

The rule was waived, to allow Mr. Holland to present the following motion :

Mr. Holland moved that the Sergeant-at-Arms be sent to the Printer to see if the bills for relief of soldeirs' families are printed, and if so, to bring them without delay ;

Which was adopted.

A bill to be entitled an act to incorporate the Monticello and Northern Railroad,

Was read the third time and put upon its passage.

The vote was :

Yeas—Messrs. Abercrombie, Arnow, Carter, Cater, Clary, Cooper, Hogue, Holland, Jones, King, Roper, Russell of Jefferson, Scott and Taylor—14.

Nays—Mr. President, Messrs. Hopkins, Norwood, Russell of 17th District and Smith—5.

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 for the organization of the militia of the State of Florida,

Was read the second time, rule waived, read a third time and put upon its passage;

The vote was :

Yeas—Messrs. Arnow, Cooper, Hogue, Holland, King and Taylor—6.

Nays—Mr. President, Messrs. Abercrombie, Carter, Cater, Clary, Hopkins Jones, Norwood, Roper, Russell of Jefferson, Russell of 17th District, Scott and Smith—13.

So the bill was lost.

On motion, the rule was waived, to allow Mr. Abercrombie to present the following resolution :

*Resolved.* That the Sergeant-at-Arms be instructed to furnish this House with envelopes, or any other stationery, necessary to promote the business of the Senate, and that he be instructed to procure the same wherever he can obtain suitable articles ;

Which was adopted.

A bill to be entitled an act authorizing the County Commissioners of Leon County, to assess additional taxes for the support of soldiers' families and the indigent of said County, and regulating the collection thereof, with amendments,

Was read a second time.

The question being on the adoption of the amendments,

They were adopted.

Mr. Arnow offered the following amendment :

*Be it further enacted,* That the counties herein named shall not

be exempt from the provisions of a general law in this State, providing for the same subject.

Mr. Abercrombie moved to indefinitely postpone the bill and amendment ;

The yeas and nays being called for by the Senators, from the 8th and 15th Districts,

The vote was :

Yeas—Messrs. Abercrombie, Arnow, Carter, Cater, Clary, Cooper, Holland, Jones, King, Norwood, Roper, Russell of 17th District, Smith and Taylor—14.

Nays—Mr. President, Messrs. Hogue, Russell of Jefferson and Scott—4.

So the bill and amendments were indefinitely postponed.

The rule was waived to allow Mr. Hogue to present the following motion :

That a committee be appointed to act with a similar committee on the part of the House, in relation to a bill entitled an act in relation to the cultivation of cotton and tobacco ;

Which was adopted.

The Chair appointed, as said committee, Messrs. Abercrombie, Scott, and Russell, of Jefferson.

House bill to be entitled an act for the relief of Aaron W. DaCosta,

Was read the first time, and ordered to be placed among the orders of the day.

The rule was waived to allow Mr. Norwood to move that Mr. Jones be excused from attendance on the Senate until Tuesday next ;

Which was adopted.

The rule was waived to allow Mr. Russell, of 17th District, to move to excuse Mr. Russell, of Jefferson, from attendance on the Senate until Monday next, 12 o'clock, M. ;

Which was adopted.

The rule was waived, and on motion, the Sergeant-at-arms was excused from attendance on the Senate until Monday next, 12 o'clock M.

The orders of the day being through with, on motion, the Senate adjourned until 10 o'clock to-morrow morning.

SATURDAY, November 28th, 1863.

The Senate met pursuant to adjournment.

The President being absent, Mr. Russell of 17th District, was called to the chair.

The roll being called, the following Senators answered to their names:

Messrs Abercrombie, Arnow, Carter, Cater, Clary, Cooper, Holland, Hopkins, King, Norwood, Roper, Russell of 17th District, Scott, Smith and Taylor—15.

A quorum present.

Prayer by Rev. Mr. Smith.

The journal of yesterday was read, corrected and approved.

The chair declared motions in order.

On motion of Mr. Holland, Hon. E. J. Vann was excused from attendance on the Senate until Monday next.

On motion, Mr. Russell of 17th District, was declared President pro tem., during the absence of Mr. Vann.

Mr. Hopkins presented the following additional rule:

When a bill or resolution, introduced into the Senate shall be rejected, it shall not be brought in during the same session, without notice of ten days, and leave of two thirds of the Senate;

Which was read.

Mr. Norwood moved that the action of the Senate yesterday, on the bill to be entitled an act to authorize the County Commissioners of Leon County, to assess additional taxes for the support of soldiers' families and the indigent of said county, and regulate the collection thereof, be reconsidered;

Which was adopted.

Mr. Taylor presented the following resolution:

*Be it resolved*, That the militia should be organized for the defence of the State of Florida.

Mr. Arnow presented the following substitute:

*Be it resolved*, That it is the sense of this body, that for the public good, a militia force should be organized.

Mr. Norwood moved to indefinitely postpone the resolution.

Mr. Taylor withdrew his resolution.

Mr. Norwood withdrew his motion.

Mr. Hopkins moved that the resolution be passed over informally.

The yeas and nays being called for by Messrs. Taylor and Hopkins,

The vote was:

Yeas—Messrs. Abercrombie, Carter, Cater, Clary, Hogue, Hopkins, Norwood, Roper, and Scott—9.

Nays—Messrs. Arnow, Cooper, Holland, King, Russell, of 17th District, Smith and Taylor—7.

So the resolution was passed over informally.

Mr. Russell, of the Committee on Corporations, made the following report:

The Committee on Corporations, to whom was referred the petition of certain Stockholders in the Florida Atlantic and Gulf Central

Railroad, praying for an amendment to the Charter of said road, beg leave to

#### REPORT:

That they have duly considered the prayer of said Stockholders, and finding that the proper notice has been published according to law, and that the prayer of the petitioning Stockholders are just, they present the accompanying bill, and ask the passage of the same.

All of which is respectfully submitted,

THOMAS T. RUSSELL, Chm'n.

The undersigned respectfully dissents from the majority report, 1st, because it is not equitable nor just to scale the number of votes given by the large Stockholders, so as to throw the management of the road into the hands of individuals who represent a minority interest; 2d, because the franchise, in a corporation, has frequently a moneyed value, which may have induced said large Stockholders to have invested largely in the enterprise.

JOSEPH M. TAYLOR.

Which was read.

The Committee on Enrolled Bills made the following report:

The Committee on Enrolled Bills, find the following bills correctly enrolled:

An act to amend an act to provide for an additional issue of Treasury Notes, and;

An act in relation to holding Probate Courts during the present war.

J. M. ARNOW, Chairman.

Which was read.

The Committee on Propositions and Grievances presented the following report:

The Committee on Propositions and Grievances, to whom the bill entitled a bill to be entitled an act, providing for the payment of of certain claims against the State, beg leave to report that they have had the same under consideration. They recommend its passage with the accompanying amendments.

All of which is respectfully submitted.

J. G. COOPER, Chm'n pro-tem.

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

The Committee on the Judiciary made the following report:

The Committee on the Judiciary to whom was referred the credentials of John P. Baldwin, who was elected a Senator from the 21st District, to fill a vacancy in said district, and to whom also was referred the opinion of the Attorney General in response to a resolu-

tion of the Senate inquiring whether, in his opinion, any person holding a commission in the regular or provisional army of the Confederate States, or is exercising one office of profit under the Confederate States, is eligible as a member of the General Assembly of this State, have had the same under consideration, and a majority of said Committee has requested me to

#### REPORT:

That if Mr. Baldwin is not now an officer in the Confederate States he is eligible as a member of the General Assembly—in other words, the eligibility relates to the time of his qualification as a member of the Senate and not the time of the election. It is admitted that at the time of the election Mr. Baldwin held and executed an office under the Confederate States. The Attorney General is of opinion that a person holding or exercising an office under the Confederate Government, at the time of the election, could not be elected to the General Assembly, and that his eligibility relates to the time of his election. From this opinion the majority of the Committee dissents. If Mr. Baldwin now holds a commission, or holds or exercises an office under the Confederate Government, he is not qualified, according to the Constitution of this State, to be a member of the Senate. If he does not hold or exercise such office, he is duly qualified. Such is the opinion of the majority. Mr. Baldwin states that he resigned his office under the Confederate Government before the election, but his resignation was not accepted. It does not appear that he has tendered his resignation since his election, but on the contrary that he has not.

All of which is respectfully submitted.

D. P. HOGUE, Chairman.

The undersigned, members of the Judiciary Committee, concur with the Attorney General in his opinion that, according to the Constitution of this State, "No person holding or exercising an office of profit under the Confederate States can be elected a member of the General Assembly." The word "eligible" means capable of being chosen.

D. P. HOGUE,  
JESSE NORWOOD.

Which was read.

On motion, the opinion of the Attorney General was ordered to be spread upon the Journal.

ATTORNEY GENERAL'S OFFICE,  
November 27th, 1863.

HON. E. J. VANN,

President of the Senate:

SIR:—The following Resolution, adopted by the Senate, has been transmitted to me.

*Resolved*, That the Attorney General of the State is hereby requested to inform the Senate whether, in his opinion, any person holding a commission in the Regular, or Provisional Army of the Confederate States, or holding or exercising any office of profit under the Confederate States, is eligible as a Member of the General Assembly of this State?

The 14th clause of the VI. Article of the Constitution of the State is as follows, "No member of Congress or person holding or exercising any office of profit under the Confederate States or under any foreign power, shall be eligible as a member of the General Assembly of this State, or hold or exercise any office of profit under the State; and no person in this State shall ever hold two offices of profit at the same time, except the office of Justice of the Peace, Notary Public, Constable, and Militia Officers."

The mere reading of this provision of the Constitution, demonstrates at once that no person holding or exercising any "office of profit" under the Confederate States is eligible, or in other words, can be elected to the General Assembly. It does not merely provide that a person holding an office of profit under the Confederate States, cannot at the same time, hold or have a seat in the General Assembly; but the provision is that no such person or officer can be elected a member of the General Assembly. This is the plain declaration of the Constitution and cannot possibly be evaded. There is no room for construction or for diversity of opinion on this head.

The Resolution further requires my opinion "whether any person holding a commission in the Regular or Provisional Army of the Confederate States," is eligible as a member of the General Assembly? If the office to which the person is commissioned is "an office of profit" he is clearly ineligible. Is a military office an office of profit? This is the real question in the whole matter. It seems to me that all offices to which there is pay attached, must be considered within the meaning of the Law or the Constitution, offices of profit. This is the only criterion by which we can possibly determine; with any certainty, whatever what is meant by an office of profit, otherwise it would be impossible to tell whether a person were eligible or not, or whether his office was profitable to him or not. I am therefore of the opinion that any person "holding a commission in the Regular or Provisional Army of the Confederate States," to which there is pay attached, is not eligible as a member of the General Assembly of this State.

It is perhaps proper that I should state however that in giving my opinion, that military offices, to which there is pay attached are "offices of profit," I am not guided by any particular precedent but merely by the reason of the matter, not having formed any precedent being directly on this clause of our Constitution, or the construction that should be put upon it in this respect. The Senate

will not be bound by any precedent in determining this question for itself. It is at liberty to make a precedent; and in doing so may consult public policy as well as the technical and constructive reasons to which I have alluded.

Respectfully,  
JNO B. GALBRAITH.

Which was read.

Mr. Holland presented the following resolution:

*Resolved*, That if, when John P. Baldwin presents himself to be sworn in, as Senator of the 21st District, he is not at that time an officer of the Confederate States, he is eligible to take the oath and act as Senator of said District.

The yeas and nays being called for by the Senators from the 5th and 6th Districts,

The vote was:

Yeas—Messrs. Arnow, Cater, Holland, Hopkins, Roper and Taylor—6.

Nays—Messrs. Abercrombie, Clary, Cooper, Hogue, King, Norwood, Russell of 17th District, Scott and Smith—9.

So the amendment was not adopted.

Mr. Holland moved to postpone the subject until 4 o'clock Monday afternoon next;

The yeas and nays being called for by Messrs. Norwood and Holland, the vote was:

Yeas—Messrs. Arnow, Holland, Hopkins and Taylor—4.

Nays—Messrs. Abercrombie, Carter, Cater, Clary, Cooper, Hogue, King, Norwood, Roper, Russell of 17th District, Scott and Smith—12.

So the motion was lost.

Mr. Hogue presented the following:

*Resolved*, That John P. Baldwin is not eligible, under the Constitution of this State, to the General Assembly;

The yeas and nays being called for by Messrs. Cooper and Hogue, the vote was:

Yeas—Messrs. Abercrombie, Arnow, Carter, Cater, Clary, Cooper, Hogue, King, Norwood, Roper, Russell of 17th District, Scott and Smith—13.

Nays—Messrs. Holland, Hopkins and Taylor—3.

So the resolution passed.

Mr. Holland presented the following:

*Resolved*, That if Mr. Baldwin tenders the resignation of his office in the Provisional Army of the Confederate States, that he may be qualified, and will be eligible to his seat as Senator;

Mr. Abercrombie moved to amend by inserting between the words "States and that" "and his resignation is accepted;"

Which was adopted.

Mr. Holland moved that the resolution as amended be adopted;

The yeas and nays being called for by the Senators from the 6th and 8th Districts;

The vote was:

Yeas—Messrs. Arnow, Holland, Hopkins, King, Roper and Taylor—6.

Nays—Messrs. Abercrombie, Carter, Cater, Clary, Cooper, Hogue, Norwood, Russell of 17th District, Scott and Smith—10.

So the resolution was lost.

The Committee on Schools and Colleges made the following report:

The Committee on Schools and Colleges, to whom was referred that part of the petition of the Baptist Convention of the State of Florida, which relates to the education of the children of the indigent soldiers, have had the same under consideration, and beg leave to report the same back to the Senate, for such action as it may see proper to take.

W. C. ROPER, Chairman.

Which was read.

The committee on Engrossed Bills, presented the following report:

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

A bill to be entitled an act to assist in the faithful and necessary enforcement of the Impressment Act of Congress, and to protect and defend the citizens of this State from oppression and unlawful acts of persons violating the said Acts, or claiming to act under the authority of the Confederate Government; and,

A bill to be entitled an act to amend an act relative to the Assessment of Taxes.

JAMES ABERCROMBIE, Chairman.

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

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

EXECUTIVE DEPARTMENT,  
Tallahassee, November 28th, 1863.

HON. E. J. VANN,

President of the Senate:

Sir—I have approved and signed the following bills, viz:

An act to amend the charter of the City of Pensacola;

An act to incorporate the Apalachicola Channel Company; and,

An act to allow Judges of the Circuit Courts in this State, to appoint Sheriffs in certain cases.

Respectfully,

JOHN MILTON.

Which was read.

## ORDERS OF THE DAY.

A bill to be entitled an act to amend the charter of the Atlantic and Gulf Central Railroad,

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

House bill to be entitled an act for the relief of Aaron W. Da Costa,

Was read the second time and ordered for a third reading on Monday.

Resolution in relation to a day of fasting, humiliation and prayer, Was read the second time.

Mr. Norwood moved to amend by striking out the word 25th and insert 24th;

Which was adopted.

On motion of Mr. Holland, the resolution was adopted.

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

The rule was waived to allow the Committee on Engrossed Bills to report.

The Standing Committee on Engrossed Bills beg leave to report the following bill as correctly engrossed:

A bill to be entitled an act to provide a police for the county of Jefferson.

JAMES ABERCROMBIE, Chairman.

Which was read.

House bill to be entitled an act providing for the payment of certain claims against the State of Florida, with amendments.

Mr. Norwood moved to refer the bill to a select committee of three;

Which was adopted.

The Chair appointed as said committee Messrs. Norwood, Hogue and Cooper.

Mr. Hopkins moved that the Senator from Wakulla be excused for to-day;

Which was adopted.

The rule was waived to allow Mr. Abercrombie to present the following resolution:

*Resolved*, That no member of this body shall be excused from attendance during the balance of the session, except in case of his own sickness or that of his family;

Which was adopted.

The following communication was received from the House of Representatives:

HOUSE OF REPRESENTATIVES,  
November 28th 1863.

HON. E. J. VANN,

President of the Senate:

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

House bill to be entitled an act to facilitate the transaction of business in the Quarter Master General's office;

House bill to be entitled an act to provide clothing for troops from Florida, in the service of the Confederate States;

House substitute to Senate bill to be entitled an act to amend the second section of an act entitled an act to prevent the entry of lands occupied by soldiers or their families, during the continuance of the present war, and also, to regulate the sale and entry of Public Lands.

The House has also refused to pass Senate bill to be entitled an act to tax the sale of liquors for the education of deceased soldiers' children.

Respectfully,

THOS. B. BAREFOOT,

Clerk House Representatives.

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

Mr. Holland moved that the Senate adjourn until Monday morning 9 o'clock.

The yeas and nays being called for by Messrs. Abercrombie and Holland,

The vote was,

Yeas—Messrs. Arnow, Clary, Cooper, Holland, King, Norwood, Roper, Russell of 17th District, Scott and Taylor—10.

Nays—Messrs. Abercrombie, Cater, Hopkins and Smith—4.

So the Senate adjourned until 9 o'clock, Monday morning.

MONDAY, November 30th, 1863.

The Senate met pursuant to adjournment.

Mr. Russell of 17th District, in the chair.

The roll being called, the following Senators answered to their names:

Messrs. Abercrombie, Arnow, Clary, Hogue, Hopkins, King, Norwood, Roper, Russell of 17th District and Scott—10.

A quorum not present.