

ASSEMBLY HALL
Tallahassee, Fla., July 25, 1868.

Hon. W. H. GLEASON, President of the Senate:

Sir: The Assembly has passed Assembly bill No. 47, to be entitled An Act to regulate the Penning, Marking, and Branding of Stock Cattle in this State.

Also, Assembly bill No. 77, to be entitled An Act making the Scrip issued by the Constitutional Convention receivable for all dues.

Very respectfully,

WM. FORSYTH BYNUM,
Clerk of the Assembly.

The following bills were taken up on second reading:

Senate bill No. 44 was postponed till Monday.

Senate bill No. 50 was referred to Committee on Corporations.

On motion of Mr. Knight, Senate bill No. 56 was referred to the Committee on Corporations, instead of the Committee on City and County Organizations, to which it was referred this A. M.

On motion, the Senate went into executive session.

The Executive nominations of this P. M. were taken up, under suspension of the rules.

The nomination of Marcellus L. Stearns, to be County Judge of Gadsden county, was rejected.

The nomination of Josiah E. Townsend, to be County Judge of Baker county, was confirmed.

The remaining nominations lay over under the rule.

On motion, the doors were opened.

The Committee on City and County Organizations, on leave, reported back Senate bill No. 66, with the recommendation that it pass.

The following bills were taken up on their third reading:

Senate bill No. 61, on motion, laid on the table.

Senate bill No. 43 was read third time, and passed with following vote:

Yeas—Messrs. Alden, Atkins, Bradwell, Crawford, Davidson, Goss, Katzenberg, Knight, Krimminger, Mobley, and Underwood—11.

Nays—Messrs. Davis, Moragne, McCaskill, Weeks, and Wood—5.

Senate bill No. 48, was postponed till Monday next.

On motion, this vote was reconsidered, and the bill taken up and passed by the following vote:

Yeas—Messrs. Alden, Atkins, Bradwell, Crawford, Davidson, Davis, Goss, Ginn, Jenkins, Katzenberg, Knight, Krimminger,

Moragne, McCaskill, Pearce, Smith, Underwood, Weeks, and Wood—19.

Nays—None.

On motion, the Senate adjourned.

MONDAY, July 27th, 1868.

The Senate met pursuant to adjournment, the President in the chair.

Prayer by the Chaplain.

A quorum present.

The reading of the journal was dispensed with.

Mr. Jenkins presented the petition of Isaac Davis and other citizens of Alachua county, praying the passage, by the Senate, of Assembly bill, No. 3; referred to the Committee on Railroads.

The President announced the appointment of Mr. Jenkins and Mr. Alden, in place of Mr. Hunt, on the Committees on Corporations and Railroads, respectively.

On motion, Assembly bill, No. 76, "authorizing the Governor of this State to raise funds to pay the expenses of the General Assembly," was taken up and read the first time by title under suspension of the rules.

On motion, the title was amended by striking out the words "General Assembly," and inserting the words "present Legislature." The rules were suspended, and the bill read the second time by its title. On a motion to suspend the rules in order to read the bill the third time, the yeas and nays were demanded, with the following result:

Yeas—Messrs. Alden, Bradwell, Crawford, Davis, Goss, Ginn, Jenkins, Katzenberg, Knight, Krimminger, Mobley, Moragne, McCaskill, Pearce, Smith, Underwood, Weeks, and Wood—18.

Nays—Mr. Atkins—1.

So the bill was read the third time, and passed with the following vote:

Yeas—Messrs. Alden, Bradwell, Crawford, Goss, Ginn, Jenkins, Katzenberg, Knight, Krimminger, Mobley, Moragne, Pearce, Smith, Underwood, Weeks, and Wood—16.

Nays—Messrs. Atkins, Davis, and McCaskill—3.

The following reports of committees were received:

The Judiciary Committee, to whom was referred the bill to legalize the acts of the Judge of the Circuit Court of Suwannee circuit, and for other purposes, return the same, and recommend that it be indefinitely postponed.

J. H. Goss,

Chairman Committee.

July 27, 1868.

The report was adopted.

COMMITTEE ROOM, SENATE CHAMBER,)
July 27, 1868. }

HON. W. H. GLEASON, President of the Senate:

The Committee appointed to prepare a code of practice in civil and criminal cases, beg leave to state, that they have examined the code of practice adopted by the States of New York, Ohio, Wisconsin, and other States, and that they have prepared a code in civil cases, which is substantially the same as that used by those States, retaining the equity practice, which those States have discarded, but which our Constitution retained. It is believed that the code your committee now present is in keeping with the progress of the age, and will meet the wants of the people. It does away with the old practice, which has been found behind the age in which we live. Even England has adopted, substantially, the code your committee now present. It is divided into nineteen titles, on the subject as stated in each, as follows:

- Title I. Form of civil action.
- Title II. Jurisdiction of courts in civil actions.
- Title III. Parties to civil actions.
- Title IV. Commencement of a civil action.
- Title V. County in which an action may be brought.
- Title VI. Joinder of actions.
- Title VII. Pleadings in civil actions.
- Title VIII. Provisional remedies.
- Title IX. Trial and judgment.
- Title X. Proceedings in certain actions.
- Title XI. Revivor of actions.
- Title XII. Proceedings to reverse, vacate, or modify judgment.
- Title XIII. Evidence.
- Title XIV. Miscellaneous proceedings.
- Title XV. General provisions applicable to the whole code.
- Title XVI. The courts to which this code applies.
- Title XVII. Rules of construction of this code.
- Title XVIII. Appeals to the Supreme Court.
- Title XIX. Justices' courts.

All of which is respectfully submitted.

Your committee is of the opinion that the adoption of the code herewith presented will be gratifying to every man in the State. It is a complete system of practice, which all will understand; it will be a great relief to litigants; it will reduce the work of attorneys considerably; it will lessen the expenses of holding courts more than half, thereby causing a saving to the

State of no small amount. To General Charles Mundee, who had charge of the clerical part of the work, our thanks are due for his skill in the management of his department.

C. R. MOBLEY,
A. A. KNIGHT,
JOHN L. CRAWFORD.

The bill reported was placed on the general file.

The committee to whom was referred Assembly bill No. 9, respectfully report the same back, and recommend its indefinite postponement.

S. KATZENBERG,
Chairman Committee on State Affairs.

The report was adopted.

The committee to whom was referred Assembly joint resolution No. 70, respectfully report the same back, and recommend its indefinite postponement.

S. KATZENBERG,
Chairman Committee on State Affairs.

The report was adopted.

The committee to whom was referred Assembly bill No. 5, entitled An Act to enforce Mechanics' and Laborers' Lien on Buildings and other Property, recommend that the same pass.

S. KATZENBERG,
Chairman Committee on State Affairs.

The bill was placed on the general file.

The committee to whom was referred the bill, An Act to allow Judges of the Circuit Courts mileage in Certain Cases, respectfully recommend its passage.

S. KATZENBERG,
Chairman Committee on State Affairs.

The bill was placed on the general file.

The Judiciary Committee, to whom was referred the "Memorial of H. T. Wright, F. C. Humphrey, and others," praying for relief, return the same, and recommend that it be indefinitely postponed.

J. H. Goss, Chairman Committee.
July 27, 1868.

The report was adopted.

The Judiciary Committee, to whom was referred House Bill No. 59, entitled "An Act to enable suits to be brought against

railroad companies through their agents," return the same, and recommend that it be indefinitely postponed, as it will be provided for in a general act.

July 27, 1868.

J. H. Goss,
Chairman Committee

The report was adopted.

The Judiciary Committee, to whom was referred House Bill No. 56, entitled "An Act to protect the owners of orange groves and vegetable gardens from wanton depredations," recommend that it be indefinitely postponed, as it will be covered in a general law.

J. H. Goss,
Chairman Committee.

The report was adopted.

TALLAHASSEE, July 27th, 1868

TO THE SENATE:

The Committee on Public Lands, to whom was referred the bill to be entitled "An Act to establish a land office at Palatka, and for other purposes," return the bill to the Senate, with the recommendation that the same be indefinitely postponed.

HORATIO JENKINS, JR.,
Chairman Committee Public Lands.

The report was adopted.

TALLAHASSEE, July 27, 1868.

To the Honorable President of the Senate:

The Committee on Education, to whom was referred "An Act to provide an office for the Superintendent of Public Instruction," return the bill to the Senate, with the recommendation that the bill pass.

HORATIO JENKINS, JR.,
Chairman Committee on Education.

The bill was placed on the general file.

TALLAHASSEE, July 26th, 1868.

To the President of the Senate:

The Committee on Railroads, to whom was referred the "Resolution asking for the revival of the grant of alternate sections of land for building Railroads;" also, "A bill Incorporating the Pensacola and Perdido Railroad;" also, "A bill entitled An Act authorizing Railroad Companies in this State to acquire land for depot, and other purposes;" also, A bill to be entitled "An Act to revive the Charter of the Monticello and Thomasville Railroad, under the name of the Florida and South Georgia Railroad;" also, "A bill to be entitled An Act relating to the Railroad Companies that have accepted the benefits of

the Internal Improvement act," respectfully report the same back to the Senate, and recommend that they be indefinitely postponed.

ROBERT M. SMITH,
HORATIO JENKINS, JR.,
Committee.

The report was adopted with regard to each of the bills named therein separately.

SENATE CHAMBER, July 27th, 1868.

The committee on Engrossed Bills beg leave to report "A Bill to Incorporate the Royal Oceanic Telegraph Company," as being correctly engrossed.

J. A. ATKINS,
For Committee.

The bill was placed on the general file.

On motion, the vote by which Senate bill, No. 5, was indefinitely postponed, was reconsidered, and the bill recommitted to the Committee on Railroads.

Mr. Jenkins, on leave, introduced a bill to be entitled An Act concerning Agricultural College Lands, which was read first and second times by title under suspension of the rules, and ordered engrossed.

The following bills, received Saturday from the Assembly, were taken up and read first time:

Assembly bill No. 47. Referred to Committee on Agriculture.

Assembly bill No. 77. Referred to Committee on the Judiciary.

Assembly bill No. 69. On motion, laid on the table.

The following bills were taken up on their second reading:

Senate bill, No. 32. On motion amended by adding at the close of section 1 the words "and adopted."

On motion, it was further amended by inserting the Constitutional Amendment known as Article XIV., at length.

Mr. McCaskill moved its indefinite postponement, which was refused by the following vote:

Yeas—Messrs. Atkins, Crawford, Davis, Ginn, Morague, McCaskill, Underwood, Weeks, and Wood—9.

Nays—Messrs. Alden, Bradwell, Goss, Jenkins, Katzenberg, Knight, Krumminger, Mobley, Pearce, and Smith—10.

The bill was read the second time, and ordered engrossed.

Senate bill, No. 44. On motion, postponed till to-morrow.

Senate bill, No. 66. Read second time, and ordered engrossed.

Senate bill, No. 71. Read second time, and ordered engrossed.

The following bills were taken up on their third reading:

Senate bill, No. 14. Read third time, and lost by the following vote:

Yeas—Messrs. Bradwell, Jenkins, Katzenberg, Krimminger, Mobley, Pearce, and Smith—7.

Nays—Messrs. Alden, Atkins, Crawford, Davis, Goss, Ginn, Knight, Moragne, McCaskill, Underwood, Weeks, and Wood—12.

The above vote was reconsidered, on motion, and the bill made the special order for to-morrow.

Senate bill, No. 52. Read third time, and passed by the following vote:

Yeas—Messrs. Alden, Bradwell, Goss, Jenkins, Katzenberg, Knight, Krimminger, Mobley, Pearce, Smith, and Underwood—11.

Nays—Messrs. Atkins, Crawford, Davis, Ginn, Moragne, McCaskill, Weeks, and Wood—8.

Senate bill, No. 47. On motion, indefinitely postponed.

Assembly bill, No. 23. Read third time, and passed with the following vote:

Yeas—Messrs. Alden, Atkins, Bradwell, Crawford, Davis, Goss, Ginn, Jenkins, Katzenberg, Knight, Krimminger, Mobley, Moragne, McCaskill, Pearce, Smith, Underwood, Weeks, and Wood—19.

Nays—None.

The following message was received from the Governor, and the Senate went into Executive session:

STATE OF FLORIDA, EXECUTIVE OFFICE,
Tallahassee, July 27, 1868. }

TO THE SENATE:

I hereby nominate the following named persons for the offices severally designated, viz:

Horatio Jenkins, Jr., to be County Judge for Alachua county.

William J. Purman, to be County Judge for Jackson county.

J. E. A. Davidson, to be County Judge for Gadsden county.

John L. Jones, to be County Judge for Washington county.

William B. Owens, to be Sheriff for Washington county.

J. B. Carroll, to be Clerk of Court for Washington county.

E. P. Melvin, to be Assessor of Taxes for Washington county.

William B. Owens, to be Collector of Revenue for Washington county. Very respectfully, &c.,

HARRISON REED, Governor.

The above message was taken up, and the nominations therein severally confirmed, as follows:

Horatio Jenkins, Jr., to be County Judge for Alachua county.

William J. Purman, to be County Judge for Jackson county.

J. E. A. Davidson, to be County Judge for Gadsden county.

John L. Jones, to be County Judge for Washington county.

William B. Owens, to be Sheriff for Washington county.

J. B. Carroll, to be Clerk of Court for Washington county.

E. P. Melvin, to be Assessor of Taxes for Washington county.

William B. Owens, to be Collector of Revenue for Washington county.

The nomination of W. T. Duval, to be County Judge for Wakulla county, was taken up, and he was confirmed to that office.

The nominations of the 25th inst. were taken up, and the following were confirmed:

Nathan D. Benedict, to be County Judge for St. Johns county.

Ramon Hernandez, to be Sheriff for St. Johns county.

Andrew Anderson, to be Assessor of Taxes for St. Johns county.

John G. Long, to be Collector of Revenue for St. Johns county.

Franklin Smith, to be Clerk of Court for Brevard county.

The following was rejected:

Charles D. Lincoln, to be Clerk of Court for St. Johns county.

On motion, the doors were opened and the Senate took a recess till five P. M.

FIVE O'CLOCK, P. M.

The Senate resumed its session.

The President in the Chair.

A quorum present.

The following reports were received from committees:

The Committee on Engrossed Bills have examined the following bill and find its contents correctly engrossed, viz:

An Act for the Assessment and Collection of the Revenue.

Respectfully submitted,

J. E. A. DAVIDSON, Chairman.

The bill was placed on the general file.

The special committee to whom was reported the bill entitled An Act for the Regulation of Pilots and Pilotage, beg leave to submit the following as a substitute.

D. DAVIS,

Chairman Committee.

The substitute was adopted, and read the second time by title, under suspension of the rules.

The Committee on Agriculture, to whom was referred a bill entitled An Act to regulate the Penning, Marking, and Brand-

ing of Stock Cattle in this State, have had the same under consideration, and beg leave to report that they recommend that it do pass.

J. N. KRIMMINGER,
Chairman of Committee.

The bill was read the second time.

The committee to whom was referred Senate bill No. 45, beg leave to report that they have examined the same, and recommend that it do not pass. However much it may be desirable that the improvements desired might be accomplished, yet there is an express prohibition in the Constitution of the United States, which would forbid the method proposed by this bill. Section 7 of this bill authorizes the company "to collect tonnage dues upon all vessels which shall pass through the channel," &c. The second clause of Section 10, of Article I., Constitution of the United States, provides:

"No State shall, without the consent of Congress, lay any duty of tonnage."

Your committee do not know that consent in this case has been given, and however desirable it may be to accomplish the object sought, they are satisfied that the parties in this case who propose to undertake the work would be unable to collect the tonnage dues to which they look as a compensation for their labor and expense, if resort was had by the vessel to the courts of the United States for protection.

HORATIO JENKINS, JR.,
Chairman Committee on Corporations.

The report was adopted.

The Judiciary Committee, to whom was referred the "Memorial to Congress for a mail route from the city of Tampa to Clear Water Harbor," return the same, with a substitute, and would recommend the passage of the substitute.

July 27, 1868. J. H. GOSS, Chairman Committee.

The report was adopted.

The Committee on Corporations, to whom was referred a bill to be entitled "An Act to incorporate the Florida Savings Bank," respectfully report that the committee has given careful attention to the general banking laws of several of the largest States of the Union, and have considered as thoroughly as the time limited to them has allowed, the peculiar necessities and wants of the people of the State, and of the business community. The committee earnestly recommend the passage of this bill for many reasons, among which are the business character and

financial means of the incorporators, and the public necessity for an institution of this kind, with all its branches.

HORATIO JENKINS, JR., Chairman.

The bill was read the second time.

The committee to whom was referred Senate bill No. 67, report that the same be indefinitely postponed.

S. KATZENBERG,
Chairman Committee on State Affairs.

The report was adopted.

Senate bill No. 73, to be entitled An Act to provide for a Code of Practice in Civil Cases in the State of Florida, reported this A. M. by the Committee on Code of Practice, was taken up, and read first time by title, under suspension of the rules.

The following reports were received from committees:

The Judiciary Committee, to whom was referred Assembly bill No. 77, entitled An Act making the Scrip issued by the Constitutional Convention receivable for all dues, return the same, and recommend that it be passed.

J. H. GOSS,
Chairman Committee on the Judiciary.

July 27, 1868.

The bill was read second and third times, under suspension of the rules, and passed with the following vote:

Yeas—Messrs. Alden, Bradwell, Crawford, Davidson, Goss, Ginn, Jenkins, Katzenberg, Knight, Krimminger, Mobley, Pearce, and Underwood—13.

Nays—Messrs. Atkins, Davis, Moragne, McCaskill, Weeks, and Wood—6.

The Committee on Railroads, to whom was referred a bill to be entitled An Act to Incorporate the St. Johns and North-River Railroad Company, respectfully report that the committee, while regarding it unadvisable to legislate at this session on the subject of railroads, to a greater extent than to give adequate protection to just claims which cannot otherwise be enforced, and which are in themselves necessary to be recognized, for the relief of claimants who have no other remedy, have regarded the passage of a substitute to this bill as a measure of high importance and convenience. The incorporators are gentlemen of capital and enterprise, and are ready to carry out their project, which will be one of large interest to the people in East Florida. The committee therefore report a substitute, entitled An Act to Incorporate the Jacksonville and St. Augustine Railroad Company, and recommend its passage.

R. N. SMITH, Chairman,
S. KATZENBERG,
C. R. MOBLEY,
W. S. WEEKS.

The report was adopted, and the substitute read the second time by title, under suspension of the rules.

Mr. Knight offered a resolution, removing the Capital of the State.

Mr. Alden moved its indefinite postponement;

Which was agreed to.

Senate bill No. 51 was called up, and, on motion, indefinitely postponed.

Assembly bill, No. 5, was taken up and read second time.

The following message was received from the Assembly:

ASSEMBLY HALL,
Tallahassee, Fla., July 27, 1868.

HON. W. H. GLEASON, President of the Senate:

SIR: The Assembly has passed Senate bill, No. 3, to be entitled An Act to establish a State Penitentiary and for the Government and Support thereof.

Also:

Concurred in Senate amendments to Assembly bill, No. 75, to be entitled An Act authorizing the Governor of this State to raise Funds to pay the Expenses of this Legislature.

Very respectfully,

WM. FOLSYTH BYNUM,
Clerk of the Assembly.

The accompanying bill was ordered enrolled.

Senate bill, No. 4, was taken up on its third reading.

Mr. Jenkins moved a call of the House, which was seconded.

The following members were found present, and the Sergeant-at-Arms was sent for absentees:

Mr. President, Messrs. Alden, Atkins, Bradwell, Crawford, Davidson, Davis, Goss, Ginn, Jenkins, Katzenberg, Knight, Krimminger, Moragne, McCaskill, Pearce, Underwood, Weeks, and Wood.

On motion, the Senate went into executive session.

On motion, the doors were opened, and the Senate adjourned.

TUESDAY, July 28th, 1868.

The Senate met pursuant to adjournment.

The President in the Chair.

Prayer by the Chaplain.

A quorum present.

The reading of the journal was dispensed with.

Mr. Underwood introduced a joint resolution fixing the day of final adjournment; read first time.

The President announced the signing of Assembly enrolled bill, for the repealing of the Relief Ordinance.

On motion of Mr. Knight, an evening session was ordered for to-day, at eight o'clock.

On motion of Mr. Alden, the vote of yesterday by which the Senate refused to take further action on Senate bill No. 45, was reconsidered, and the bill recommitted to the Committee on Corporations.

On motion of Mr. Goss, the vote of yesterday, by which Assembly bill No. 25 was indefinitely postponed, was reconsidered, and the bill recommitted to the Committee on Railroads.

The following reports of committees were received:

REPORT OF THE COMMITTEE ON ENGROSSED BILLS.

The Committee on Engrossed bills have examined the following bills and find them correctly engrossed, viz.:

Assembly bill No. 8. A bill to be entitled An Act to incorporate the Suwannee Steamboat Company.

Senate bill No. 53. An Act to Legalize the Ordinance passed in the Constitutional Convention.

Respectfully submitted,

J. E. A. DAVIDSON, Chairman.

The bills were placed on the general file.

TALLAHASSEE, July 28th, 1868.

TO THE SENATE:

The Committee on Corporations, to whom was referred Assembly bill No. 54, report back the same with the following amendments:

Amend by striking out the words "Gulf of Mexico," in section 4, and insert the words "from the range line between Ranges nineteen (19) and twenty (20)."

Strike out all of Sec. 8, and insert "Sec. 8. That the President and directors of said company shall be authorized to agree upon such rates of tolls for the use of such navigation as they may deem reasonable, and as shall be approved by the board of trustees of the internal improvement fund; and the said company may collect tolls on all vessels or other water craft which may pass or repass through any canal which said corporation may cut or construct, or that may pass or repass through any channel they may have dredged or deepened, and said company shall be entitled to demand and receive said tolls upon all produce, merchandise, goods or other articles which may be transported through any of the canals cut or waters improved by the said company; and all produce, goods, merchandise, boats, or other articles or things which may be transported or conveyed through