

Joint resolution declaring Shoal river in Walton county, a navigable stream:

On motion, the Senate adjourned until 11 o'clock, Monday morning.

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MONDAY, January 10, 1859.

Senate met pursuant to adjournment.

A quorum present.

The Rev. Dr. Dubose officiated as Chaplain.

On motion of Mr. Keitt, the reading of Saturday's Journal was dispensed with.

The rules were waived, and the following bills introduced without previous notice, and placed among the orders of the day :

By Mr. Call :

A bill to be entitled an Act in relation to the different lines of Railroad encouraged by the Act approved Jan. 6, 1856.

By Mr. Keitt :

A bill in relation to county commissioners.

By Mr. Dawkins :

A bill to be entitled an Act more fully defining the duties of executors, administrators, guardians and Judges of Probate.

Mr. Welch moved that the vote on the bill to be entitled an Act amendatory of the Act of 1845, concerning roads and highways, be reconsidered, and that a committee of three be appointed to ask of the House the return of the said bill ;

Which motion was adopted, and the President announced as such committee, Messrs. Welch, Call and Lamar.

On motion of Mr. Call, the rules were waived, and the vote taken on an Act to provide for the charter of the City of Fernandina reconsidered, and the same placed among the orders of the day to come up on its second reading to-day.

The Committee on Engrossed Bills made the following report :

Mr. President :

SIR :—The Committee on Engrossed bill beg leave to report the following bill as correctly engrossed :

A bill to be entitled an Act to repeal an Act entitled an Act to repeal the fifth section of an Act entitled an Act to organize the coun-

ty of Sumter, approved January 8, 1853, approved December, 27, 1856.

Respectfully submitted,

ISAAC WELCH,

acting Chairman Committee on Engrossed Bills:

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

Mr. McQueen made the following report :

The committee on Claims and Accounts, to whom was referred the resolution for the relief of Benjamin Hopkins, ask leave to

REPORT :

That they have had the same under consideration, and find in the Acts of 1852 and '53, a joint resolution of the General Assembly authorizing the payment of one hundred and fifty dollars per month to Benj. Hopkins while in actual service, and find also in Gov. Brown's message to the General Assembly of the same session, that Gen. Hopkins was called into the service as the special agent of the State, and had not more than forty men in the service at any time ; and we are informed and believe that the compensation allowed to special agents called into the service of the State, since the date that Gen. Hopkins' term expired, has been fixed at three dollars per day, with other actual and necessary expenses, by the Governors of this State, while Gen. Hopkins received for the same kind of service, five dollars per day. Your committee are further of the opinion that to allow Gen. Hopkins the pay of Major General, would be adopting a precedent for all persons who have been called into the service of the State, or who may hereafter be called in as special agent, to be entitled to the same pay that the said Gen. Hopkins would receive, which in the opinion of your committee would be detrimental to the best interests of the State. Your committee are of the opinion that Gen. Hopkins has received full compensation for the services rendered ; they therefore recommend that the resolution do not pass.

Respectfully submitted,

J. W. McQUEEN,

Chairman.

Which was read, and the accompanying resolution placed among the orders of the day.

Also the following :

The committee on Claims and Accounts, to whom was referred a bill to be entitled an Act for the relief of Dr. S. B. Todd, ask leave to

REPORT :

That they have had the same under consideration, and have had nothing presented to them, showing that the State is in any way indebted to the said Dr. S. B. Todd. They therefore return the bill to the Senate, and recommend the same do not pass, unless full and satisfactory evidence be presented to the Senate, of the justice and equity of the claim.

Respectfully submitted,
J. W. McQUEEN,
Chairman.

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

Mr. Eppes from the Joint Select Committee made the following report :

The Joint Select Committee of the Senate and House, appointed to investigate "the charges contained in the Governor's Message against the Florida Railroad Company, together with all circumstances attending the making of the same, with full powers to send for person and papers, to examine witnesses and take such other steps as may be necessary to ascertain the real facts of the case, and report the evidence taken; and to make a full investigation in— to the depth of water at Cedar Key—to obtain all the evidence on that subject in the possession of his Excellency the Governor, together with all other available testimony, and report the facts, "with their opinion,"

REPORT :

That they have made as full an investigation into the matter referred as was possible, availing themselves of all such testimony as was offered, which they herewith report to the General Assembly.

Your committee, before giving their opinion upon the same, would express their high commendation of the course of his Excellency the Governor, in calling attention and soliciting enquiry to the Internal Improvement Fund, in connection with the various and particular lines of Railroad receiving its aid and benefit, and feel that he has discharged his duty as a faithful and vigilant officer, in pointing to what he considered to be abuses of the system.

Whatever be the wisdom of the policy adopted and inaugurated by the State in her law of January 6th, 1855, and whatever may be its ultimate success, good faith on her part requires that no act should be tolerated impairing the same, while no scrutiny should be withheld from any conduct of the several companies organized thereunder, tending to abuse or in any way to squander the resources of the State.

Recognizing this as a cardinal principle, and abuses as legitimate and proper subjects of the most thorough investigation, your committee have laboured so to perform their duty as to maintain the interests and integrity of the State, while exposing, for public censure, if it became necessary, any transactions on the part of the Railroad particularly referred to them.

The first point of investigation was, as to the "structures necessary to cross from the west side of Nassau river to Amelia Island."

The undersigned of your committee are of opinion, based upon the evidence taken and herewith submitted, that the action of the Florida Railroad Company was in accordance with the law, and the amount authorized to be expended therefor was legitimately used and applied.

The words of the statute upon this subject are as follows: "Also one hundred thousand dollars for the structures necessary to cross from the west side of Nassau river to Amelia Island."

The law, therefore, authorized said amount; and your committee have simply to inquire in this connection, did said company legitimately apply said amount to the purposes of the act? The evidence herewith submitted shows they did.

It was not considered by the undersigned, that it was the duty of said committee to enter into details as to the comparative strength and durability of said "structures," nor whether it was the intention of the law for said "structures" to be built across Nassau river—such questions being more judicial than otherwise, and belonging to another and different tribunal—and therefore they confined their investigation to the expressions of the law, asking if the "statute authorized the amount alleged to have been expended, and if so, did said company legitimately expend the same.

The second point of investigation was as to the issue of bonds to said company before their legal right thereto.

Your Committee, undersigned, find that though strictly speaking such was the case, yet in their opinion no serious damage has resulted to the Trust Fund; and they believe no fraud attaches to the Florida Railroad Company in connection therewith.

First, That no serious damage has resulted to the Fund, because it was shown that said company promptly tendered and executed a bond for \$300,000, upon which suit has been brought, and in the adjudication of which, if any damage has resulted, the Courts will give redress.

Secondly, Because it was shown that said Company also, by resolution and action of their Board of Directors, offered to adjust and to pay any loss or damage the State or the Internal Improvement Fund might sustain in consequence of such issue; and

Thirdly, Because in point of fact it was shown that the iron on

the grading for which said issue was made, has been actually laid—the greater portion thereof in the course of six months thereafter, and gradually progressing until the entire portion was laid, and upon which the cars are now daily running; showing that said bonds were legitimately and in good faith applied to the purposes of the law.

In this connexion, however, your committee cannot too strongly express their condemnation of the loose manner in which Mr. F. L. Dancy, the then acting State Engineer, gave his certificate. Although, in point of fact, slight, if any, actual damage has resulted therefrom, yet, your committee are admonished, from the nature of the case, that instances might occur fraught with serious difficulty and loss, if such *looseness*, to use no other expression, were passed without rebuke.

The third point of inquiry was, as to the capacity of Cedar Key as a harbor. In regard to this, the undersigned of your committee find that the said harbor was adopted by said company, taking the United States Coast Survey of the same as their guide, and basing upon this the contract made for constructing said Road, which contract was accepted and acted upon by said company.

Besides this, your committee had under consideration the amendment to the charter of said company, passed at the adjourned session of 1855, designating said point or place as the terminus on the Gulf for said Road, and they incline to the opinion that such designation by the law, coupled with the previous action of said company, sufficiently settles the question of right to go there.

These embrace the principal, if not all the points submitted to your committee, and for their more full elucidation they refer to the evidence taken, and herewith submitted.

Believing from the evidence that the Florida Railroad company has not violated the spirit of the law, and recognizing in its full force the faith of the State in the system she has inaugurated, we recommend the passage of the following resolution, and ask to be discharged from the further investigation of the matters referred:

Resolved by the Senate and House of Representatives of the State of Florida in General Assembly convened, That the Trustees of the Internal Improvement Fund be and they are hereby requested to guarantee the interest upon the bonds of the several Railroad companies of this State who have accepted the Act, approved January 6, 1855, the Florida Railroad company included, for the purchase of iron and equipment for the remainder of their said Road to Cedar Key, when it shall be correctly certified to them that the said Road and Roads are graded and cross-tied in the manner provided in the Act approved January 6, 1855, or in accordance with such modifica-

tions as may have been agreed upon under the amended Act approved December 14, 1855.

T. J. EPPES, Chm'n Joint Com.	} Of Senate Com.
T. B. LAMAR,	
G. E. HAWES,	
W. J. KEITT,	
J. W. McQUEEN,	} Of House Com.
GEO. WHITFIELD,	
TILLMAN INGRAM,	

Which was received and read.

Mr. Nicholson made the following minority report:

We, the undersigned, a part of the Joint Select Committee to whom was referred that portion of the Governor's Message as to certain charges against the Florida Railroad Company, beg leave to submit the following minority report, not being able, without doing great violence to our judgments, to come to the same conclusions from the evidence that the majority of the Committee came. The evidence which has been brought before us is very voluminous and much of it, in our opinion, foreign to the subject which we had under consideration, and for this reason we cannot, with any convenience, embody it in our report; nor do we expect to be able to insert all the defects in the Florida Railroad and the short-comings of that Company that the evidence, in our opinion, would justify us in making, but must content ourselves in setting forth the greater wrongs.

It is our design to commence the investigation of the subject by commencing at Amelia Island, that being the point of beginning of the road. That which we believe to be of very great importance in the investigation of this matter is the structure from the West side of Nassau river across to Amelia Island. The 31st section of the "act to provide for and encourage a liberal system of Internal Improvements" authorizes bonds to be issued for building bridges across certain streams and one hundred thousand dollars for "the structure necessary to cross from the West side of Nassau river to Amelia Island." The section referred to designed to afford aid to the various roads for such constructions as might have to be built to cross certain large bodies of water; and, as the crossing of large bodies of water, in the 31st section named, would require a greater expenditure than the ordinary road-bed, specific

sums were provided to pay the interest on which the Internal Improvement Fund was to be pledged as a guaranty. That the sum of one hundred thousand dollars provided for "the structure necessary to cross from the West side of Nassau river to Amelia Island" meant a *structure beginning on the West bank of the Nassau river, having one abutment on that river*, there is no doubt. It might as well be doubted whether the structure was to end at Amelia Island. The structure to be built was one "necessary to cross"—what? Not lands, but water—not a district of country beginning at Amelia Marsh and running fifty miles into the interior. It was to cross a *body of water* separating the land on the West side of Nassau river from Amelia Island. Had Nassau river divided Amelia Island from the main land, the language would have been different—the section would have read "one hundred thousand dollars for a bridge *crossing Nassau river*," the mode of expression employed with respect to the Suwannee and other rivers. But Nassau and Amelia rivers come together and form a body of water—a sound which separates the West bank of Nassau river from Amelia Island, so that, had that law authorized a bridge across *Nassau river only*, such bridge would not have touched Amelia Island, as the shore of that Island does not form one of the banks of Nassau river, the Northern bank of that river ending where Nassau and Amelia rivers come together. Hence the expression used, "from the West side of Nassau river to Amelia Island." Hence the structure authorized and to be aided was one which should connect the *West side of Nassau river with Amelia Island, crossing the body of water* which divides the one from the other. Such being the plain terms of the law, it remains to be inquired whether the one hundred thousand dollars of bonds which the Florida Railroad Company has procured the Board of Internal Improvement to guaranty have or have not been expended upon such a structure as by law such bonds were to be applied to. To determine this, it is only necessary to examine the map of the route of the Florida Railroad, as filed by that Company, and to compare it with a map of the part of the State in which are contained Duval and Nassau counties. To such maps we refer as a part of this report, and any one, by inspection merely, can see that the Florida Railroad *does not*

cross Nassau river at all, still less does it "cross from the West side of Nassau river to Amelia Island." This being a plain and manifest fact, it follows that no such structure has been built as the law authorized, and that the guaranty by the Board of Internal Improvement given on one hundred thousand dollars of bonds upon the certificates of F. L. Dancy, late State Engineer, have been illegally obtained by the Florida Railroad Company; that the said certificates are false in point of fact wherein they recite that the bonds have been employed on a "structure necessary to cross from the West side of Nassau river to Amelia Island, and such guaranty having been illegally obtained, upon false pretences, the bonds ought not to be retained by said Company, or if disposed of by it to innocent purchasers, the guaranty of the Board of Internal Improvement should be withheld from an equivalent amount of bonds, should said Florida Railroad Company be entitled to demand the same upon any other portion of their route.

No amount of argument can convince any man of common sense and common honesty that the words used in the 31st section were designed to aid the Florida Railroad Company in the construction of any work upon any part of their line of Road lying between Amelia Island and any point in the interior of the State, which is on the west of Nassau river, or that the words "necessary to cross from the west side of Nassau river to Amelia Island," are to be read so as to authorize the hundred thousand dollars to be expended in building a line of road around the *head* of the Nassau river to a point west of that stream. To speak of *crossing* from one side of a river to the other or opposite side would mean, if such reasoning prevailed, not what every one who hears such language used would naturally suppose, but directly the reverse, and to speak of *crossing* from one side of a river to the other side, would under such interpretation of language mean to *go around the head of it*. Suppose a contractor had agreed with the Florida Railroad Company to build a "structure necessary to cross from the west side of Nassau river to Amelia Island," for one hundred thousand dollars, would any court or jury in the State decide that such contractor was bound to build any and all of the bridges, culverts, and trestles, between Amelia Island and a point on the Florida Railroad situated on the west side of Nassau river? It must also be re-

membered that the Company have demanded and received the guaranty of bonds in the 8th section provided for, upon every mile of their road, beginning at Amelia Island and extending to the point claimed by it to be "the west side of Nassau River," in the 31st section meant.

The facts before the Committee, and the plain and obvious meaning of the law shows a case of palpable fraud practiced by the Florida Railroad Company upon the State, and should not be allowed to pass unnoticed, nor should such Company be permitted to enjoy the fruits of their iniquitous proceeding.

With respect to the mode and manner in which the Florida Railroad Company has built their road, it is manifest from the evidence that the work is not a first class structure, and that many of the important provisions of the law which were designed to secure the building a road in every respect first class, have not been attended to. No doubt many of these deficiencies may be repaired, and as it is too late to recall the guaranty given by the Board of Internal Improvement upon the Bonds issued on the defective portions of the Road, all that can be done is to compel the said Florida Railroad Company to comply with the law which may be done by the Board of Internal Improvement under the sanction and authority of an Act of the General Assembly should the Legislature see fit so to provide.— That this should be done there can be no doubt. Unless the road is built in conformity with the law, the safety of passengers is endangered, and its traffic cannot but be injuriously affected, and as a consequence, the interest of the Internal Improvement fund will be prejudiced.

It is, therefore, evident that in a court of law or equity, the Florida Railroad Company could receive nothing under the Internal Improvement Act, they not having complied with the provisions of the same; but it may be said that we are not a judicial body and, therefore, we should not take the same view of the matter that a court of law or equity would take. Now, if we should not take the same view of this subject that the courts of the country would take, then the enquiry arises, what view or light are we to hold it in? If the courts of justice should hold that the obtaining of the guarantee of the interest on a hundred thousand dollars of their bonds for building a structure from the West side of the Nassau river across to Amelia Island,

which they never have built, to be a fraud on the Trustees, then we are of the opinion that the Legislature will hold it in the same light. But it may be said that although the Company did evade the law in not building the structure from the West side of the Nassau river across to Amelia Island, and notwithstanding they did not employ an engineer to survey the route or make estimates of the cost of the structure, and notwithstanding they did not inform the Trustees that they had departed from the requisitions of the law in this respect, and by so doing made the road more than five miles longer, and notwithstanding they obtained a certificate from the State Engineer that they had erected structures to the west side of the Nassau river, and thereby procured the guarantee of the interest on the bonds; yet they did build a structure across the Amelia Marsh, which, if a good one, would answer the same purpose as though they had crossed to the West bank of the Nassau river, except that the road is more than five miles longer and that the Trustees were compelled to guarantee the interest on more than fifty thousand dollars of their bonds and give more than thirty sections of the Internal Improvement land in consequence thereof, and this properly brings us to an examination of the structure to determine whether it is a good one or not, and we find from the evidence that the structure is in all respects such a one as Mr. Bradford described in his report to the Trustees, consisting of two rows of piles driven into the mud at the distance of five feet apart as to the width, and at the distance of ten feet in the direction of the track of the road, or, in Mr. Bradford's language, in bents of ten feet, with their tops sawed off and a cap laid thereon pinned to the piles with a two inch pin, and this surmounted with two stringers pinned to the caps, not having a mortice, tenon or brace in the whole structure, notwithstanding it contains a three degree curve and is of the height of seven feet from the mud to the iron rail. On this the train is to be surmounted, which of itself will average a height of nine feet, making in all a height of sixteen feet from the mud to the top of the train. Thus, with the cars on, we have a structure of five feet in width and sixteen feet in perpendicular height, having no support to keep it erect except the strength of the piles that are driven into the mud; for the two inch pin that goes through the cap into

the top of the pile is so small that it is not worth taking into the account when we consider the strength of the structure. Now it is evident that the greatest strain in this structure is at the foot of the piles, or at that point where the pile enters the mud, and the higher the structure may be so much greater the strain at the foot of the pile. Thus, if this structure is sixteen feet to the top of the cars, a given power gives a strain at the foot of the pile sixteen times greater than if the structure was only one foot in height, and it is equally apparent that if these piles break where they enter the mud, the whole structure must fall, there being no other safeguard. It also appears that the piles were driven without being hewn, but retain the sap and bark upon them, and that they are surrounded with tide-water for a foot or more in height. Now it is well known by the experience of almost every person that the sap wood of timber readily absorbs and retains water, which, being mixed with the sap that was retained in the wood, causes a fermentation to take place, and thereby brings on a rapid decay almost immediately, and it is equally ascertained by experience, that the sea worm will attack and destroy the sap part of wood much sooner than the heart. This can be testified to by every one who puts sap plank into his boat or ship, and as for the bark of the timber being a protection from these worms, we know that on all parts of our coast many wharfs are erected upon pens built of round pine logs, which are attacked by these worms and completely perforated in the course of a year or two; hence these piles are not only subject to a rapid decay in consequences of the sap being left upon them, but are also exposed to the attack of the sea worm, which in the course of three years will so completely perforate them at the place where the greatest strain comes upon them, so that at the end of that time the whole structure will be unfit for the purpose for which it was intended, and therefore useless; but it may be said could any other work have been put upon this structure which would have given it more strength and durability? To this we answer that if tenons had been cut on the top of the piles nine inches in width and two in thickness, and a mortice cut in the cap to fit down over it, drawn down by two draw pins in each tenon, would have given eighteen square inches of wood at the top of each pile, which must

have broken before the structure could have fallen; but it is said that water would get about the tenon and destroy it; to this, we answer, that unless the cap sill was morticed entirely through, no water could get to the tenon, and we are further of the opinion that if the cap sills had projected four feet and six inches beyond the pile, and a brace let into the cap six inches from the end, and into the pile four feet below the cap sill, it would have added tenfold to the strength of the structure, and this would have constituted those mortices, tenons and braces which Mr. Bradford looked for but could not find; and it is moreover worthy of remark, that the portion of the structure containing the three degree curve, the lateral or side pressure on the structure is equal to one thirtieth of the propelling power of the train, making it absolutely necessary that great strength should have been put to the structure at that place. So far as the State it is concerned is of no value whatever. But it may be said that the Company gave the one hundred thousand dollars of bonds and therefore they have done their whole duty in the premises, let the work be well or badly done, or whether it is, or is not of any utility to the State. To this we have already answered, that by the thirty-first section of the Internal Improvement act, the Legislature only intended to give the several sums in that section mentioned to aid the several companies in crossing large water courses, and not for the purpose of building tressel work in "marshes" or for any other work on the line of the road, and no company can or should claim it for any such purpose, and we further answer that the Florida Railroad Company is bound by the law to build a first class road, to constitute which it must have utility, strength and durability. Now if this structure has neither utility, strength nor durability, who can say that they have a first class road? for it requires a first class trestle to constitute a first class road, and as they have failed in this, they should not have drawn the bonds for the one hundred thousand dollars, or for the ten thousand dollars a mile, which they claimed under the provisions of the ninth Section of the Internal Improvement Act. And it may further be remarked that if they have not built a first class road, why should they be permitted longer to draw funds from the Trustees, which will work so great an injury to the Internal Improvement Fund? We are therefore

of the opinion in this connection that they should show that such road is in all respects from Fernandina to the eighty mile point, before the Trustees guarantee the interest on any more of their bonds. We further report that we find that the first, second, third and fourth specifications of Mr. John Bradford, reported to the Trustees in relation to the Florida Railroad, are all true, and that the defects therein mentioned do exist; we also find that part of the Governor's Message wherein it alleges, that the Florida Railroad Company made application, and the Trustees did certify and deliver to them bonds to the amount of two hundred and forty thousand dollars, which they received in advance of their right, to be true as by him stated, and we find that an injury has occurred to the Internal Improvement Fund in consequence thereof, in this, to-wit: That if they had not obtained the bonds until they were entitled to the same, the Trustees would not have been compelled to have paid the interest on them, for so great a length of time as they now have to do, and we are of the opinion that the Trustees should hold the company responsible for the interest by them so unnecessarily to be paid, and this brings us to consider of the port of Cedar Key, which is the last proposition that we intend to take in consideration. By the fourth Section of the Act which defines the line of road to be aided contains the following clause, "and a line from Amelia Island on the Atlantic to the waters of Tampa Bay, in South Florida, with an extension to Cedar Key, in East Florida." Section 5 provides "that the several railroad companies now organized or chartered by the Legislature, or that may hereafter be chartered, any portion of whose routes as authorized by their different charters and amendments thereto, shall be within the line or routes laid down in section four (4) shall have the right and privilege of constructing that part of the line embraced by their charter."

Upon these sections and upon the charter of any company claiming the right to receive the aid of the Internal Improvement Fund, must the decision of such claim rest. With respect to Cedar Key it is asserted that the 4th section fixes it as a *terminus* for a road beginning at Amelia Island, and that no restriction or limitation is imposed in the said section, or in any other part of the law, such as that the road is to be built or not, as the harbor may or may not be of sufficient capacity for sea-going steamers. This

is no doubt true. It is a case of inadvertence or mistake arising from a received opinion that such harbor was sufficient. Perhaps the very fact that a very acute and distinguished member of the old Board of the Internal Improvement Fund had procured a charter for a road running to such place, may have had some weight in leading the Legislature to take for true what was asserted with respect to the harbor of Cedar Key. Be this as it may, if the Legislature is not bound by any contract entered into with any corporation not to amend the same, and if upon inquiry, it should be found that Cedar Key is not a place having a harbor of sufficient depth of water, width of channel and other necessary constituents to make it suitable for commerce, it certainly would be the duty of the Legislature to repair the error that had been committed and to prevent an expenditure of lands and credit in aid of a work not calculated to benefit the State, but likely to embarrass other points more favored by nature and more suitable as seaports. No one it seems would hesitate to strike Cedar Key out of the 4th section, if it was clearly ascertained that it is not a suitable place for the commerce which the State seeks to attract towards its ports. If Cedar Key has not such a harbor as that commerce would need, why waste the money and lands held by the State in an enterprise which speculators may deem promising of success, but which would in the case put, be ruinous to all concerned?

As we have before us such facts as to the minds of many are convincing that there is not a sufficient harbor at Cedar Key, containing a depth of water adequate to the purposes of an extended commerce, and as many members of the General Assembly cannot but consider the matter as one of serious doubt and needing investigation, it would seem to be wise not to incur any loss or risk of loss to the Internal Improvement Fund until the matter has been fully investigated, and an opportunity had for a satisfactory decision of the question.

Certainly no representative of the people would be willing to neglect the warning given in the message against the loss of land and money which would result, should a road be built to Cedar Key, and that place be found unsuited for Commerce. It becomes us to guard the public mean- from loss and injury, if we have the power to do so. This all will concede. Our attention has been called by the

Executive to a consideration of the subject, and evidence has been laid before us. We must either decide upon the information we have, or we must direct investigation by competent persons, or we must refuse either to decide or to cause investigation to be had.

Those who are in favor of the latter course and who insist that we shall take no action in the matter, but permit the Board of Internal Improvement to continue to guaranty the bonds of the Florida Railroad Company in aid of a road to Cedar Key, insist that said corporation has acquired the right to such aid by having filed their acceptance of the provisions of the Internal Improvement Law. In our opinion, the question whether such company has acquired such right, depends not upon the Internal Improvement Law alone, but upon that law and the charter of the company taken together. We have no doubt that if any company organized by law, any portion of whose route, *as authorized by its charter*, is within the line leading to Cedar Key, has signified its acceptance of the Internal Improvement Law in all its provisions, and has begun to build such road, there is no power in the Legislature to stop the further guaranty of the bonds of such company, because of any ascertained defect in the harbor of Cedar Key, unless indeed the existence of such defect should by the terms of its charter deprive such company of the right to build a road to Cedar Key.

To determine whether the Legislature is so estopped, we must first ascertain whether the Florida Railroad Company falls within the terms of the 4th section of the law, whether such company is one, "any portion of whose route as authorized by its charter," is within the line from Amelia Island to Cedar Key. In other words, it must be ascertained whether the Florida Railroad Company has by its charter the right to build a road from Amelia Island to Cedar Key. If by the charter of said company they possess such right, without limit or restriction, as to the character of the harbor, and such company has complied with the provisions of the Internal Improvement Law, then the State is committed, and cannot go back, let the harbor of Cedar Key be what it may. But, if by the terms of the charter of the Florida Railroad Company their right to build such road depends upon the existence of a harbor at Cedar Key having an outlet sufficient for sea-going steamers, then the Legisla-

ture clearly have the right to inquire into the capacity of such harbor, and if it be found not to possess the requisite pointed out in the charter of the Florida Railroad Company, the Legislature may take action and withhold the guaranty of the Internal Improvement Fund.

The charter of the Florida Railroad Company gives to it the right to build a road which "shall commence in East Florida on some tributary of the Atlantic Ocean, within the limits of the State of Florida, having sufficient outlet to the ocean to admit of the passage of sea steamers, and shall run through the Eastern and Southern portion of the State, in the most eligible direction, to some point, bay, arm or tributary of the Gulf of Mexico, in South Florida, south of the Suwannee river, having a sufficient outlet for sea steamers, to be determined by a competent engineer with the approval of a majority of the Directors of said company."

The power to construct the road limits the company to a fixed commencement. It must be within the limits of the State of Florida, "upon some tributary of the Atlantic Ocean, having a sufficient outlet to admit the passage of sea steamers." It must terminate at "some point, bay, arm or tributary of the Gulf of Mexico, in South Florida, south of the Suwannee river, having a sufficient outlet for sea steamers." But it is specially provided, that before such company begins to build the road, or fixes upon such point of termini, "a competent engineer, under the direction of the President and Directors, shall proceed to locate the Eastern terminus, and survey the route of said Railroad to the South-western terminus, and shall make the proper estimates and the necessary charts and diagrams, which shall be filed in the office of said company." This examination must be made by an Engineer, who of course must be employed specially to make such examination with a view to determine whether there is an outlet sufficient for sea-going steamers, which examination involves a knowledge not alone of the mere depth of water in the channel, but its breadth, its anchorage, protection from gales, and knowledge of the average draft of water of sea-going steamers. An examination of the harbor made by an Engineer for other purposes, would not necessarily determine these points. This examination is to be made under the supervision of the Board of Directors, and must be approved by them.

Now, if no such examination was made at all, or being made by an Engineer, however carefully and fully, if the Board of Directors of said company neither directed nor approved such examination—if no action at all was taken by such Board—it becomes a question whether said Florida Railroad Company is “a company authorized by its charter” to build the road to Cedar Key within the meaning of the 4th section of the Internal Improvement Law. To decide this we must ascertain whether that clause in its charter which makes provision for the examination of the harbor of Cedar Key was only inserted for the protection of the interests of the Stockholders in said company, and only directory to the officers of the company, or whether it was inserted to guard the State from loss or injury, by impracticable undertakings and designed as a condition precedent to the vesting of the right to build the road to any given point on the Gulf.

It is our opinion that the provision referred to would never have been inserted, but that the Legislature did not desire to authorize a railroad to any port on the Gulf, unless its harbor was sufficient for sea going steamers. Stockholders could and would protect themselves. It is unusual save where it is designed as a precaution by the State acting upon the policy of not aiding foolish or useless enterprises.

But whatever may be the doubt as to what was the meaning of the clause referred to when the charter was passed, it was certainly to be inferred at the time of the passage of the Internal Improvement law, the Legislature had this clause of the charter of the Florida Railroad in view, and relied on a faithful compliance with its provisions to secure the property of the State from being wasted on a road to Cedar Key, should the harbor be insufficient for sea going steamers. Else, it is impossible to believe that whereas one Legislature had deemed the capacity of the harbor so doubtful as to provide (for the sake of preventing injury to the Stockholders of the road, as it is said) for the examination to be made, yet, that the Legislature which passed the Internal Improvement law committed the State to aid in building the road to Cedar Key without regard to the character of its harbor, and without any precaution against loss such as now threatens to occur. In justice to the Legislature, which passed the Internal Im-

provement law, we must suppose that when they authorized a road to be built to Cedar Key by any company then existing, whose charter empowered it to build such road, they looked to the Florida Railroad Company, (then the only chartered company privileged under any circumstance to build such road) as the company to undertake such work, and that they expected and meant such company should only undertake such road, when by the terms of its charter it had been ascertained that the requisite pointed out therein did in fact exist. They gave to that company the right to build the road, provided their charter authorized them to build, and of course the Legislature expected that before they did begin to build to Cedar Key they would ascertain the existence of that essential qualification, provided by their charter to be established as a condition precedent to the vesting in said company of the right to construct the road.

We are therefore bound so to construe the Internal Improvement law in connection with the charter of the company, claiming the right to build the road as to secure a faithful fulfilment by the company of all the conditions upon which we may justly presume the Legislature intended the construction of the road, with the aid of the Internal Improvement Fund, was to take place. The Legislature might safely rest the interests of the State upon the safeguard provided in the charter of the Florida Railroad Company, and we but do our duty when we require that said company shall not evade a compliance with the conditions imposed with the end to secure such protection.

There are some provisions in an act of incorporation that are merely directory, intended only for the security of Stockholders, and the failure to comply with which does not affect the public, and will not allow of the interference of the State. But there are other provisions which are mandatory and obligatory, a violation of which may work a forfeiture of the charter of incorporation, or in some cases, may prevent the corporation from having a legal existence. In the first class are such provisions as prohibit a bank from taking usurious interest, or a railroad company from banking. In the latter class are those provisions which provide that the capital of a bank shall be a given sum of money, and that of the stock subscribed a given amount shall be paid to the commissioners in specie at the time of subscribing.

In the case of the Southern Life Insurance and Trust Company, the questions of the law of incorporations underwent examination, and are fully discussed and decided by the court. One of the judges who dissented, held that a failure by a subscriber to the stock to pay therefor in specie rendered his subscription void. So decided Baltzell, then Circuit Judge, from whose decision the appeal was taken, and so argued very ably Judge DuPont, who was counsel for the appellee. The doctrine contended for by Judge Anderson was admitted by the majority of the court to apply to the case of a subscription to the stock of a corporation about to be formed, and that a failure to comply with the terms prescribed for payment of ten per cent. in specie made the subscription void, and there being no valid subscription there was no valid stock and no Stockholders, and consequently no organized corporation. The reasons on which such legal decisions rest are that the provisions violated were inserted through public policy to guard the public and the State from loss and injury.

Such in our opinion was the purpose which influenced the Legislature to insert the 2d and — Sections of the Act incorporating the Florida Railroad Company, and it is our duty to give effect to the provisions of those Sections. If they were designed to secure the interests of the public and the State, they cannot be evaded, and are obligatory on the Florida Railroad Company.

In consideration of the foregoing premises, and in order that the fund in hands of the Trustees be secured from loss, we suggest that the Trustees should not guarantee the interest on any more Bonds of the Florida Railroad Company, until all real matters of controversy now existing between them shall be adjusted and settled.

All of which are respectfully submitted,

R. C. WILLIAMS,
JAMES GETTIS,
A. W. NICHOLSON,
ISAAC WELCH,
C. GILLIS.

N. B. I am not prepared to subscribe without qualification to all the matters of fact as expressed. I concur in the legal conclusions, but I am desirous to see the Florida Rail-

road completed at the earliest day consistent with justice to all interests involved.

C. GILLIS.

Which was received and read.

Mr. Lamar made the following report:

The first subscriber to this report, while concurring in the conclusions of the report of the majority, feels desirous to give a more full explanation of the reasons upon which they are based, and has therefore joined with that member of the Joint Committee, whose name is hereunto attached, to make the following

REPORT:

That of the matters laid before them, the first subject that will be considered, is in relation to the route pursued by the Florida Railroad, in crossing to the west side of Nassau river. The 31st section of the Internal Improvement Act, after authorizing the issuing of bonds for bridges across several rivers, provides, "*also one hundred thousand dollars for the structures necessary to cross from the west side of Nassau river to Amelia Island,*" &c.: "*Provided that said bonds shall not issue except in payment for work done, and then only as the work progresses, upon the certificate of the State Engineer that such work has been done, and that the amount of bonds issued is required for the payment therefor.*" On the 1st June, 1858, Mr. Bradford reports to the Trustees of the Internal Improvement Fund, that "*as the road does not cross Nassau river, I do not know on how much of the road the company used that one hundred thousand dollars (\$100,000) of bonds, but am confident that at the prices paid for that kind of work, all the bridges and trestle-work on the first fifty miles of the road could have been built for fifty thousand dollars (\$50,000.)*"

From this statement the questions have arisen, whether the Florida Railroad Company complied with the law in the location of their road, and if not, whether they were legally entitled to have the interest of their bonds guaranteed by the Trust Fund. In the same report Mr. Bradford states, that "*the trestle across Amelia Marsh is a very simple and cheap structure, and has not the strength it should have,*" &c. These two statements taken together suggest the further inquiry, whether the trestle referred to is in strength and excellence what the law required, and whether the company have not obtained bonds for building "structures" to cross to the west side of Nassau river to a greater amount than was necessary. The evidence submitted upon these points may be summed up as follows: 1st, That to cross to the west side of said river in a direct line, there would intervene, besides the channel of said river, marshes, and the Amelia river. Maps were produced to exhibit the fact; also, that

from the nature of the country, and the course which the said river runs, the road, in crossing the swamps and creeks which constitute its head waters, was carried as literally to its west side as if it had been located directly across its main channel. It appears further in evidence, that the length of the road was increased probably five miles by the change of location.

Mr. Bradford stated to the committee that he was with a party of Engineers who explored the bed of the river, and found it to be quicksand. On a subsequent cross-examination, he said, that on the line last run, the width of the marsh was two miles, of the river twelve hundred feet, and its depth from sixteen to twenty feet. Now as to the question, whether this route was the one contemplated by the law, the company claim, that the Road was carried to the west side of the Nassau river, and that crossing its head was equivalent to crossing its main channel. The undersigned feel great doubt whether this construction of the law can be sustained. But they are of the opinion, that the Trustees should take no steps to test the matter in the courts. Taken in connection with the face of the country the law is somewhat vague, and the company have shown a reason, good and sufficient, almost amounting to an absolute necessity, for the change in the location of their Road.

The obstacles interposed, and the expense attendant upon attempting to build good and secure structures across two miles of marsh, a quarter of a mile of river, with a quicksand bottom, and a depth of water from sixteen to twenty feet, and that too at an exposed part of the coast, would be so great as to justify any company in avoiding it, much more one whose means were limited. In reference to the other points the evidence is as follows, viz: The Chief Engineer affirms, and Mr. Bradford admits, that there is little or no trestle work between the thirty and fifty mile portions of the Road. It is in evidence, that the last head waters of Nassau river is at the thirty mile point. The President of the Road states, and Mr. Bradford admits, that the latter did not include in his estimate of the cost of the necessary structures, the several marsh embankments which is legitimately a part of the structures. The President of the Road states under oath that the company paid the whole amount of bonds to the contractors.—The Chief Engineer states the actual cash cost to the contractors to have been sixty-five thousand dollars. The undersigned see no cause to doubt the statement of the Engineer, or any reason why the marsh embankments should not be included as a part of the necessary structures. Add to the amount named by the Engineer, as the cash cost, a reasonable profit to the contractors, and it is clear that the whole market value of the bonds was required for the work. Hence the undersigned conclude that as the bonds were issued upon the certificate of the State Engineer, and the whole amount of the bonds was actually applied for the payment of the necessary structures, the law strictly construed is satisfied. As to the objection urged

against that part of the structures which crosses Amelia marsh, the undersigned concur in the opinion of Mr. Bradford, that it is upon a cheap plan and of a simple construction, but they are not prepared to pronounce it insufficient for its purposes, or not as durable as any other wooden structure. For two years, they believe it has been found sufficient for the business of the Road. If the principle is once admitted, that the Trustees can require first class bridges and trestles, and judge of those actually built, they could have required stone, or iron piles and piers, or wood covered with copper; materials clearly beyond the means of any Florida company. No evidence, which has been adduced before the committee, appears to the undersigned sufficient to warrant the Trustees to undertake to recover any part of or any compensation for the bonds issued to build the aforesaid structures. As to the increased length of the Road and the greater amount of bonds issued therefore it is sufficient to say, that no Railroad company would increase the length of its Road, without an overruling necessity for so doing. It is well understood by Railroad men, that any increase of length diminishes the value of the Road, for the first investment is greater, the cost of running and of repairs is increased, and the profits not altered. In the case of the Florida Railroad, the same principle obtains, for though the interest of her bonds is guaranteed by the Trust Fund, the debt is hers, and before the Trust Fund becomes liable for interest, her net earnings, when the Road is completed, will have to be applied to the payment of the interest before the Stockholders can realize any part of the profits. It is clear, that it was not to the interest of that company to increase the length of its Road.

The next subject to which the attention of the General Assembly is respectfully invited, is in relation to the certificate of Mr. F. L. Dancy, made on the 18th August, 1857. He certified that on that date, the Florida Railroad was in a condition to issue bonds for a section of thirty additional miles, having previously drawn for fifty miles, and that the Road was constructed in accordance with the specifications of the law, and the cross-ties delivered along the line of the road. It is alledged, that the certificate was contrary to the facts in the case, and that the Company drew bonds in advance of their legal rights.

The law which provides for the issuing of bonds by the various Railroad companies, prescribes the following conditions, viz: that on the completion of the grading of twenty miles continuously, and every additional ten miles, in accordance with certain specifications, and the cross-ties for the same delivered along the line of the road, both to be certified and approved by an Engineer acting in behalf of the State, the Company may issue bonds, with the interest guaranteed by the Trust Fund, to the amount of \$8,000 per mile. Before, however, the company can obtain the guarantee, the President and four of the Directors of the Road are required to state under oath, that

the iron for the said section of Road is within the jurisdiction of the State, and paid for, or to be paid for by the bonds, or their proceeds. They are required also to give a bond with approved security, that the iron shall be laid on the said section of road within six months. The first semi-annual instalment of interest on the bonds is also required to be paid in advance by the Company to the Trustees. The sole object of all these requirements is to have that part of the Road for which the bonds are issued, in an operative condition before the Trust Fund becomes liable for interest.

With regard to the section of thirty miles for which the bonds were issued, all these conditions were complied with. The Engineer made the certificate, the President and Directors made the necessary affidavit that the iron was within the State, gave bonds to a large amount to lay the iron on the road in six months, and paid in advance the semi-annual interest. The evidence submitted to the Committee is sufficient to establish the fact that work was done on the road-bed, and cross-ties delivered after the date of the certificate—cross-ties were delivered after the track laying was commenced. It also is in evidence, that something over five miles of the said section of Road was left, at the expiration of the six months, with the iron unladen. It is further shown, that the track-laying was not delayed by reason of the deficiency in the work, and it is a matter of public notoriety, that in a few weeks after the issue of the bonds the cars were running over that part of the Road where the deficiency existed. It is also stated, that the contractors had done more work at the date of the certificate than was necessary to bring the Road in the condition required by the Internal Improvement Act. That Act requires only a grade of forty-five feet to the mile, whereas the Company had adopted a twenty feet grade, thereby necessitating a much greater amount of work than the said Act required. It is urged by Mr. Dancy in his explanation, that he was authorized, under a liberal construction of the law, to make the certificate. He urges, that the Road was in such condition as to furnish sufficient security that the iron would be laid within six months; we do not quote words, but that is his idea. The President of the Road states under oath, that the stoppage in the track-laying was caused by the suspension of the means of the Company, produced by the financial difficulties at that time.

Mr. Bradford gave it as his opinion, that the track-laying progressed with good speed. It was omitted in the proper connection to mention that Mr. Dancy states in his explanation that he did not count the cross-ties, but was led to believe, from the piles of ties heaped along the line of Road, that a sufficient number had been delivered.

Now the questions which naturally arise in the mind are these—did Mr. Dancy make an incorrect and improper certificate? Was there collusion, and an improper understanding between him and

the Company? And did his so certifying result in damage to the Trust Fund? To the first, we unhesitatingly answer, he did. To the second, we answer, we do not so believe. There is not the slightest particle of evidence that any of the Company, other than the two contractors who were directors, knew the state of that part of the road, unless it was the acting agent and manager of the road. We can understand, how the parties, feeling great anxiety about the success of the road, doing all in their power to promote its progress, and from the nature of the case, accustomed to look alone to their rights in the premises, could honestly arrive at the conclusion that they were entitled to the bonds for their road, when it had arrived so near completion that it afforded all the security to the trustees, which a completed road-bed would have furnished. No doubt the contractors believed this when they called for bonds. That the thirty miles of road was in such condition, the result most indubitably proves, for all the probabilities are, that the track would all have been laid, had it not been for the financial embarrassment of the country at the time. Now on the other hand, how was it with Mr. Dancy? From the heaps of cross ties which he saw along the line of road, he was led to believe that a sufficient quantity had been delivered; he knew that the trustees was scattered; he calculated that before their signatures could be obtained, the road-bed would be completed, and believing that the security required by law already existed, he may have honestly believed, that under a liberal construction of the law, he was authorized to make the certificate. This is his explanation, and the undersigned believe it to be true.—As Mr. Call very forcibly says in his statement, if the party concerned in making the certificate should have felt that the act was open to such a harsh construction as has been made, and had he been a person capable of wilfully doing an improper act, he could very easily have changed the date of the certificate to within a day or two of the time when the bonds were issued. But while they relieve the parties of any imputation upon the integrity of their intentions, the undersigned feel bound to say that no company has a moral or legal right to call for bonds, and no Engineer is warranted in making a certificate upon which to base the issue of bonds, until the specifications of the law are literally complied with.

As to the question whether the Trust Fund sustained any injury from the said certificate, it is only necessary to say, that the only way by which it could have produced any damage, was for the track-laying to have been delayed beyond the six months, by the unfinished state of the road-bed. On the contrary, the evidence proves, that the track-laying was uninterrupted till causes outside of the State produced a failure in the means to supply the necessary chairs and spikes. It would have happened had the certificate been strictly true, and had the Company waited till every thing was complete, as required by law, the amount of unfinished track perhaps would have been

greater. The damage, which was the interest paid on the bond, for the five unfinished miles, was caused by circumstances independent of the control of the Company. It is in evidence that the Company notified the Trustees that they were willing to adjust and pay the damages. The Trustees have thought best, however, to let the Courts award the damages. It is unlikely that the Trust Fund will suffer, as the Court will probably provide for such an amount as will cover both the expenses of the suit and the interest on the bonds.

The most important matter connected with the whole subject, is the question raised by the the Governor in his message as to the propriety of withholding the further guarantee of interest on the bonds of the Company, on the ground that the port of Cedar Keys is insufficient for commercial purposes. The undersigned think it too late to raise that question. The State has recognized the right of the Company to build a road to that place, in various ways, and at various times. Their amended charter grants them the power specifically, and the Internal Improvement Act, which creates the Trust Fund, expressly designates a road to Cedar Keys as a proper improvement to be aided by the said fund, without any qualification or restriction. It would indeed be a singular result if a compliance with a law should work a forfeiture of a right to its benefits. The faith and character of the State is involved in this matter—the one should not be violated, nor the other injured. If the General Assembly should determine otherwise, it should provide ample compensation for those who have embarked their hopes and fortunes in the enterprise.

There were other matters connected with the construction of the road which the committee investigated. It is clear from the evidence that the Company have, in their great desire to advance rapidly with their road, permitted some of the work to be done imperfectly.— There is nothing before the Committee, however, which, in the opinion of the undersigned, is sufficient to justify, either the General Assembly or the Trustees, to interfere to stop the road.

One great error which the Company have committed, was in allowing two of their Directors to become contractors. This should not have been done and it has been the fruitful source of suspicions and imputations. But with all their short-comings, the Company have exhibited a commendable energy, and deserve some credit for the success which has attended their efforts. It should be remembered that it is a public as well as a private enterprise, and if finished, will be productive of great benefit to the State.

It occurs to the undersigned, that railroad affairs are looked at from a different stand-point than that occupied when the Internal Improvement act was passed. At that time, our public men and our people felt that upon the construction of railroads depended the only prospect the State had of ever arriving at that degree of wealth and influence to which she is entitled by her peculiar position and

resources. Influenced by these views, the seventh General Assembly enacted a law which they fondly believed would bind together, with iron bands the different sections of our State, which would develop our resources, multiply our products, increase our population and wealth and give us a more influential position in the Union. In their enthusiasm on the subject, they, knowing the limited amount of capital in the State, made large grants of land to lines of railroad, and made provision for other aid, and omitted, perhaps, some necessary guards and restraints upon their operations. The people of several counties, animated by the same spirit, voted large subscriptions and voluntarily taxed themselves. Companies organized under the law, but, owing to our limited means and the financial embarrassments of the year 1857, the roads have progressed slowly. There is not yet much perceptible benefit; the enthusiasm has abated, the people feel the taxes to be burdensome, the control of the railroad companies over the lands is vexatious and the habitual jealousy of the people of corporate influence is revived, and they have become as severely critical as they before were indulgent; but the day is not far distant, in all probability, when the people, influenced by more enlarged and just views, will attribute temporary deficiencies in the construction, not only in the Florida, but in all the other roads, more to a want of means than to any intention to disregard the requirements of the Internal Improvement law.

While the undersigned think that every precaution should in future be taken by the Trustees to secure the construction of a good road by the Florida as well as all the other Railroad Companies operating under the internal improvement act, yet they are of opinion that no steps should be taken by them that would embarrass or delay the progress of any work. Until the roads are completed, there must continue to be a drain upon the income of the Trust Fund to meet the interest upon the bonds, and it is therefore manifestly of the highest importance to the continued solvency of this Fund that the State should put forth every legitimate and safe means to hasten their completion as soon as possible, to the end that the drain in the shape of interest may cease, and the Fund be placed thereby in a position to aid such other objects of usefulness and public benefit as the Legislature in its wisdom shall see proper to specify. If the roads shall prove a success, it is clear that the value of the Fund will be vastly augmented by their construction; but if failures, then the sooner this shall be known the better. Whether a success, however, or failures, can only be determined by their completion. Whatever the event may be, therefore, it is evident that every consideration of public and private interest forbids the interposition of obstacles that may interrupt and hinder their progress.

In concluding their remarks on this subject, the undersigned, while regretting the apparent necessity for the investigation in which the Joint Committee has been engaged for so many days, cannot

omit to express their approbation of the course of his Excellency the Governor in laying the matters inquired into before the General Assembly.

Respectfully submitted,
THOMPSON B. LAMAR,
F. C. BARRETT.

The undersigned, though signing the majority report, desires to express his concurrence in the above for the reasons given therefor by the first signer hereof.

GEORGE WHITFIELD.

Which was received and read.

Mr. Lamar moved that eighty copies of each of the above reports be printed for the use of the Senate.

Mr. Baker offered the following amendment:

Insert between the words "that" and "eighty," the words "the evidence be read and."

Upon the adoption of the amendment, the yeas and nays were called for by Messrs. Baker and Nicholson;

Upon which the vote was:

Yeas—Messrs. Baker, Baldwin, Dawkins, Fisher, Nicholson and Welch—6.

Nays—Mr. President, Messrs. Call, Dell, Eppes, Eubanks, Hawes, Jones, Keitt, Lamar and McQueen—10.

So the motion was lost.

Mr. Lamar moved that 1,000 copies of the evidence be printed.

Mr. Baker moved to amend by striking out "1,000" and inserting "100,000;"

Which amendment was lost.

Upon the adoption of the original motion, the yeas and nays were called for by Messrs. Baker and Lamar, upon which the vote was:

Yeas—Mr. President, Messrs. Call, Dell, Eppes, Eubanks, Hawes, Keitt, Lamar and McQueen—9.

Nays—Messrs. Baker, Baldwin, Dawkins, Fisher, Jones, Nicholson and Welch—7.

So the motion was adopted.

Mr. Baker made the following report:

The committee on Corporations to whom was referred the bill to be entitled an Act to amend the charter of the city of Tampa, beg leave to

REPORT:

That they have considered the same, and find from information laid before them, that the incorporation of the city of Tampa extends to and embraces the inhabitants on the west bank of the Hillsborough river—that said inhabitants are subjected to corporate taxes without receiving corresponding benefits, in as much as no part of said taxes are expended for city purposes on the west side of Hillsborough river. The object of the bill being, in the opinion of your Committee a reasonable and just one, they therefore, recommend its passage with the following amendment, viz:

After the words "Hillsborough river" in the last line of section 1st, add "except as to quarantine regulations and the receiving and obtaining of the writs of the incorporation."

All of which is respectfully submitted,

J. McR. BAKER,

Chm'n Com. on Corporations.

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

The following message was received from the House of Representatives:

HOUSE OF REPRESENTATIVES, }
 January 10, 1859. }

HON JOHN FINLAYSON,

President of the Senate:

SIR: The House have rejected the following Senate bills, viz:

A bill to be entitled an Act amendatory of the existing Acts as to garnishment in this State;

An Act to legalize the Will of Christian Spillman, of Santa Rosa County;

An Act in addition to and amendatory of the several Acts concerning pleading and practice in civil and criminal cases;

A bill to be entitled an Act to amend the 8th section of the 13th article of the Constitution of this State;

Joint resolution in relation to the illegibility of the Judges of the Circuit Court to the office of Judges of the Supreme Court of this State.

All of which are returned to the Senate.

Very Respectfully,

R. B. HILTON,
 Clerk House Representatives.

Which was read.

Also the following:

HOUSE OF REPRESENTATIVES, }
 January 10, 1859, }

HON. JOHN FINLAYSON,

President of the Senate:

Sir:—The House of Representatives have passed the following bills:

Senate bill to be entitled an Act to organize a fifth Judicial Circuit;

Senate bill to be entitled an Act to amend the several Acts in force in this State, in relation to proceedings in criminal cases;

Senate bill to be entitled an Act appointing Prosecuting Attorneys for the State in certain cases;

Senate bill to be entitled an Act to amend an Act, approved Dec.

22, 1854, entitled an Act to provide for the payment of Jurors and State Witnesses, approved Jan. 8, 1848;

House bill to be entitled an Act to amend an Act in relation to the pay of Jurors in Justices Courts;

House bill to be entitled an Act to provide for the consolidation of the Statutes, and the compilation of a code of laws for this State;

House bill to be entitled an Act to compel Railroad companies to pay for all cattle or other live stock, killed on their respective Railroads;

House bill to be entitled an Act for the relief of Otis Fairbanks;

House bill to be entitled an Act to authorize Joseph Lyttleton Hall, a minor, to assume the management of his own estate;

House bill to be entitled an Act making an appropriation to supply the deficiency in the appropriation for the payment of Jurors and State Witnesses;

House bill to be entitled an Act to change the name of Alexander Ranolensar;

House bill to be entitled an Act for the relief of James Smith, Sheriff of Gadsden county;

House bill to be entitled an Act equitably to divide the taxes collected in Dunal and Clay counties, for county purposes;

House bill to be entitled an Act to repeal an Act entitled an Act to amend an Act entitled an Act for the protection of fishing on the coast of Florida, approved December 31, 1850.

All of which are respectfully certified to the Senate.

Very Respectfully,

R. B. HILTON,

Clerk House Representatives.

Which was read, and the accompanying bills placed among the orders of the day.

Also, the following:

HOUSE OF REPRESENTATIVES, }
January 10th, 1859. }

HON. JOHN FINLAYSON,

President of the Senate:

Sir: The House of Representatives have passed the following:

Senate resolution to provide for the payment of certificates issued for interest due on scrip issued under an Act to provide for the payment of Capt. Sparkman's, Parker's and other volunteer companies for service in the year 1849, approved January 7, 1853;

Amended by inserting before the word "scrip" on the second line the words "interest on;" also amended by striking out all after the ninth line, and inserting "scrip issued under the Act above recited, approved the 7th January, 1853, shall bear interest at the rate of six per cent. per annum from the date thereof until paid."

The House also amended the title of said resolution, by inserting the words "interest on" before the word "certificate."

The House has also passed the following bills:

A bill to be entitled an Act to authorize persons residing on lands within the exclusive jurisdiction of the United State to vote;

A bill to be entitled an Act the better to define the boundary line of the county of Putnam; and

A bill to be entitled an Act for the relief of Josiah Gates and other persons therein named, citizens of Manatee county.

Very respectfully,

R. B. HILTON,

Clerk House Representatives.

Which was read, and the accompanying bills placed among the orders of the day.

The rules were waived, and Mr. Nicholson allowed to introduce

A resolution for the relief of J. C. Crosby.

The Committee appointed to ask the return of a bill to be entitled an Act amendatory of the Act of 1845 concerning roads and highways, appeared and reported that they had performed their duty and asked to be discharged.

ORDERS OF THE DAY.

An Act providing a charter for the city of Fernandina;

Came up on its second reading;

Mr. Call offered the following amendment:

Strike out the 34, 41, 42, 43, 44, and 45 sections of said bill;

Which was adopted, and the bill read a third time and put upon its passage;

The vote was:

Yeas—Mr. President. Messrs. Baker, Call, Dawkins, Dell, Eppes, Eubanks, Hawes, Jones, Keitt, Lamar, McQueen, Nicholson and Welch—14.

Nays—none.

So said bill passed—title as stated.

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

Resolution to provide for the payment of interest on certificates issued for interest due on scrip issued under an Act to provide for the payment of Captains Sparkman's, Parker's and other volunteer companies for service in the year 1849, approved January 7, 1853;

Was read, and on motion of Mr. Call, the House amendment was not agreed to.

Mr. Call moved that a committee of three, consisting of Messrs. Call, Keitt and Dell, be appointed a Committee of conference to con-

fer with a similar committee on the part of the House as to the said amendment disagreed to ;

Which was adopted.

House bill to be entitled an Act to amend an Act to incorporate the town of Jacksonville ;

Was read a third time and put upon its passage, upon which the vote was :

Yeas—Mr. President, Messrs. Baker, Baldwin, Call, Dawkins, Dell, Eubanks, Fisher, Hawes, Jones, Keitt, McQueen, Nicholson and Welch—14.

Nays—none.

So the bill passed—title as stated.

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

On motion, the Senate took a recess until half past three o'clock, P. M.

HALF-PAST THREE O'CLOCK, P. M.

The Senate resumed its session.

A quorum present.

The orders of the day were resumed.

A bill to be entitled an Act to authorize Silas Jernigan to establish a Ferry across the Black Water river, at the Town of Milton, in Santa Rosa county ;

Was passed over informally.

A bill to be entitled an Act to organize a new county from territory now embraced in the counties of Santa Rosa and Walton ;

Was read the second time, rules waived, read a third time by its title and put upon its passage, upon which the vote was :

Yeas—Mr. President, Messrs. Baker, Call, Dawkins, Eppes, Eubanks, Lamar, McQueen and Welch—9.

Nays—Messrs. Baldwin, Dell, Fisher, Hawes and Nicholson—5.

So the bill passed—title as stated.

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

The rules were waived, and Mr. Baker allowed to introduce Joint Resolution allowing claims of the persons named ; also Joint Resolution allowing the claim of Captain Hughey ;

Which were placed among the orders of the day.

A bill to be entitled an Act to increase the pay of members of the General Assembly of this State.

Mr. Dell moved to strike out "four" and insert "five."

On the question of the adoption of the amendment, the yeas and nays were called for by Messrs. Call and Dell ;

The vote was :

Yeas—Messrs. Call, Dell, Eppes, Fisher, Hawes and Nicholson—6.
Nays—Mr. President, Messrs. Baker, Baldwin, Dawkins, Jones, Lamar, McQueen and Welch—8.

So the motion was lost.

Mr. Baker moved its indefinite postponement ;

Upon which motion, the yeas and nays were called for by Messrs. Call and Dell ;

The vote was :

Yeas—Mr. President, Messrs. Baker, Dawkins and Jones—4.
Nays—Messrs. Baldwin, Call, Dell, Eppes, Fisher, Hawes, Lamar, McQueen, Nicholson and Welch—10.

So the motion was lost.

Mr. Eppes moved to lay it on the table until the 15th February ;
The yeas and nays were called for by Messrs. Call and Dell ;

The vote was :

Yeas—Mr. President, Messrs. Baker, Dawkins, Eppes, Eubanks, Jones, Lamar—7.

Naps—Messrs. Baldwin, Call, Dell, Fisher, Hawes, McQueen, Nicholson and Welch—8.

So the motion was lost.

Ordered that the bill be engrossed for a third reading on to-morrow.

House bill to be entitled an Act to change the names of Lemuel Shaw, George Shaw, Thomas Shaw, Uriah Shaw, Francis M. Shaw, Rebecca Shaw and Wm. G. Shaw ;

Was passed over informally.

House resolution asking Congress for a grant of land ;

Was read a third time and put upon its passage, upon which the vote was :

Yeas—Mr. President, Messrs. Baker, Baldwin, Call, Dawkins, Eppes, Eubanks, Fisher, Hawes, Jones, Lamar, McQueen, Nicholson and Welch—14.

Nays—none.

So the bill passed—title as stated.

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

House bill to be entitled an Act to authorize samuel H. Chisolm to assume the management of his own estate ;

Was read a third time, and put upon its passage, upon which the vote was :

Yeas—Mr. President, Messrs. Baker, Baldwin, Call, Dawkins, Eppes, Eubanks, Fisher, Hawes, Jones, Lamar, McQueen, Nicholson, Walker and Welch—14.

Nays—none.

So the bill passed—title as stated.

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

House bill to be entitled an Act in relation to quarantine for the town of Jacksonville ;

Was read a third time, and put upon its passage, upon which the vote was :

Yeas—Mr. President, Messrs. Baldwin, Call, Dawkins, Dell, Eppes, Eubanks, Fisher, Hawes, Jones, Lamar, McQueen, Nicholson and Welch—14.

Nay—Mr. Baker—1.

So the bill passed—title as stated.

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

A bill to be entitled an Act to amend an Act relative to associations to construct lines of Telegraph, approved Dec. 27, 1856 ;

Was read a third time, and put upon its passage, upon which the vote was :

Yeas—Mr. President, Messrs. Baldwin, Call, Dawkins, Dell, Eppes, Fisher, Hawes, Jones, Lamar, McQueen, Nicholson and Welch—13.

Nays—Messrs. Baker and Eubanks—2.

So the bill passed—title as stated.

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

House bill to be entitled an Act to fix and define the boundary line between Duval and Nassau counties ;

Was read a third time and out upon its passage, upon which the vote was :

Yeas—Mr. President, Messrs. Baker, Baldwin, Call, Dawkins, Dell, Eppes, Eubanks, Fisher, Hawes, Jones, Lamar, McQueen, Nicholson and Welch—15.

Nays—none.

So the bill passed—title as stated.

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

House bill to be entitled an Act to authorize Walter Lloyd Bond to assume the management of his own estate ;

Was read a third time and put upon its passage, upon which the vote was :

Yeas—Mr. President, Messrs. Baker, Baldwin, Call, Dawkins, Dell, Eppes, Eubanks, Fisher, Hawes, Jones, Lamar, McQueen, Nicholson and Welch—15.

Nays—none.

So the bill passed—titled as stated.

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

A bill to be entitled an Act to increase the salaries of Secretary of State, State Treasurer and Comptroller's Clerk ;

Was read a second time, and referred to the Committee on Executive Department.

A bill to be entitled an Act for the relief of the heirs of Elizabeth Dean, late of Duval county, deceased ;

Was read the second time, rules waived, read a third time by its title, and put upon its passage ;

Upon which the vote was :

Yeas—Mr. President, Messrs. Baldwin, Call, Dell, Eppes, Eubanks, Fisher, Hawes, Jones, Lamar, McQueen, Nicholson and Welch—13.

Nays—None.

So the bill passed—title as stated.

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

On motion, the Senate adjourned until to-morrow morning, 10 o'clock.

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TUESDAY, January 11, 1859.

Senate met pursuant to adjournment.

A quorum present.

On motion of Mr. Eppes, the reading of yesterday's Journal was dispensed with.

Mr. Nicholson pursuant to previous notice, introduced

A bill to be entitled an Act to repeal an Act entitled an Act to prevent trading with free persons of color in this State ;

Which was placed among the orders of the day.

The rules were waived, and Mr. Nicholson allowed to introduce without previous notice,

A bill to be entitled an Act to authorize the Sheriff of Escambia county, to collect Road tax ;

Which was placed among the orders of the day.

Also, to allow Mr. Jones to introduce without previous notice,

A bill to be entitled an Act to change the name of Sintha Jane Burdock, to Sintha Jane Willis ;

Which was placed among the orders of the day.

Also, to allow Mr. Hawes to introduce without previous notice,