upon the State. Without legislation by Congress changing the character, nature, and objects of this trust, the undersigned believes that the Legislature cannot, with propriety, pass the bill recommended by the majority of the committee.

The undersigned cannot perceive the force of the reasoning by which, it is attempted to be shown that the United States Government made with the State a contract of the nature of a bargain and sale, if indeed it is meant that, by such bargain and sale, an absolute, unconditional, and unlimited ownership, free from all restrictions as to the uses and objects of the grant, was thereby conveyed to the State. This idea is contradicted by the very terms of the law. The uses and purposes of the grant are too clearly expressed to admit the idea of any such unconditional sale—and a trust is as fully and as completely created as if it had been done by deed of conveyance framed for the express purposes designated by the act.

The undersigned is, for these reasons, constrained to recommend that the bill be not passed.

JAMES H. T. LORIMER.

Which was received.

Mr. Forward, from the Committee on Engrossed Bills, presented the following report, which was received :

The Committee on Engrossed Bills beg leave to report as correctly engrossed, the following acts, to wit :

An act to provide for compensation of Physicians for professional attendance on Coroner's inquests ;

An act to exempt from taxation for five years certain property in the city of Pensacola, and

An act to declare East river in Walton county a navigable stream.

WILLIAM A. FORWARD, Chairman.

ORDERS OF THE DAY.

Bill to be entitled, An act to provide for the election of a keeper of public archives in the cities of St. Augustine and Pensacola, and to prescribe their duties, &c. :

On motion of Mr. Forward, the Senate resolved itself into a committee of the whole on said bill, Mr. White in the Chair. After some time spent therein, the committee rose, and by their chairman reported the bill back to the Senate with amendments, and asked to be discharged from the further consideration of said bill.

Which was concurred in, the bill read a second time by its title.

Mr. Sanderson moved to strike out the words "three hundred," in 2d line of section 11, and insert in lieu thereof the words "one hundred and fifty."

Which motion was lost.

Mr. D. J. Smith moved to amend by adding the following additional section, viz :

Sec. 12. *Be it further enacted*, That the keepers of said archives be required to keep their office open from 9 o'clock, A. M. till 4, P. M., Sundays excepted.

Which was adopted.

Said bill was ordered to be engrossed for a third reading to-morrow.

Engrossed bill to be entitled, An act to provide for compensation of Physicians for professional attendance on Coroner's inquests,

Was read the third time, and on the question of its passage, the yeas and nays were :

Yeas—Mr. President, Messrs. Aldrich, Austin, Avery, Brown, Burritt, Costin, Crawford, Forward, Ghent, Lorimer, Moseley, Sanderson, D. J. Smith, J. M. Smith, Tweed, Watts, White—18.

Nays—None.

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

House resolution urging upon Congress the payment of the claim of Captain Thomas S. Langford and his men as volunteers in the Seminole war,

Was read the first time, the rule waived, read a second and third time by its title, and passed.

Ordered that the same be certified to the House.

House bill to be entitled, An act to extend the tenure of the office of Register of Public Lands, Treasurer, and Comptroller of Public Accounts, Was read the third time as amended, and on the question of its passage, the yeas and nays were :

Yeas – Mr. President, Messrs. Aldrich, Austin, Avery, Brown, Burritt, Costin, Crawford, Forward, Ghent, Lorimer, Moseley, Sanderson, D.J. Smith, Tweed, Watts, and White – 16.

Nays – None.

Said bill passed.

On motion of Mr. Burritt, the title was amended by striking therefrom the words, Treasurer and Comptroller of Public Accounts.

Ordered that the same be certified to the House.

On motion of Mr. Sanderson, the Senate took a recess until 2 ½ o'clock, P.M.

2 ½ O'CLOCK, P.M.

The Senate resumed its session.

Bill to be entitled, An act prescribing a general method for the issuing of licenses, and the payment of the tax thereon,

Was, on motion of Mr. Sanderson, laid upon the table, and 75 copies were ordered to be printed.

Preamble and Resolution relative to Seminaries of Learning, Was read the second time.

Mr. Sanderson offered the following as an additional resolution:

Resolved, That the Governor be, and he is hereby authorized to appoint a Commissioner from each of the Judicial Circuits of the State, whose duty it shall be to present a plan or plans for the formation and establishment of Seminaries of Learning, and give their views as to the proper place of location of said Seminaries to the next General Assembly.

Which was lost.

On the question whether the said Preamble and Resolutions be engrossed for a third reading being put, it was lost.

Resolutions relative to the boundary lines between Georgia and Florida,

Were read the second time.

Mr. Burritt moved to strike out the word "settle" in the first section, and insert in lieu thereof "confirm;"

Which motion prevailed.

On motion of Mr. Burritt, said resolutions were referred to the Committee on the State of the Commonwealth.

Bill to be entitled, An act to empower William Newsom to assume the management of his own estate,

Was read the second time, and ordered to be engrossed for a third reading to-morrow.

Bill to be entitled, An act to repeal the second section of an act

supplementary to and extending the provisions of an act assenting to the purchase by the United States, and ceding to the same jurisdiction of certain lands on the island of Key West, for the purposes designated in said act, approved July 8, 1845,

Was read the second time, and ordered to be engrossed for a third reading to-morrow.

House bill to be entitled, An act prescribing time for which lands seized for taxes shall be advertised for sale,

Was read the second time and ordered to a third reading to-morrow.

House bill to be entitled, An act to authorize the Circuit Court of Washington county to be held at Massy Hill Meeting House,

Was read the second time, and on motion of Mr. D. J. Smith, laid upon the table.

House bill to be entitled, An act to alter and change the names of certain persons therein named,

Was read the first time and ordered to a second reading to-morrow.

House bill to be entitled, An act to amend an act for the protection of the Fisheries on the coast of Florida,

Was read the first time and ordered to a second reading to-morrow.

House bill to be entitled, An act to provide for the payment of services rendered by Overseers of Public Roads,

Was read the first time and ordered to a second reading to-morrow.

House Resolution asking from Congress the grant of a quarter section of land for the county site of Calhoun county,

Was read the first time, the rule waived, read a second and third time by its title and passed.

Ordered that the same be certified to the House.

House resolution urging upon Congress the passage of a law granting a quarter section of land to the county of Washington for the purpose of locating a county site therein,

Was read the first time, the rule waived, read a second and third time by its title and passed.

Ordered that the same be certified to the House.

On motion of Mr. Floyd, the rule was waived, and he allowed to give notice that he would at some future day ask leave to introduce a bill to be entitled, An act to repeal the Revenue law so far as relates to a poll tax in this State.

On motion Mr. Burrill, the Senate adjourned until to-morrow 10 o'clock, A. M.

Tuesday, December 19, 1846.

The Senate met pursuant to adjournment.

Rev. Mr. Choice officiated as Chaplain.

A quorum being present, on motion of Mr. Floyd, the reading of yesterday's Journal was dispensed with.

Pursuant to previous notice, Mr. D. J. Smith introduced a bill to be entitled, An act to permanently locate the county site of Washington county, and for other purposes therein contained.

Which was read the first time, and ordered to a second reading to-morrow.

On motion of Mr. Avery, the bills to be entitled, respectively, An act relating to fines, forfeitures, costs, and other moneys adjudged to the State, and

A bill to be entitled, An act relating to the duties of Tax Assessors and Tax Collectors, and for other purposes,

Were taken from the table and placed among the orders.

On motion of Mr. Sanderson, the vote had on yesterday upon the preamble and resolutions relative to Seminaries of Learning, was reconsidered, and upon the reconsideration thereof, were, on motion, laid upon the table.

Pursuant to previous notice, Mr. Floyd introduced a bill to be entitled, An act to repeal an act in part entitled an act to raise a Revenue for the State of Florida.

Which was read the first time, and ordered to a second reading to-morrow.

Mr. J. M. Smith presented the petition of Craven G. Fife, which was referred to the Committee on Claims and Accounts.

Mr. Moseley, from the Committee on Internal Improvements, presented the following report:

The Committee on Internal Improvements herewith report a bill authorizing any company, or association of men, who may desire to avail themselves of the privileges of said bill, to construct a Railroad from Read's Bluff on the St. Mary's River, to the city of Pensacola, and recommend its adoption by the Senate. The committee take this occasion to urge upon the Senate the serious and deliberate consideration of the object of this bill. That the road, which is contemplated to be constructed, would prove one of incalculable advantage to the citizens of East, Middle, and West Florida, there cannot possibly be a doubt. If completed, it would bring a market, for the produce of the three sections spoken of, within thirty miles of each citizen's house living in either of the sections, and to a majority of the citizens it would bring a market within from five to ten miles. The peculiar shape of the country in no slight degree recommends the practicability of the route. There is scarcely another State in the Union whose geographical position is such that a Railroad running nearly in a direct line from one end of the State to the other, would be so convenient for nearly the whole body of its citizens.

Your committee are induced to believe, from the best information