

Was read the first time, rule waived, read the second time by its title, and ordered for a third reading to-morrow.

House bill to be entitled, An act to change and define the Western and Southern boundary of the County of Gadsden;

Was read the first time, rule waived, read the second time by its title, and ordered to a third reading to-morrow.

House bill to be entitled, An act to make provisions to defray the expenses of the Chief Magistrate of this State:

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

Bill to be entitled, An act providing for the incorporation of societies known as Independent Order of Odd Fellows, and also of societies known as Sons of Temperance;

Was read the second time by its title, and ordered to be engrossed for a third reading on Monday next.

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

MONDAY, January 6, 1851.

The Senate met pursuant to adjournment.

The Rev. Mr. Pratt officiated as Chaplain.

A quorum being present, the proceedings of Saturday were read and approved.

Pursuant to previous notice, the following bill was introduced by Mr. Moseley, viz:

A bill to be entitled, An act for the Incorporation of Plank Road Companies;

On motion of Mr. Avery, the rule was waived, and said bill read the first and second times by its title, and 75 copies ordered to be printed.

Mr. Brown of Columbia, moved to take from the table, and place among the orders of the day, a bill to be entitled, An act to authorize the Administrators of Henry V. Ellis, deceased, to sell real estate;

Which motion was carried, and said bill ordered to be placed among the orders of the day.

On motion of Mr. Finley, the vote taken on bill to be entitled, An act to amend the first clause of the tenth article of the constitution of this State, so as to authorize the appropriation of the proceeds of all lands heretofore granted, or which may be hereafter granted by the United States to this State for a Seminary or Seminaries of Learning, to the use of Common Schools;

Was reconsidered, the rule waived, read the third time by its title, on the question of its passage the yeas and nays were:

Yeas—Mr. President, Messrs. Austin, Avery, Baldwin, Brown of Columbia, Brown of Hillsborough, Buddington, Crawford, Finley,

Forward, Johnson, Maxwell, McMillan, Perry, Smith, Stewart, Taylor—16.

Nay—Mr. Moseley—1.

Said bill passed, having received the constitutional majority.

Ordered that the same be certified to the House of Representatives.

Mr. Baldwin gave notice that he would, on some future day, ask leave to introduce a bill to be entitled, An act entitled an act to amend an act to organize the Circuit Courts of the State of Florida, approved January 8, 1848.

The President presented the following communication from the Attorney General of this State :

ATTORNEY GENERAL'S OFFICE, January 6, 1851.

The Honorable R. J. FLOYD,

President of the Senate :

SIR :—The Senate has thought proper to refer to me the question, whether a number less than two thirds of the Senators and Representatives composing the General Assembly, and *elected* to each branch of the Legislature, can constitutionally effect a change in the fundamental law of the State. This at least is the substance of the matter referred, and upon this my opinion is called for.

After as careful an examination of the Constitution, and as much reflection as I could bestow upon the subject, I have brought my mind to the conclusion that a less number than two thirds of each House, that is, of the whole number of each House, will not suffice to change that instrument.

The fourth article of the Constitution declares that "the legislative power of this State, shall be vested in two distinct branches, the one to be styled the Senate, the other the House of Representatives." Now what constitutes the Senate and the House? Is it the whole number elected and returned, or authorized to be elected and returned to the two branches of the General Assembly, or is it a number less than the whole? Does a majority of the Senate constitute "*the Senate*," or a majority of the House constitute "*the House*," upon a fair interpretation of those words as used in the Constitution? In my opinion it does not. The eighth section of the fourth article of the Constitution declares that "a majority of each *House* shall constitute a *quorum* to do business," but it is nowhere declared that a majority shall constitute *either House*. On the contrary, it is expressly defined to be only a *quorum* of the House. The House then, must mean something else and something more than a quorum. Wherever, therefore, the Constitution employs or uses the phrases "majority of the Senate," "majority of the House," or two thirds of either or both, according to my understanding, the whole number elected and returned, or authorized to be elected and returned, is meant.

For the ordinary business of legislation, it is true a majority can act, but the very fact that this provision is made, confirms and strength-

ens the view I take of the subject. That majority, let it be borne in mind, is designated as forming only a certain number, to wit: a quorum of the two Houses of the General Assembly.

But it may be argued that the sixteenth section of the third article of the Constitution militates against the view here taken, because that section speaks of a majority of the "whole number elected" as necessary to pass a bill notwithstanding the objections of the Governor. I do not think, however, that a safe and sound interpretation of the Constitution in its other provisions is to be overthrown by this single exception. The Constitutional convention, I apprehend, designed merely to mark the case referred to (the passage of a bill against the Executive veto,) as one not of ordinary, but of extraordinary character, upon which the vote of more than a majority of a quorum, which is ordinarily requisite, should be required. In other words, it was designed to make it a case of more than ordinary solemnity, and the strong language, "a majority of the whole number elected," was employed the more clearly and exactly to convey the idea.

If I am right in the meaning assigned to the words or phrases "the Senate," "the House," or "both Houses of the General Assembly," the idea might have been as well conveyed by the use of those words or phrases, as of those actually employed.

A change of the Constitution must surely be regarded in the light of as solemn an act as the passage of a law against the veto of the Governor.

I am, therefore, of the opinion that not only the letter, but the spirit of the Constitution requires two thirds of the whole number to agree to a change of any of its articles or provisions.

Very respectfully,

D. P. HOGUE.

Which was read, and ordered to be spread upon the Journals.

Mr. Forward, from the Committee on Enrolled Bills, made the following report:

The Committee on Enrolled Bills, report as correctly Enrolled:

A bill entitled, An act for the relief of Angel Lopez;

An act consolidating the Counties of Dade and Monroe, making them a District for Judicial purposes,

And an act giving to the Alabama and Florida Rail Road Company, the right to extend their Road into the State of Florida, with chartered privileges.

W. A. FORWARD, *Chairman.*

Which was received.

Mr. Baldwin, from the Committee on Engrossed Bills, made the following report:

The Committee on Engrossed Bills, beg leave to report as correctly Engrossed the following bills, viz:

Bill to be entitled, An act providing for the incorporation of So-

cities known as Independent Orders of Odd Fellows, and also of Societies known as Sons of Temperance.

Bill to be entitled, An act to enable Executors, Administrators, and Guardians, to sell the real estate of infants.

Bill to be entitled, An act giving to Judges of Probate the powers of Justices of the Peace.

Bill to be entitled, An act authorizing Judges of Probate to set apart Dowers;

Bill to be entitled, An act to change the boundary of Leon County.

Bill to be entitled, An act in relation to the term of office and duties of the Tax Collectors;

Bill to be entitled, An act to permit George W. Andrews, to practice Medicine in the County of Hernando; also,

Engrossed substitute for House resolution asking an appropriation of land by Congress to aid in building a Plank Road from Alligator to Jacksonville;

Engrossed amendments to House Bill to be entitled, An act to incorporate the Jacksonville and Alligator Plank Road Company;

All which is respectfully submitted.

JOHN P. BALDWIN, *Chairman.*

Which was received, and said bill ordered to be placed among the orders of the day.

The select Committee to whom was referred the petition of Joel B. Smith, late Tax Collector and Assessor, having had the same under consideration, ask leave to report the accompanying bill and recommend its passage.

M. S. PERRY,
GEO. STEWART,
W. A. FORWARD.

Which was received, and said bill ordered to be placed among the orders of the day.

The following message was received from the House of Representatives:

HOUSE OF REPRESENTATIVES, January 4, 1851.

Honorable President of the Senate:

SIR:—The House have passed the following bills, viz:

- Bill to be entitled, An act for the relief of Abner D. Johnson;
- Bill to be entitled, An act for the relief of Thomas Ledwith;
- Bill to be entitled, An act for the relief of Lawrence Fanell;
- Bill to be entitled, An act for the relief of Thomas K. Leonard, Captain of the Miccosukie Cavaliers, and B. G. Waring, deceased;
- Bill to be entitled, An act in relation to Licenses;
- Bill to be entitled, An act to provide for the transmission of Election Returns in the County of Levy;

Bill to be entitled, An act amendatory of the several acts now in force relating to the appointment and duties of Auctioneers;

Bill to be entitled, An act to make uniform the mode of selling State Lands;

Bill to be entitled, An act to authorize Thomas J. Land to establish a Ferry across Chipola River at Abe's Spring Bluff;

Bill to be entitled, An act to define specifically the duties of the Board of County Commissioners of Monroe County;

Senate bill to be entitled, An act to amend an act amendatory of the several acts now in force in relation to the assessment and collection of the Revenue, approved January 13, 1849, without amendment;

Senate bill to be entitled, An act to change and make permanent the dividing line between the Counties of Santa Rosa and Walton, without amendment;

Senate bill to be entitled, An act to amend the several acts now in force in relation to pleadings in Civil Suits, with the following amendment, viz:

Add the following proviso: "Provided that the grounds of defence shall be fully pleaded."

In which amendment, the concurrence of the Senate is respectfully solicited.

Respectfully,

H. ARCHER,

Speaker House of Representatives,

Which was read, and said House bills ordered to be placed among the orders of the day, said amendment concurred in and said Senate bills ordered to be enrolled.

The following communication was transmitted to his Excellency the Governor:

SENATE CHAMBER, January 4, 1850.

His Excellency THOMAS BROWN,
Governor of Florida:

SIR—I have the honor herewith to transmit, for the approval of your Excellency, the following acts, viz:

An act to grant the right of pre-emption to persons who have settled on Sixteenth Sections, in certain cases;

An act in addition to the acts now in force in relation to Crimes and Misdemeanors;

An act enlarging the powers of County Commissioners;

An act to require purchasers of State Lands to make payment therefor to the Treasurer of this State;

Passed by both Houses of the General Assembly, and signed by the presiding officers thereof.

Respectfully,

N. McPHERSON,

Secretary of the Senate.

ORDERS OF THE DAY.

House bill to be entitled, An act to amend an act to organize the Supreme Court of the State of Florida:
Was read the third time as amended.

Mr. Avery moved to strike out the word "one," in the 4th line of the first section, and insert "four" in lieu thereof.

On this motion the yeas and nays were called for by Messrs. Avery, and Forward, and were:

Yea—Mr. Avery—1.

Nays—Mr. President, Messrs. Austin, Baldwin, Brown of Columbia, Brown of Hillsborough, Buddington, Crawford, Finley, Forward, Johnson, Maxwell, McMillan, Moseley, Perry, Smith, Stewart, Taylor—17.

Said motion was lost.

On the question of the passage of said bill, the yeas and nays were:

Yeas—Mr. President, Messrs. Austin, Baldwin, Brown of Hillsborough, Crawford, Finley, Forward, McMillan, Perry, Smith—10.

Nays—Messrs. Avery, Brown of Columbia, Buddington, Johnson, Maxwell, Moseley, Stewart, Taylor—8.

Said bill passed as amended. Title as stated.

Ordered that the same be certified to the House of Representatives.

On motion of Mr. Finley, the Senate adjourned until to-morrow, half-past 10 o'clock, A. M.

TUESDAY, January 7, 1851.

The Senate met pursuant to adjournment.

The Rev. Mr. Kellogg officiated as Chaplain.

A quorum being present, the proceedings of yesterday were read and approved.

Mr. Baldwin, pursuant to previous notice, introduced a bill to be entitled, An act to amend an act entitled an act to amend an act to organize the Circuit Courts of the State of Florida, approved January 8th, 1848;

Which was read the first time, rule waived, read second time by its title, and referred to the Committee on the Judiciary.

Mr. Avery moved that the Committee on Elections be instructed to bring in a bill, prescribing the manner in which "contested elections for Governor shall be determined."

Which was carried.

Mr. McMillan presented the petition of sundry citizens of Quinville, relative to the incorporation of said Quinville;

Which was read, and referred to the Committee on Corporations.

The following message was received from his Excellency the Governor:

EXECUTIVE CHAMBER, January 6, 1851.

The Honorable R. J. FLOYD,

President of the Senate:

SIR:—I have approved and signed the following acts, viz: