

The following message was received from his Excellency, the Governor:

EXECUTIVE CHAMBER, December 13, 1850.

The Honorable R. J. Floyd, President of the Senate:

Sir: I herewith transmit to the Senate, for the consideration of the General Assembly, the memorial of the "Board of Trustees of the Madison Literary Institute," addressed to the Senate and House of Representatives, and enclosed to me by the Secretary of the Board, with the request that I will lay it before the Legislature, with such remarks as I may think proper to accompany it.

Knowing, gentlemen, that the subject of schools has engaged your serious attention at the present session, I am sure it will not be necessary for me to attempt any argument to secure your favorable consideration of the meritorious objects the memorialists have in view.

I am, very respectfully, &c.,

THO. BROWN.

Which was read, and on motion laid on the table.

The following message was received from the House of Representatives:

HOUSE OF REPRESENTATIVES, December 13, 1850.

Hon. President of the Senate:

Sir: The House have concurred in the Senate amendment to the Preamble and Resolutions relative to Musquito Bar.

Respectfully,

H. ARCHER,

Speaker Ho. Reps.

Which was read, and on motion laid on the table.

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

SATURDAY, December 14, 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.

Pursuant to previous notice, Mr. Baldwin introduced a bill to be entitled, An act to define specifically the duties of the Board of County Commissioners of Monroe County;

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

Mr. Maxwell moved to take from the table, and place among the orders of the day, a bill to be entitled, An act to locate and make permanent the County site of Walton County;

Which was carried.

Mr. Finley gave notice that he would, at some early day, ask leave to introduce a bill to be entitled, An act to abolish the office of T

Assessor and Collector, and to provide a different mode for the assessment and collection of the Revenue.

Mr. Finley gave notice that he would, on some future day, ask leave to introduce a 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 by the United States to this State for a Seminary or Seminaries of learning, to the use of Common Schools.

Mr. Smith gave notice that he would, on some future day, ask leave to introduce a bill to be entitled, An act to amend the seventeenth clause of the fifth article of the Constitution, so that Solicitors shall be elected by the people, and not by the General Assembly.

Mr. Smith pursuant to previous notice, introduced a bill to be entitled, An act to allow Alexander R. Godwin, a minor, to assume the management of his own estate;

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

The President presented the report of the Attorney General, on House bill to be entitled, An act to authorize Henry Hewitt, to establish a ferry across the Choctawhatchy River at Hewitt's Bluff, together with said bill:

ATTORNEY GENERAL'S OFFICE,
Tallahassee, December 13, 1850. }

To the Honorable R. J. FLOYD,
President of the Senate:

SIR:—The Secretary of the Senate has placed in my hands a bill entitled, "An act to authorize Henry Hewitt to establish a Ferry across the Choctawhatchee River at a place called Hewitt's Bluff," which, it is stated, has been referred to the Attorney General for his opinion as to whether said bill is an act of incorporation. The second section of the thirteenth article of the Constitution prohibits the passage by the General Assembly of any act of incorporation, "unless public notice in one or more newspapers in the State shall have been given, for at least three months immediately preceding the session at which the same may be applied for." The object of the reference of the bill to this office is, as I understand it, to procure my opinion whether such notice is requisite before the Legislature can Constitutionally pass it.

There is clearly nothing in the title of the bill which indicates that it is *intended* to be an act of incorporation; yet, if its provisions do, in fact, confer corporate powers and privileges, or give to the person named in it, a corporate capacity, it would fall within the prohibition of the Constitution, as much so as if it was in words expressed to be an act of incorporation. It is well settled that "no particular form of words is requisite to create a corporation." See opinion of Chancellor Kent in the case of *Denton vs. Jackson*, 2d John. cases in Chancery. Does this bill, then, confer any corporate

rights or privileges, or create a corporate capacity in the person to whom it proposes to grant the right to establish a Ferry?

After an examination of the law relating to Ferries over navigable streams, the right to the proper use of which belongs to the public, I am satisfied that the grant of authority by the public to an individual to *keep* a Ferry, is in the nature of a license, and does not ordinarily, and would not generally, be construed to be a grant of such powers and privileges as are incident to a corporation. Ferries are established for the public convenience, and individuals, upon procuring a license, undertake to keep them at such rates of compensation for ferrage, and on such terms and conditions as may be prescribed by those to whom jurisdiction over such matters has been given by law. By the law of this State, (see Thompson's Digest, 147,) the Boards of County Commissioners in the several Counties are vested with the power of establishing Ferries, and of granting the privilege of keeping the same. I have examined the statutes of several States in reference to this subject, and I find that the powers given by our statute to the Board of County Commissioners are vested by their acts either in similar Boards or in County Courts.—Ferries are used mostly in connection with some public highway which has been fixed and designated by the proper authorities; and they have been established in such connection altogether with reference to the public convenience. When established, persons procure licenses for limited periods to keep them; and generally are required to give bond and security for the faithful performance of their duties. There is nothing in all this mode of proceeding, (from which I see no good reason to depart,) bearing any resemblance to an act of incorporation. Though it is not denied that the State may establish Ferries in connection with great highways, and for the promotion of the public convenience, yet if it is desired to do so *without an act of incorporation*, in my opinion it should be done in some such mode as is now pointed out by law for the guidance and regulation of the Board of County Commissioners, when an application is made to them for the establishment of Ferries. The General Assembly may, it is true, establish a Ferry, and authorize any person to keep it, upon such terms and under such restrictions as may to them seem expedient and proper. But such authority would be a mere license, such as the Boards of County Commissioners are authorized to grant; unless, indeed, the act granting the authority is, in terms or in the nature and extent of its provisions, an act of incorporation; and then the notice which the Constitution requires must be given to make it a valid act.

The bill under consideration differs very materially from the grants contemplated to be made to keepers of ferries by the law of the State already referred to. It is a grant of an exclusive right to a man, his heirs and assigns for twenty years—the utmost limit to which an act of incorporation can constitutionally extend. It excludes and prohibits the establishment and keeping of ferries, except *for private*

uses, within five miles of the contemplated Ferry. This is clearly then an act "granting exclusive privileges." Suppose it should turn out to be the interest of the public to have a ferry within the prohibited distance—can it be had? The terms of this act, if it passes into a law, forbid it. The public convenience then must suffer on account of rights and privileges acquired by an individual under act of the Legislature. I look upon the bill, therefore, as tantamount to a charter conferring "exclusive privileges," and consequently within the prohibition of the Constitution.

I herewith beg leave to return the Bill, through you, to the Senate.

I have the honor to be,

Very respectfully, your obedient servant,

D. P. HOGUE.

Which report was read, and said bill placed among the orders of the day.

The President presented the following report from the Register of Public Lands for the State of Florida:

OFFICE OF THE REGISTER OF PUBLIC LANDS, }
TALLAHASSEE, December 10, 1850. }

To the Honorable R. J. FLOYD,

President of the Senate:

Sir:—In further compliance with the resolution of the Senate of the 5th inst., I have the honor to report as follows:

With regard to the Seminary Lands, it appears from the annual reports of my predecessor, that there were sold of these Lands in 1848, 2828 88-100 acres, producing 9231 30-100 dollars; in 1849, 332 39 acres, producing 974 77-100 dollars; in 1850, 3163 acres, producing 4011 83 dollars; which would make the whole number of acres sold 6314 25, and an average of \$2 47 per acre.

Very respectfully,

D. S. WALKER,

Register of Public Lands for the State of Florida.

Which was read.

Mr. Finley introduced the following Resolution:

Be it resolved by the Senate and House of Representatives in General Assembly convened That the Secretary of State shall be, and he is hereby authorized and required to cause to be published with the Acts and Resolutions of the General Assembly, the Constitution (as amended) of the State of Florida.

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

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 to amend an act for securing liens to Mechanics, Overseers, and others, approved December 29, 1845, have had the same under consideration, and are of opinion that the evil sought to

be remedied can be best reached by said bill. I am, therefore, instructed to recommend its passage.

The Committee have also had under consideration the bill referred to them, to be entitled, An act to amend an act entitled an act for the protection of Fisheries on the coast of Florida, approved December 17, 1845, and have instructed me to recommend the striking out all of the second section after the word "shall" in the second line, and the substituting therefor the following, "be required to give an additional bond as commissioners of Fisheries, in the sum of one thousand dollars, conditioned for the faithful performance of their duties as such."

The Committee have instructed me to report further that they have had under consideration a bill to be entitled, An act to provide for the punishment of such persons as unlawfully issue, pass or circulate change bills or notes under the denomination of one dollar.—They find upon the Statute Books a similar provision, but without any mode of enforcing the penalty, such as given by this bill.—They, therefore, recommend the passage of said bill with the following addition:

SEC. 3. *Be it further enacted*, That section one of an act to suppress the issuing of change bills and for other purposes be, and the same is hereby repealed," approved February 11, 1838. This is recommended with a view to disencumber the Statutes of repetition and surplusage, and as much as possible to keep them simplified.

The Committee have also instructed me to report that it is advisable to amend the bill referred to them to be entitled, An act to repeal an act to compel the Judges of the Circuit Courts to hold the terms of Court at the times and places prescribed by law, approved January 9, 1849, so as to read as follows: "That the first, second and third sections of the act to compel the," &c.—the remaining portion of the bill to read as it now stands.

A. E. MAXWELL, *Chairman*

Which report was received, and said amendments concurred in.

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

The Committee on Engrossed Bills beg leave to report as correctly engrossed, a bill to be entitled, An act for the relief of Mary A. Hardee and David Platt;

A bill to be entitled, An act to change the name of Maria West.

JNO. P. BALDWIN, *Chairman*.

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

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

The Committee on Enrolled Bills beg leave to report as correctly enrolled the following bills, to wit:

An act to change the name of Roxana Jones to Roxana Wheeler;

An act to legitimate John Robert Geiger;

And an act to amend the act Incorporating the City of Pensacola, approved March 2d, 1839.

W. A. FORWARD, *Chairman.*

Which was received.

The following message was received from the House of Representatives:

HOUSE OF REPRESENTATIVES, December 14, 1850.

Honorable President of the Senate:

Sir—The House have passed the following bills and resolutions,

viz:

Senate 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;

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

Resolution asking an appropriation of land by Congress to aid in building a Plank Road from Alligator to Jacksonville;

And Preamble and Resolutions relative to Chipola River.

Respectfully,

H. ARCHER,

Speaker House Representatives.

Which was read, and said Senate bills ordered to be enrolled, and said preamble and resolutions placed among the orders of the day.

The following message was received from the House of Representatives:

HOUSE OF REPRESENTATIVES, December 14, 1850.

Honorable President of the Senate:

Sir—The House has passed the following bills, viz:

Bill to be entitled, An act to amend an act Incorporating the City of St. Augustine, approved 4th February, 1833;

Also, an act for the relief of Kinchen P. Ellis;

Also, an act for the relief of Gadsden county;

Also, an act to ascertain and define the boundary line of Calhoun county;

Also, an act to provide for the transmission of election returns from the several election precincts in the State of Florida;

Also, an act to unite the duties of Sheriff and Tax Assessor & Collector in the county of Levy;

Also, an act to be entitled, An act to amend an act entitled an act Incorporating Towns.

Respectfully,

H. ARCHER,

Speaker House of Representatives.

Which was read, and ordered that the said bills be placed among the orders of the day.

ORDERS OF THE DAY.

Bill to be entitled, An act to locate and make permanent the County site of Walton county, was read the second time;

On motion the rule was waived, and said bill read the third time; 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, Ghent, Johnson, Maxwell, McMillan, Moseley, Perry, Smith, Stewart—18.

Nays—None.

Said bill passed. Title as stated.

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

Engrossed bill to be entitled, An act to change the name of Maria L. West,

Was read the third time: 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, Moseley, Perry, Smith, Stewart, Taylor—18.

Nays—None.

Said bill passed. Title as stated.

Ordered that the same be certified to the House.

Engrossed bill to be entitled, An act for the relief of Mary A. Hardee and David Platt,

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

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

Nays—Mr. President, Messrs. Austin, Stewart, Taylor—4.

Said bill passed. Title as stated.

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

House bill to be entitled, An act to change the name of Robert Waterston of Levy County, to that of Robert W. Randall,

Was read the third time; on 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, Moseley, Perry, Smith, Stewart, Taylor—18.

Nays—None.

Said bill passed. Title as stated.

Ordered that the same be certified to the House.

Bill to be entitled, An act in relation to Naturalized Citizens voting in this State,

Was read the second time, and referred to the Committee on Elections.

House bill to be entitled, An act for the benefit of James Ponder. Was read the second time, and referred to the Committee on Propositions and Grievances.

House bill to be entitled, An act for the relief of Harman G. Harlan,

Was read the second time, and referred to the Committee on Propositions and Grievances.

Bill to be entitled, An act amendatory of the several acts now in force relating to the mode of appointment and duty of Auctioneers.

Was read the second time, and referred to the Committee on Taxation and Revenue.

House bill to be entitled, An act to provide for the relief of Geo. W. Andres,

Was read the second time, and referred to the Committee on Propositions and Grievances.

House bill to be entitled, An act to declare LaFayette and Four Mile Creeks Navigable Streams,

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, Buddington, Crawford, Finley, Forward, Johnson, Maxwell, McMillan, Moseley, Perry, Smith, Stewart—15.

Nays—None.

Said bill passed. Title as stated.

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

Bill to be entitled, An act to establish the rates of Wharfage, Dockage, and Storage in the City of Key West and County of Monroe,

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

House bill to be entitled, An act to amend an act to more fully define the rates of and duty of Pilots for the Port of Cedar Keys,

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, Stewart—16.

Nays—None.

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

House bill to be entitled, An act to amend an act incorporating the city of St. Augustine, approved 4th February, 1833,

Was read the first time, rule waived, read a second time by its title, and referred to the Committee on Corporations.

House bill to be entitled, An act for the relief of Kinchen P. Ellis,

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

House bill to be entitled, An act for the relief of Gadsden County,

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

House bill to be entitled, An act to ascertain and define the Boundary Line of Calhoun County,

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

House bill to be entitled, An act to provide for the transmission of Election Returns from the several Election Precincts in the State of Florida,

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

House bill to be entitled, An act to unite the duties of Sheriff and Tax Assessor and Collector in the County of Levy,

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

House bill to be entitled, An act to amend an act entitled an act Incorporating Towns,

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

Bill to be entitled, An act to amend an act entitled, An act for the protection of Fisheries on the Coast of Florida, approved December 17th, 1845;

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

House Resolution, asking an appropriation of land by Congress, to aid in building a Plank Road from Alligator to Jacksonville,

Was read the first time, rule waived, read the second time, and referred to the Committee on Internal Improvements.

House Preamble and Resolution relative to Chipola River;

Were read the first time, rule waived, read a second time, and ordered to a third reading on Monday next.

House bill to be entitled, An act to authorize William H. Chast and Albert Golay to cut a Canal connecting the waters of the Perdido River and the Grand Lagoon,

Was read the second time, and referred to the Committee on the Judiciary.

Bill to be entitled, An act to amend an act entitled An act for securing liens to Mechanics, Overseers and others, approved December 29th, 1845,

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

Bill to be entitled, An act to repeal an act to compel the Judges

of the Circuits Courts, to hold the terms of Court at the times and places prescribed by law, approved January 9th, 1849,

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

House bill to be entitled, An act to provide for the punishment of such persons as unlawfully issue, pass, or circulate Change Bills or Notes under the denomination of One Dollar,

Was read the second time, as amended, and ordered to a third reading on Monday next.

The following bills were, on motion, taken from the table, and placed among the orders of the day, viz:

House bill to be entitled, An act to authorize James J. Meeks to establish a Ferry across the Withlacoochie River;

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

House bill to be entitled, An act to authorize Henry Slayback to establish a ferry across Escambia Bay;

House bill to be entitled, An act to authorize Henry Hewitt to establish a ferry across the Choctawhatchy river, at Hewitt's Bluff;

Was read the second time, and referred to the Committee on Corporations.

House bill to be entitled, An act to authorize Jason Gregory to establish a ferry across the Apalachicola river at Ochese, in Calhoun county;

Was read the second time, and referred to the Committee on Corporations.

House bill to be entitled, An act to authorize Henry Slayback to establish a ferry across Escambia Bay;

Was read the first time, rule waived, read the second time by its title, and referred to the Committee on Corporations.

House bill to be entitled, An act to authorize James J. Meeks to establish a ferry across the Withlacooche river;

Was read the first time, rule waived, read the second time by its title, and referred to the Committee on Corporations.

On motion, the Senate adjourned until Monday next, half-past 10 o'clock, A. M.

MONDAY, December 16, 1850.

The Senate met pursuant to adjournment.

The Rev. Mr. Pratt officiated as Chaplain.

The proceedings of last Saturday were read and approved.

Mr. Crawford, pursuant to previous notice, asked and obtained

leave to introduce a bill to be entitled, An act to incorporate the

Florida and Georgia Plank Road Company;

Which was read the first time, and 75 copies ordered to be printed.