

Mr. Baldwin moved to amend the title of said bill by adding at the end thereof, the words, "in the Counties of Monroe and Wakkulla;"

Which was carried, and said bill passed, as amended. Title as stated. Ordered that the same be certified to the House.

The Senate, on motion, adjourned until to-morrow 10 o'clock, A. M.

SATURDAY, December 7, 1850.

The Senate met pursuant to adjournment.

The Rev. Mr. Pratt officiated as Chaplain.

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

Mr. Forward moved to take from the table and place among the orders of the day, a bill to alter and amend the act entitled, An act to incorporate the Atlantic and Gulf Rail Road Company;

Which motion was carried.

Mr. Brown of Columbia, moved that Mr. Stewart have leave of absence from to-day until Tuesday next;

Which was carried.

Mr. Finley moved that Mr. Austin have leave of absence from to-day until Tuesday next;

Which was granted.

Mr. Avery gave notice that he will, at a future day, ask leave to introduce a bill to be entitled, An act to incorporate the Alabama and Florida Rail Road Company.

Pursuant to previous notice, Mr. Brown of Columbia, introduced a bill to be entitled, An act to amend an act relating to the duties of Tax Assessors and Collectors, and for other purposes, approved January 9th, 1849;

Which was read the first time, and ordered for a second reading on Monday next.

Pursuant to previous notice, Mr. Brown of Columbia, introduced a 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;

Which was read the first time, and ordered to a second reading on Monday.

Mr. Brown of Columbia, presented a petition for the relief of Mrs. M. A. Hardee;

Which was read, and on motion referred to the Committee on Claims and Accounts.

Mr. Brown of Columbia, presented a petition for the relief of David Platt;

Which was read, and on motion referred to the Committee on Claims and Accounts.

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:

A bill to be entitled, An act to repeal an act to improve the Navigation of the Suwannee River;

A bill to be entitled, An act for the relief of George M. Hamilton;

A bill to be entitled, An act to authorize William Henry Van Horn to assume the management of his own estate, and to contract and be contracted with;

A bill to be entitled, An act prescribing the duty of the Register of Public Lands, Sheriffs, and Solicitors in relation to the recovery of estates escheating or reverting to the School Fund, on account of a defect of heirs or next of kin, and for other purposes.

JOHN P. BALDWIN, *Chairman.*

Mr. Maxwell, from the Committee on the Judiciary, made the following report:

The Committee on the Judiciary, to whom was referred a bill to be entitled, An act amendatory of the several acts in relation to executions, have instructed me to report that they think it inexpedient to pass said bill. They fear that if the lien of executions upon personal property be made to begin only from the time of actual levy, there would be opened a door for fraudulent practices of which dishonest debtors would be too apt often to avail themselves. The inconvenience or hardship to the debtor, of not being allowed to sell his property after the writ gets to the hands of the sheriff, and before levy, is but trifling compared with the inconvenience and hardship and injustice which such a privilege would enable him to inflict upon the creditor. As to the protection this bill would give to innocent purchasers, the Committee think this advantage overbalanced by the general impolicy of the measure.

Entertaining these views, they recommend that the bill be not passed.

A. E. MAXWELL, *Chairman.*

Which was received and read, and on motion laid on the table until Monday next.

Mr. Baldwin, from the same Committee, made the following minority report:

The undersigned, a minority of the Committee on the Judiciary, to whom was referred a bill to be entitled, An act amendatory of the several acts in relation to Executions, dissenting from the views of the majority of said Committee, begs leave to

REPORT:

That he conceives it essential to the rights and interests of the people of this State that the bill referred to should pass into a law. The object contemplated by said bill, is to prevent the injustice

which may be done to an honest purchaser, by subjecting the property purchased from a defendant to levy and sale under an Execution which may have been, previous to such purchase, issued and received by the Sheriff, and of the existence of which such purchaser may have been entirely ignorant. The law, as it now stands, would involve a purchaser under such circumstances in an entire loss of the purchase money, or it would at least subject him to an expensive litigation, even if he succeeded in resisting a levy under the Execution. It is not a sufficient answer to say that the purchaser should enquire of the Sheriff whether Executions exist against the person of whom he wishes to purchase, for this is imposing a burthen onerous in its character, especially if the parties reside at a distant point from the office of the Sheriff.

Again, it is well known by those at all conversant with the subject, that frequently Executions are permitted to lie in the hands of the Sheriff, without any effort on the part of the plaintiff to have them executed, and junior Executions are levied, under which the property of the defendant is sold. Yet, if the property is bound from the time the writ goes into the hands of the Sheriff, the purchaser, at the sale under the junior writ, may be deprived of his property by a levy under the senior Execution. The undersigned cannot see how such a result could be avoided, unless the plaintiff in the oldest Execution had done some affirmative act which would deprive him of his preference.

The undersigned is at a loss to know how any injury could be inflicted upon creditors, by the passage of the bill under consideration. All that an execution creditor would have to do would be to have his Execution levied with all convenient speed, and should he fail to avail himself of this right, then a junior Execution creditor ought to be entitled to the privilege of levying on and selling the defendant's property, without its being bound by any lien created by the previous receipt of the older Execution by the Sheriff. Purchasers at such sales would be protected, and the vigilant would be favored.

The inevitable tendency, should this bill become a law, would be to prevent any understanding between the oldest execution creditor and the debtor, to the prejudice of younger execution creditors. No inconvenience, hardship or injustice could possibly be suffered by creditors, unless it be the inconvenience or hardship resulting from their own negligence.

The object sought by this bill, it is repeated, is not the convenience of debtors, but the protection of innocent purchasers.

JNO. P. BALDWIN.

Which was received and read, and on motion laid on the table until Monday next.

The following message was received from the House of Representatives:

HOUSE OF REPRESENTATIVES, }
December 7, 1850. }

Hon. President of the Senate:

SIR:—The following bills and resolution have passed the House:

A bill entitled, An act to authorize Henry Hewitt to establish a Ferry across the Choctahachee River at Hewitt's Bluff;

An act to authorize Jason Gregory to establish a Ferry across the Apalachicola River at Ochesee, in Calhoun County;

An act to incorporate the Pensacola and Navy Yard Plank Road Company;

A resolution for the relief of Isaac P. Hardee and L. D. Rodgers.

Respectfully,

W. H. MILTON,

Clerk House of Representatives.

Which was read.

ORDERS OF THE DAY.

A bill to be entitled, An act to amend an act entitled an act to re-establish the records of the County of Jackson, and for other purposes,

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

A bill to be entitled, An act for the relief of L. F. Miller, Sheriff of Washington County,

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

The following special Message was received from His Excellency the Governor:

EXECUTIVE OFFICE, }

TALLAHASSEE, December 7th, 1850. }

Gentlemen of the Senate

and House of Representatives:

I have the satisfaction herewith to communicate to the General Assembly a letter received by the Executive from the Commissioner of the General Land Office, with a copy of his instructions to the Surveyor General of this State, in regard to the provisions of the late act of Congress entitled, "An Act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits." Under the liberal construction placed upon this law by the United States authorities, you will not fail to perceive that the grant is one of large value, and that some action on our part is necessary to secure all its benefits.

The Surveyor General is instructed to "make out a list of all the lands thus granted to the State, designating those which have been sold or otherwise disposed of since the passage of the law and the price paid for them when purchased. The only reliable data in your possession, (continues the Commissioner), from which these lists

can be made out, are the field notes of the Surveyors on file in your office; and if the authorities of the State are willing to adopt these as the basis of those lists, you will so regard them. If not, and those authorities furnish you with satisfactory evidence that any lands are of the character embraced by the grant, you will so report them." And in his letter to the Executive the Commissioner remarks, "you will perceive that by these instructions the Surveyor General is authorized to receive such reliable evidence of the character of any of these lands as may be presented by the authorities of the State; and, as many of the lands were probably surveyed at dry seasons, and hence are not represented by the descriptive notes or plats as being of that character, (i. e. swamp or overflowed lands), I have supposed that it may be a matter of sufficient importance to induce you to call upon the county surveyors or other respectable persons of your State, for a statement, under oath, of the swamp or overflowed lands in their respective counties. Such testimony, you perceive, will be regarded as establishing the facts in the case."

These considerations render it important that some provision should at once be made for the employment of discreet and intelligent agents for the location of these lands, in each of the counties. In making these locations it will, moreover, be essential, that accurate plats of survey should be obtained. By the act organizing the State Register's office, it is made the duty of the Register to obtain the necessary maps, but I would suggest whether it might not be proper to apply to Congress to furnish this State with complete and accurate plats and maps of survey in Florida, either from the Bureau of the General Land Office, or from the office of the Surveyor-General; and that a small appropriation be made for this purpose, to be used, if necessary.

The terms of the act making this grant declare, "That the proceeds of said lands, whether from sale or direct appropriation, shall be applied exclusively, so far as necessary, to the purpose of reclaiming said lands, by means of levees and drains aforesaid." To comply with this condition, some provision should be made for a scientific reconnoissance of these lands. Indeed, it may with truth be said that no reasonable estimation can be formed of the value of the grant, until such reconnoissance shall have been made. In relation to the "Everglades," for example, no approximate conjecture as to their value can be made, until the practicability and cost of their drainage shall have been ascertained and the submerged soil tested by scientific analysis. I therefore recommend that provision be made for the appointment of a competent Topographical Engineer and Geologist, combined if possible in the same person, who should be charged with appropriate duties arising under this grant, as well as such other as might occur under the operations of the State Board of Internal Improvements, (should one be created), and any general system of internal improvement which may be adopted.

It is probable, also, that this act of Congress will largely augment

the duties and responsibilities of the State Register, and I therefore think it will be proper to authorize the appointment of another clerk in that office, when the business shall be found to require it.

Without indulging any extravagant anticipations, I cannot doubt that this grant, under the construction placed upon it by the United States authorities, if efficient means be taken fully to avail ourselves of its provisions, and a wise, prudent and patriotic policy be adopted in the management and disposal of the accruing lands, will bring to our young Commonwealth a munificent fund, adequate, with previous grants and a just and proper co-operation on the part of the people, to any general system of public improvement which your wisdom may devise. And I hope to be acquitted of presumption or egotism, if I venture again to urge upon you the imperative necessity of early taking such action as shall pre-occupy the minds and concentrate the energies of the people upon some general *system* of Internal Improvement, before local and disconnected projects shall arise to divide and distract us. Without some such decisive action on your part, I am confident that your successors will be found individually pledged to such projects, disconnected, differing, and it may be, in some cases, antagonistic; many of which, by combinations common in Legislative bodies may be carried, and in the end, the whole munificent Internal Improvement Fund, (considerable as it will be, even if the General Assembly make another disposition of the swamp land grant,) be expended with a scarcely better result, than the creation or embittering of local and sectional jealousies—of angry and selfish controversies, and the constant unsettling and disturbance of every political element in the State. It is a question of general and harmonious co-operation, or of clashing interests, which will multiply and embitter with years; and the fund, instead of developing the resources of the State and the energies of a united people, become a source of positive evil—an occasion for the exhibition and strengthening of all those discreditable feelings, which the contending interests of men and communities are so apt to engender. I plead the importance of these considerations as my apology for again bringing them to the notice of the General Assembly.

Your fellow-citizen, and ob't ser'vt.,

THOMAS BROWN.

Letter from the Commissioner of the General Land Office to the Governor of Florida.

GENERAL LAND OFFICE, }
November 21, 1850. }

Sir: I have the honor to enclose you a copy of the instructions this day sent to the Surveyor General of your State, for the selection of the swamp and overflowed lands to which the State will be entitled by the act of 28th September, 1850.

You will perceive that, by these instructions, the Surveyor General is authorized to receive such reliable evidence of the character of

any of these lands as may be presented by the authorities of the State; and as many of the lands were probably surveyed at dry seasons, and hence are not represented by the descriptive notes or plats as being of that character, I have supposed that it may be a matter of sufficient importance to induce you to call upon the County Surveyors, or other respectable persons of your State, for a statement, under oath, of the swamp or overflowed lands in their respective Counties.

Such testimony, you perceive, will be regarded as establishing the facts in the case, and on receipt of the reports of the Surveyor General, lists of the lands will be prepared, as required by the act, submitted for the approval of the Secretary of the Interior, and plats and patents of the lands thus approved will at once be prepared and forwarded to you.

With great respect,
your obedient servant,

J. BUTTERFIELD,
Commissioner.

His Excellency the GOVERNOR of Florida.

Instructions to the Surveyor-General of Florida,

GENERAL LAND OFFICE,
November 21, 1850.

Sir: By the act of Congress entitled, "An Act to enable the State of Arkansas and other States to reclaim the 'swamp lands' within their limits," approved September 28, 1850, it is directed "that, to enable the State of Arkansas to construct the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands made thereby unfit for cultivation, which shall remain unsold at the passage of this act, shall be and the same are hereby granted to said State."

1st. By the 4th section of this act, it is directed that the provisions of it shall be extended to, and their benefits be conferred upon, each of the other States of the Union, in which such swamp and overflowed lands may be situated.

2d. And "that in making out a list and plats of the lands aforesaid, all legal sub-divisions, the greater part of which is 'wet and unfit for cultivation,' shall be included in said list and plats; but when the greater part of a sub-division is not of that character, the whole of it shall be excluded therefrom."

This act clearly and unequivocally grants to the several States those lands which, from being swampy and subject to overflow, are unfit for cultivation. In this class is included also all lands which, though dry part of the year, are subject to inundation at the planting, growing, or harvesting season, so as to destroy the crop, and therefore are unfit for cultivation, taking the average of the seasons, for a reasonable number of years, as the rule of determination.

You will please make out a list of all the lands thus granted to the State, designating those which have been sold or otherwise disposed of since the passage of the law, and the price paid for them when purchased.

The only reliable data in your possession, from which these lists can be made out, are the field notes of the surveys on file in your office; and if the authorities of the State are willing to adopt these as the basis of those lists, you will so regard them. If not, and those authorities furnish you satisfactory evidence that any lands are of the character embraced by the grant, you will so report them.

The following general principles will govern you, in making up these lists, to wit:

Where the field notes are the basis, and the intersections of the lines of swamp or overflow with those of the public surveys alone are given, those intersections may be connected by straight lines, and all legal subdivisions, the greater part of which are shown by these lines to be within the swamp or overflow, will be certified to the State, the balance will remain the property of the Government.

Where the State authorities may conclude to have the surveys made, to determine the boundaries of the swamp or overflowed lands, those boundaries alone should be surveyed, taking connections with the nearest section or township corners; or where the swamp or overflowed lands are on the borders of a stream or lake, the stream or lake could be meandered, and ordinates surveyed at suitable intervals from the borders of the stream or lake to the margin of the swamp or overflowed lands, and by connecting the ends of those ordinates next to that margin by straight lines, the boundaries of the swamp or overflowed lands can be ascertained with sufficient accuracy. In no case, however, should any such boundaries or ordinates be marked in the field, as they may produce difficulty in determining the lines and corners of the public surveys hereafter, and thus lead to litigation. The selections in all these cases will be made as before directed. Where satisfactory evidence is produced that the whole of a township, or of any particular and specified part of a township, or the whole of a tract of country bounded by specified surveyed or natural boundaries, is of the character embraced by the grant, you will so report it. The adjacent subdivisions, however, to be subject to the regulations above given; and in every case under such rule or principle herein prescribed, forty acre lots or quarter quarter sections will be regarded as the legal subdivisions contemplated by the law.

The affidavits of the County Surveyors, and other respectable persons, that they understand and have examined the lines, and that the lands bounded by lines thus examined and particularly designated in the affidavit, are of the character embraced by the law, should be sufficient.

The line or boundary of the overflow, that renders the land unfit

for regular cultivation, may be adopted as that which regulates the grant.

You will make out lists of these lands as early as practicable, according to the following form, one copy of which you will transmit to the land officers, and another to this office. The lands selected should be reserved from sale, and after those selections are approved by the Secretary of the Interior, the Register should enter all the lands so selected in his tract books as "granted to the State by act of 28th September, 1850, being swamp or overflowed lands," and on the plats enter on each tract "State act, 28th September, 1850."—Copies of the approved lists will be sent to the Registers for this purpose. Your early attention is requested in this matter, that the grant may be disposed of as soon as possible.

Very respectfully, your obedient servant,

(Signed,) J. BUTTERFIELD,
Commissioner.

B. A. PUTNAM Esq.,

Surveyer General, St. Augustine, Florida.

PART OF SECTION.	Section.	Township.	Range.	Remarks.
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CHAP. 84.—AN ACT to enable the State of Arkansas and other States to reclaim the "swamp lands" within their limits.

[SEC. 1.] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That to enable the State of Arkansas to construct necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamps and overflowed lands, made unfit thereby for cultivation which shall remain unsold at the passage of this act, shall be, and the same are hereby granted to said State.

SEC. 2. *And be it further enacted,* That it shall be the duty of the secretary of the Interior, as soon as may be practicable after the passage of this act, to make out an accurate list and plats of the lands described as aforesaid, and transmit the same to the Governor of the State of Arkansas; and at the request of said Governor cause a patent to be issued to the State therefor; and on that patent, the fee simple to said lands shall vest in the said State of Arkansas, subject to the disposal of the Legislature thereof: *Provided however,* That the proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied, exclusively, as far as necessary, to the purpose of reclaiming said lands by means of the levees and drains aforesaid.

SEC. 3. *And be it further enacted,* That in making out a list and plats, of the land aforesaid, all legal sub-divisions, the greater part of which is "wet and unfit for cultivation," shall be included in said list and plats; but when the greater part of a sub-division is not of that character, the whole of it, shall be excluded therefrom.

Sec. 4. *And be it further enacted*, That the provisions of this act be extended to, and their benefits be conferred upon each of the other States of the Union in which such swamp and overflowed lands, known and designated as aforesaid may be situated.

Approved September 28, 1850.

Which was read, and on motion of Mr. Finley, referred to the Committee on Internal Improvements, and 250 copies ordered to be printed.

Bill to alter and amend the act entitled, An act to incorporate the Atlantic and Gulf Rail Road Company, was read the second time.

Mr. Forward moved to amend said bill, by striking out the 7th section, and inserting the following in lieu thereof:

Sec. 7. *Be it further enacted*, That it shall be lawful for the General Assembly of this State, to tax if they think proper the property owned by said Atlantic and Gulf Rail Road Company, and that said tax shall be assessed and levied only in the same manner, and to the same extent, as similar property owned by private citizens, and no more.

Which was adopted, and said bill ordered to be engrossed for a third reading on Monday next.

Engrossed bill to be entitled, An act to repeal an act to improve the navigation of the Suwannee River,

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

Yeas—Mr. President, Messrs. Avery, Baldwin, Brown of Columbia, Brown of Hillsborough, Buddington, Crawford, Finley, Forward, Johnson, McMillan, Moseley, Perry, Smith—14.

Nays—None.

Said bill passed, title as stated. Ordered that the same be certified to the House of Representatives.

A bill to be entitled, An act for the relief of Geo. M. Hamilton,

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

Yeas—Mr. President, Messrs. Avery, Baldwin, Brown of Columbia, Brown of Hillsborough, Buddington, Crawford, Forward, Johnson, Maxwell, McMillan, Moseley, Perry, Smith—14.

Nays—None.

So said bill passed. Title as stated.

Ordered, that the same be certified to the House.

Engrossed bill to be entitled, An act to authorize William Henry Van Horn, a minor, to assume the management of his own estate, and to contract and be contracted with,

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

Yeas—Mr. President, Messrs. Avery, Brown, of Columbia, Buddington, Crawford, Finley, Johnson, Maxwell, McMillan, Perry, Smith—11.

Nays—None.

Said bill passed. Title as stated.

Ordered that the same be certified to the House.

Engrossed bill to be entitled, An act prescribing the duty of the Register of Public Lands, Sheriffs, and Solicitors, in relation to the recovery of estates escheating or reverting to the School Fund on account of a defect of heirs or next of kin, and for other purposes.

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

Yeas—Mr. President, Messrs. Avery, Baldwin, Brown of Columbia, Brown of Hillsborough, Buddington, Crawford, Finley, Forward, Johnson, Maxwell, McMillan, Moseley, Perry, Smith—15.

Nays—None.

Said bill passed. Title as stated.

Ordered that the same be certified to the House.

House bill to be entitled, An act to authorize Henry Hewett to establish a ferry across the Choctawhatchee river, at a place called Hewett's Bluff, or Bearhead Bluff.

Was read the first time, and ordered for a second reading on Monday next.

House bill to be entitled, An act to incorporate the Pensacola and Navy Yard Plank Road Company,

Was read the first time, and ordered to a second reading on Monday next.

House bill to be entitled; An act to authorize Jason Gregory to establish a Ferry across the Apalachicola River, at Ochesee, in Calhoun County;

Was read the first time, and ordered to a second reading on Monday next.

House Resolution for the relief of Isaac P. Hardy and L. D. Rogers.

Was read the first time, the rule waived, read the second and third times, and passed.

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

On motion, the Senate adjourned untill Monday next, 11 o'clock, A. M.

MONDAY, DECEMBER 9th, 1850.

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.

The President announced that he held a communication, received from the House of Representatives and signed by the Clerk thereof.

On motion, Resolved, That the President return said communica-