

R. A. Stearns, as Clerk of the Circuit Court for Escambia county.

The following Executive nominations were rejected:

Wm. C. McLean, to be State Attorney for the First Judicial Circuit.

Doors were opened.

The following communication was received from the Comptroller:

OFFICE OF COMPTROLLER,  
TALLAHASSEE, Fla., February 8, 1873.

SIR: I have the honor to transmit to the Senate a statement concerning the taxes due from Duval county to the State, as requested by a resolution passed by the Senate.

Very respectfully,

C. A. COWGILL, Comptroller.

To Hon. M. L. STEARNS,  
President of the Senate.

Statement of the taxes due the State of Florida from various Collectors of Revenue for Duval county:

From J. V. Garnie—	
For revenue of 1867, . . . . .	\$6,419.75
Deduct commissions, . . . . .	480.89
	<hr/>
Leaves a balance due of . . . . .	\$5,938.86
From which insolvencies will be deducted.	
From Frank E. Little—	
For revenue of 1868, . . . . .	\$2,772.86
For revenue of 1869, . . . . .	2,302.51
Insolvencies for these years having been allowed and credited and commissions on the amount paid in computed, this is the real sum due:	
For revenue of 1870, . . . . .	\$20,220.52
Insolvencies and commissions have not been allowed upon this sum, which, when allowed, may reduce it to \$16,000.	
From John J. Month—	
For revenue of 1871, . . . . .	\$34,319.54
From which there will probably be deducted for delinquencies and commissions, \$5,000.	
For revenue of 1872 only \$16.61 have been paid, but as the tax-book for 1872 has not been sent to this office, no accurate information can be given, but it is fair to presume that there should be collected and paid in, after deducting commissions and insolvencies, . . . . .	\$35,000.00
Making reasonable allowances as stated above for insolvencies and commissions, the amounts due may be thus stated:	
From J. V. Garnie, for 1872, deducting \$1,000 for insolvencies, . . . . .	\$4,938.86
From Frank E. Little, for 1868, 1869, and 1870, . . . . .	21,075.37
From John J. Month, for 1871, . . . . .	29,319.54
From John J. Month, for 1872, . . . . .	35,000.00
	<hr/>
Amount due, . . . . .	\$90,333.77

The sureties upon the bond of J. V. Garnie are Edward Hopkins and John Price; upon the bond of Frank E. Little, J. D. Mitchell, W. L. Coan, and C. L. Robinson; and upon the bond of John E. Month are W. M. Ledwith, Frank Franklin, W. H. Christy, Mary M. Christy, and W. T. Garvin.

There appears to have been gross negligence in collecting or in paying over the tax upon licenses in this county. Only eight hundred and thirty-two dollars and twenty-five cents (\$832.25) have been received for the year commencing March 1, 1872. For the same period Monroe county has paid \$3,755, and Hillsborough county has paid \$960, and I can see no reason why this tax should not be productive of more revenue in Duval county than in either of the two counties mentioned above, or even greater than both combined.

As no tax-books are in this office since 1869, I am unable to form an opinion as to the sufficiency of Mr. Month's bond. Had the tax-book of 1872 been received information could have been obtained from that source regarding the solvency of the sureties.

The former Comptroller has placed all the above accounts in the hands of the State Attorney for prosecution, except the taxes of 1872.

C. A. COWGILL, Comptroller.

Which was read and the accompanying report ordered spread upon the journal.

On motion of Mr. Meacham, the Senate adjourned until Monday at 11 o'clock A. M.

MONDAY, FEBRUARY 10, 1873.

The Senate met pursuant to adjournment.

The Lieutenant-Governor in the chair.

The roll was called and the following Senators answered to their names:

Messrs. Billings, Crawford, Dennis, Eagan, Fortner, Ginn, Hill, Jenkins, Johnson, Long, McAuley, McKinnon, Meacham, Pope, Sturtevant, and Sutton—16.

Prayer by the Chaplain.

On motion of Mr. Meacham the reading of the journal was dispensed with and approved.

Mr. Jenkins moved that a copy of the Comptroller's statement relative to taxes due the State by the present collector of revenue for Duval county, and by former collectors for said county, be furnished his Excellency, the Governor, for his information;

Which was agreed to.

Mr. Henderson introduced Senate Bill No. 61 :

An act to amend An act entitled an act of Limitations in Civil Suits; approved, February 27, 1872;

Which was placed among the orders of the day.

Mr. Fortner introduced Senate Bill No. 62 :

A bill to be entitled An act to Authorize Justices of the Peace of Polk County to Record Marks and Brands ;

Which was placed among the orders of the day.

Mr. Henderson introduced Senate Bill No. 63 :

A bill to be entitled An act in Relation to Rates of Pilotage ;

Which was placed among the orders of the day.

Mr. Fortner introduced Senate Bill No. 64 :

A bill to be entitled An act Allowing Joel Swain to Peddle in the Counties of Polk and Sumter without Payment of the Tax ;

Which was placed among the orders of the day.

Mr. Jenkins introduced Senate Bill No. 65 :

A bill to be entitled An act to Incorporate the Jacksonville Publishing Company,

Which was placed among the orders of the day.

The Committee on Finance and Taxation made the following report :

SENATE CHAMBER,  
TALLAHASSEE, February 10, 1873. }

*Hon. M. L. Stearns, President of the Senate :*

Sir: Your committee to whom was referred Assembly Bill No. 67, a bill to be entitled An act to Provide for the More Efficient Collection of Revenue, beg leave to report that they have examined the same, and recommend that it do pass.

Respectfully,

D. EAGAN,  
Chairman Committee on Finance and Taxation.

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

The Committee on Judiciary made the following report :

SENATE CHAMBER, February 8, 1873.

*Hon. M. L. Stearns, President of the Senate :*

Sir: Your committee to whom was referred An act to be entitled an act imposing a tax upon Commissions and Prescribing the Mode of Payment thereof, beg leave to report that they have examined the same, and recommend that it do

pass with amendment making the amount of tax upon the specified commissions as established by the law of 1868.

Respectfully,

LIBERTY BILLINGS,  
Chairman Judiciary Committee.  
HIRAM POTTER,  
L. G. DENNIS,  
ROBERT MEACHAM,  
A. D. MCKINNON.

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

The Committee on Appropriations made the following report :

SENATE CHAMBER,  
TALLAHASSEE, February 10, 1873. }

*Hon. M. L. Stearns, President of the Senate :*

Sir: Your committee who were instructed by the Senate to inquire into and report what amount if any is due William D. Bloxham on account of salary as Lieutenant-Governor, beg leave to make the following report :

REPORT.

The principle has been settled by repeated judicial decisions that it is the right to an office, not the holding of it, which constitutes a title to its salary, fees, and perquisites.

Thus the Supreme Court of New York, in the case of *The People vs. Tieman*, decided that "the salary and fees of an office are incident to the title and not to the usurpation and colorable possession of the office." (30 Barbour's Reports, page 193).

The Supreme Court of California, in the case of *Carrol vs. Liebenthaler* (37 California Reports, page 193) used the following language: "The fact that an office is for the time being exercised by an intruder does not impair the right of the true incumbent to recover the salary. The salary is incident to the title to office, not to the acceptance and exercise of it."

The same court, in the previous case of *Dorsey vs. Smith* (28 California Reports, page 44), had decided that "the payment of the salary of an office to the holder is not a bar to the recovery of the salary by the person legally entitled to it."

The application of these principles to the case of Mr. Bloxham seems to leave no doubt of the validity of his claim to the salary of the office of Lieutenant-Governor for the whole of the time during which it was illegally held by Samuel T. Day.

The solemn determination of the Supreme Court of this State settled his title to the office, and the title to the office carried with it the right to the salary. It is clearly the duty of the

State to pay Mr. Bloxham for the time intervening between the date when the term commenced, by virtue of the election held in November, 1870, and the date when, by virtue of the judgment of the Supreme Court, he was actually installed in office.

The pay of Lieutenant-Governor was at the rate of \$2,500 per annum until the 15th of May, 1871, when a change in the Constitution limited the pay to \$500 per annum. We find that Mr. Bloxham is entitled to one thousand eight hundred dollars (\$1,800) from the State, and offer the accompanying resolution for consideration by the Senate.

Very respectfully,

H. JENKINS, Chairman.

*Resolved by the Senate, the Assembly concurring,* That the Joint Committee on Appropriations be, and is hereby, instructed to insert a clause in the General Appropriation Bill appropriating the sum of one thousand eight hundred dollars (\$1,800) to William D. Bloxham on account of salary due him as Lieutenant-Governor.

Which was read, and the report with the accompanying resolution was adopted.

#### ORDERS OF THE DAY.

Assembly Bill No. 67:

A bill to be entitled An act for the More Efficient Collection of the Revenue,

Was read the second time.

Senate Bill No. 5 $\frac{1}{2}$ :

An act to repeal an act to Provide for the Election of a Public Printer and other purposes,

Came up on its second reading.

Mr. Potter moved that the bill be indefinitely postponed.

The yeas and nays were ordered with the following result:

Yeas—Messrs. Dennis, Eagan, Jenkins, Johnson, Long, Meacham, Pearce, and Potter—8.

Nays—Messrs. Billings, Crawford, Fortner, Ginn, Henderson, Hill, Knight, McAuley, McCaskill, McKinnon, Oliveros, Smith, Sturtevant, and Sutton—14.

So the motion was not agreed to.

Mr. Potter moved to postpone the further reading of the bill until next Thursday.

The yeas and nays were ordered with the following result:

Yeas—Messrs. Dennis, Eagan, Hill, Jenkins, Johnson, Long, Meacham, Pearce, Pope, Potter, and Sturtevant—11.

Nays—Messrs. Billings, Crawford, Fortner, Ginn, Henderson, Knight, McAuley, McCaskill, McKinnon, Oliveros, Smith, and Sutton—12.

So the motion was not agreed to.

Mr. Potter moved to lay the bill on the table.

The yeas and nays were ordered with the following result:

Yeas—Messrs. Billings, Dennis, Eagan, Hill, Jenkins, Johnson, Long, Meacham, Pearce, Pope, Potter, and Sturtevant—12.

Nays—Messrs. Crawford, Fortner, Ginn, Henderson, Knight, McAuley, McCaskill, McKinnon, Oliveros, Smith, and Sutton—11.

So the motion was agreed to.

Senate Bill No. 44:

A bill to be entitled An act to Employ a Private Secretary to the Governor, and Employment of Clerks in Various Offices of this State,

Came up on its second reading and, on motion of Mr. Henderson, was postponed and made the special order for Wednesday, at 12 o'clock.

Senate Bill No. 53:

A bill to be entitled An act Imposing a Tax upon Commissions, and Prescribing the Mode of Payment thereof,

Came up on its second reading.

Mr. Henderson offered the following amendments:

In the second section strike out the words "Provided, That as to those offices requiring the confirmation or the consent of the Senate, the amount to be paid upon a commission issued to fill a vacancy during the recess of the Legislature, shall be one-half of the amount above named for such office;"

Which was agreed to.

Mr. Meacham moved to further amend the second section by striking out the words "or appointment" after the word "commission."

Which was agreed to, and the bill was ordered engrossed.

Senate Memorial to the Postmaster-General of the United States,

Was read the third time.

Upon the question—Shall the memorial be adopted?

The vote was—

Yeas—Messrs. Billings, Crawford, Dennis, Eagan, Fortner, Ginn, Hill, Jenkins, Johnson, Long, McAuley, McCaskill, McKinnon, Meacham, Oliveros, Pearce, Pope, Potter, Smith, Sturtevant, and Sutton—21.

Nays—None.

So the memorial was adopted.

Senate Memorial to the Congress of the United States, relating to a Mail Route from Monticello to Thomasville,

Was read the third time.

Upon the question—Shall the memorial be adopted?

The vote was—

Yeas—Messrs. Billings, Crawford, Dennis, Eagan, Fortner,

Ginn, Hill, Jenkins, Johnson, Long, McAuley, McCaskill, McKinnon, Meacham, Oliveros, Pearce, Pope, Potter, Smith, Sturtevant, and Sutton—21.

Nays—None.

So the memorial was adopted.

Mr. Dennis moved that the rules be waived in reference to all bills on their first reading in the orders of to-day, and that they be read by their titles and referred to their appropriate committees;

Which was unanimously agreed to.

Under the above order the following bills were read the first time by their titles:

Senate Bill No. 60:

Entitled An act in Relation to the Time of Holding the Courts in the Fourth Judicial Circuit of Florida,

And referred to the Committee on Judiciary.

Senate Bill No. 61:

An act to amend An act entitled an act of Limitations in Civil Suits; approved February 27, 1872,

And referred to the Committee on Judiciary.

Senate Bill No. 63:

A bill to be entitled An act in relation to Rates of Pilotage, And referred to the Committee on Commerce and Navigation.

Senate Bill No. 62:

A bill to be entitled An act to Authorize Justices of the Peace of Pope County to Record Marks and Brands,

And referred to the Committee on Judiciary.

Senate Bill No. 64:

A bill to be entitled An act Allowing Joel Swain to Peddle in the Counties of Polk and Sumter Without Payment of Tax,

And referred to the Committee on Finance and Taxation.

Senate Bill No. 65:

A bill to be entitled An act to Incorporate the Jacksonville Publishing Company,

And referred to the Committee on Corporations.

Senate Joint Resolution for the adoption by Congress of a Postal Telegraph System,

And referred to the Committee on Railroads and Telegraphs.

Assembly Joint Memorial to the Congress of the United States for a Mail-route from Brooksville to Tampa,

Was read and referred to the Committee on State Affairs.

Assembly Memorial for the Establishment of a Post-route from Tampa to Fort Ogden,

Was read and referred to the Committee on State Affairs.

Under a suspension of the rules Mr. Potter introduced a memorial to the Postmaster-General of the United States,

Which was placed among the orders of the day.

Under a suspension of the rules Mr. Oliveros introduced Senate Bill No. 66, An act to Provide for the Pay of Assistant State Attorneys,

Which was placed among the orders of the day.

Under a suspension of the rules Mr. Jenkins introduced Senate Bill No. 67, An act to amend an act entitled an act for the Assessment and Collection of Revenue, which became a law February 29, 1872, without the approval of the Governor,

Which was placed among the orders of the day.

Under a suspension of the rules the Committee on Appropriations made the following reports:

SENATE CHAMBER, February 10, 1873.

*Hon. M. L. Stearns, President of the Senate:*

SIR: Your committee to whom was referred Assembly Resolution to Appoint a Delegate to the National Agricultural Convention, beg leave to report that they have examined the same and recommend that it be passed.

Respectfully,

H. JENKINS,

Chairman Senate Committee on Appropriations.

SENATE CHAMBER, February 10, 1873.

*Hon. M. L. Stearns, President of the Senate:*

SIR: Your committee to whom was referred Assembly Bill No. 16, a bill to be entitled An act to Make Appropriations for Deficiencies in the Appropriations for the Expenses of the State for the fiscal year ending December 31, 1872, beg leave to report that they have examined the same and recommend that the bill be referred to the Joint Committee on Appropriations.

Respectfully,

H. JENKINS,

Chairman Committee on Appropriations.

SENATE CHAMBER, February 10, 1873.

*Hon. M. L. Stearns, President of the Senate:*

SIR: Your committee to whom was referred Senate Bill No. 56, to be entitled An act for the Relief of J. W. Childs, beg leave to report that they have examined the same, and recommend that the bill be indefinitely postponed.

Respectfully,

H. JENKINS,

Chairman Committee on Appropriations.

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

Under a suspension of the rules the Committee on Corporations made the following report:

SENATE CHAMBER, February 10, 1873.

*Hon. M. L. Stearns, President of the Senate:*

SIR: Your committee to whom was referred Senate Bill No. 22, a bill to be entitled An act to amend an act entitled an act to Incorporate the Germania Fire Company of Pensacola, beg leave to report that they have examined the same, and recommend that it be passed.

Respectfully,

H. JENKINS,  
Chairman Committee on Corporations.

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

Under a suspension of the rules Mr. McKinnon introduced Senate Bill No. 68:

An act for the Relief of Albert Pasey;

Which was placed among the orders of the day.

Mr. Dennis moved that the Senate do now adjourn until tomorrow at 10 o'clock A. M.

Which was not agreed to.

Under a suspension of the rules Mr. Jenkins introduced the following concurrent resolution:

WHEREAS, Progress in the investigation thus far made by the joint committee appointed to inquire into the acts and doings of the late Board of Trustees of the Internal Improvement Fund, render it necessary that the committee employ a clerk; therefore

*Resolved by the Senate, the Assembly concurring,* That the said committee is hereby authorized to employ a clerk at such rate of compensation as may be determined by the committee;

Which was read and adopted.

On motion of Mr. Long, the Senate went into Executive session.

EXECUTIVE SESSION.

The Senate refused to confirm the following nominations:

W. B. Jones, to be County Judge of Washington county.

John A. Vaughn, to be Clerk of the Circuit Court of Holmes county.

A. M. Vaughn, to be Sheriff of Holmes county.

W. D. Owens, to be Clerk of the Circuit Court of Washington county.

E. P. Melvin, to be Sheriff of Washington county.

E. P. Melvin, to be Collector of Revenue of Washington county.

A. M. Skepper, to be Assessor of Revenue of Washington county.

On motion of Mr. McCaskill the nominations rejected on the 7th be reported in to-day's journals, which are as follows:

A. J. Gillis, to be Clerk of the Circuit Court of Walton county.

M. M. Morrison, to be Tax Assessor and Collector of Walton county.

The doors were opened.

Under a suspension of the rules, Mr. Potter introduced a memorial requesting the construction of one or more of the proposed eight new sloops of war at the Pensacola Navy-yard.

Which was placed among the orders of the day;

On motion of Mr. Dennis, the Senate adjourned until tomorrow at 10 o'clock A. M.

TUESDAY, FEBRUARY 11, 1873.

The Senate met pursuant to adjournment.

The Lieutenant-Governor in the chair.

The roll was called and the following Senators answered to their names:

Messrs. Crawford, Eagan, Fortner, Ginn, Hill, Jenkins, Johnson, Knight, McAuley, McCaskill, McKinnon, Meacham, Oliveros, Pearce, Pope, Smith, Sturtevant, and Sutton—18.

Prayer by the Chaplain.

On motion of Mr. McKinnon the reading of the journal was dispensed with and approved.

The Committee on Claims made the following report:

SENATE CHAMBER, February 11, 1873.

*Hon. M. L. Stearns, President of the Senate:*

SIR: Your committee to whom was referred the claim of B. C. Lewis, beg leave to report as follows:

That they have examined said claim and find that there is due him up to the 12th instant, to which time his account is stated, the sum of \$5,604.62 in United States currency, or, in State scrip, at its present market value, the sum of \$8,622.46; that from information before your committee this claim is based upon a loan to the State through the late Comptroller, R. H. Gamble, for the purpose of procuring provisions for the State prisoners at the Penitentiary, and at a time when, to have used scrip for these provisions, would have been very detrimental to the public interests, as it was then worth only about thirty to thirty-three cents on the dollar.

Your committee recommend that the claim be allowed, and there being no currency in the Treasury to pay said claim, that the Comptroller be required and directed to draw his warrant upon the Treasury for the sum of \$8,622.46, or so much thereof