

Mr. Cottrell moved that all further proceedings under the call be suspended ;

Which was agreed to.

Mr. Smith moved that the Senate now adjourn.

On the question of adjournment a division was called for which showed the matter determined in the affirmative.

So the Senate was declared adjourned until 10 o'clock to-morrow.

TUESDAY, FEBRUARY 23, 1875.

The Senate met pursuant to adjournment.

The President *pro tem.* in the chair.

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

Mr. President, Messrs. Brantley, Cottrell, Crawford, Hendry, Hill, Johnson, Knight, McAuley, Oliveros, Osgood, Parlin, Pope, Smith, and Sturtevant—15.

A quorum present.

Reading of the Journal of yesterday.

The Journal was read and approved.

Mr. Dennis moved to take up the resolution introduced by him on the 26th ult. with reference to the seat of Mr. McAuley.

The Chair ruled the motion of Mr. Dennis out of order, and ruled that the unfinished business of yesterday was the first thing in order.

Mr. Cottrell moved to proceed with the unfinished business of yesterday.

Mr. Dennis having inquired what that was, the Chair stated that it was the taking up of the majority report of the Committee on Privileges and Elections.

Mr. Long moved that the further consideration of the matter be postponed until to-morrow at 11 o'clock.

On the question of postponing the yeas and nays were called for.

While the roll was being called Mr. Cottrell objected to Mr. Sturtevant voting on the question.

The Chair decided that Mr. Sturtevant had not the right to vote.

Mr. Dennis objected to the Chair depriving any member of the right to vote.

The Chair suggested that it would be in order to take the sense of the Senate on the matter.

Mr. Dennis moved that Mr. Sturtevant be allowed to vote.

On the question of Mr. Sturtevant voting the yeas and nays were called with the following result :

Those voting in the affirmative were—
Messrs. Dennis, Durkee, Hill, Howell, Johnson, Long, Meacham, Osgood, Parlin, Pope, and Wallace—11.

Those voting in the negative were—
Mr. President, Messrs. Brantley, Cottrell, Crawford, Fortner, Hendry, Knight, Lykes, McAuley, McKinnon, Oliveros, and Smith—12.

So Mr. Sturtevant was not allowed to vote.
Mr. Dennis objected to Mr. McAuley being allowed to vote.
The Chair ruled that Mr. McAuley had the right to vote.
Mr. Dennis appealed from the decision of the Chair.

Pending the calling of the roll on the appeal, the following messages were received from the Assembly :

ASSEMBLY HALL,
TALLAHASSEE, Fla., February 22, 1875. }

Hon. A. L. McCaskill, President pro tem. of the Senate :

SIR: I am directed by the Assembly to inform the Senate that the Assembly has this day passed—

Assembly Bill No. 131 :

An act entitled An act to Amend and Revise Chapter One Hundred and Thirty-four of the Laws of Florida Relative to Quarantine ;

Assembly joint resolution relative to the issue of the four millions of eight per cent. bonds ;

Also, has indefinitely postponed—

Senate Bill No. 61 :

A bill to be entitled An act to Encourage the Civilization of the Seminole Indians ;

And refused to pass—

Senate Bill No. 16 :

A bill to Perpetuate Testimony Relating to Property Sold for United States Direct Taxes for the Years 1863, 1864, 1865, and to Quiet the Titles to the same.

Very respectfully,

H. S. HARMON,
Clerk Assembly.

ASSEMBLY HALL,
TALLAHASSEE, Fla., February 22, 1875. }

Hon. A. L. McCaskill, President pro tem. of the Senate :

SIR: I am directed by the Assembly to inform the Senate that the Assembly has this day passed—

Assembly Bill No. 91 :

To be entitled An act to Incorporate the Hawkinsville and Fort Mason Railroad Company ;

And Senate Bill No. 26 :

To be entitled An act to Provide for the Taking of the Cen-

sus of the State of Florida, with Amendments to Sections One and Five; also, an Additional Section as Section Five, and respectfully ask the concurrence of the Senate thereto.

Very respectfully,

H. S. HARMON,
Clerk Assembly.

ASSEMBLY HALL,
TALLAHASSEE, Fla., February 22, 1875. }

Hon. A. L. McCaskill, President pro tem. of the Senate:

SIR: I am directed by the Assembly to inform the Senate that the Assembly has this day passed—

Assembly Bill No. 141, to be entitled An act Directing the Treasurer to Transfer a Certain Amount of Funds from the General Interest and Sinking Fund to the Fund Applicable to the Ordinary Expense of the State.

Very respectfully,

H. S. HARMON,
Clerk Assembly.

ASSEMBLY HALL,
TALLAHASSEE, Fla., February 22, 1875. }

Hon. A. L. McCaskill, President pro tem. of the Senate:

SIR: I am directed by the Assembly to inform the Senate that the Assembly has this day passed—

Assembly Bill No. 115:

To be entitled An act to Incorporate the Leesburg and St. Johns Railroad Company;

Assembly Bill No. 123:

To be entitled An act for the Relief of Thomas F. King;

Assembly Bill No. 154:

To be entitled An act to Amend Section Nine of An act entitled an act Relative to Jurors, approved August 1, 1868.

Very respectfully,

H. S. HARMON,
Clerk Assembly.

On the question, Shall the Chair be sustained?

The roll was called with the following result:

Those voting in the affirmative were—

Messrs. Brantley, Cottrell, Crawford, Fortner, Hendry, Knight, Lykes, McAuley, McKinnon, Oliveros, and Smith—11

Those voting in the negative were—

Messrs. Dennis, Durkee, Hill, Howell, Johnson, Long, Meacham, Osgood, Parlin, Pope, and Wallace—11.

So the Chair was not sustained.

On the motion of Mr. Long to postpone until to-morrow, the calling of the roll was completed as follows:

Those voting in the affirmative were—
Messrs. Dennis, Durkee, Hill, Howell, Johnson, Long, Meacham, Osgood, Parlin, Pope, and Wallace—11.

Those voting in the negative were—
Mr. President, Messrs. Brantley, Cottrell, Crawford, Fortner, Hendry, Knight, Lykes, McAuley, McKinnon, Oliveros, and Smith—12.

Mr. Wallace moved that the vote of the Senator from the Eleventh District be excluded from the count.

The Chair ruled Mr. Wallace's motion out of order.

Mr. Wallace appealed from the decision of the Chair.

Pending the calling of the roll on the appeal the following message was received from the Assembly :

ASSEMBLY HALL,
TALLAHASSEE, Fla., February 23, 1875. }

Hon. A. L. McCaskill, President pro tem. of the Senate :

SIR: I am directed to inform the Senate that the following bills have been signed by the Speaker and Chief Clerk of the Assembly, to wit :

1. Joint resolution to provide for the submission of certain proposed amendments to the Constitution of the State of Florida to the people thereof.
2. An act to amend an act entitled An act for the Incorporation of Cities and Towns.
3. An act to Amend Section Nine of the Laws of Florida.
4. An act to Empower Executors and Administrators to Sell the Real Estate of their Testators and Intestates.
5. An act for the Relief of L. B. Sutton and others.
6. An act Making Appropriations to Supply Deficiencies.

Very respectfully,

H. S. HARMON,
Clerk Assembly.

On the question, Shall the Chair be sustained ?

The roll was called with the following result :

Those voting in the affirmative were—
Messrs. Brantley, Cottrell, Crawford, Fortner, Hendry, Knight, Lykes, McKinnon, Oliveros, and Smith—10.

Those voting in the negative were—
Messrs. Dennis, Durkee, Hill, Howell, Johnson, Long, Meacham, Osgood, Parlin, Pope, Sturtevant, and Wallace—12.

So the Chair was not sustained.

The President announced the signing of the following enrolled bills :

1. Joint resolution to provide for the submission of certain proposed amendments to the Constitution of the State of Florida to the people thereof.

2. An act to amend an act entitled An act for the Incorporation of Cities and Towns.

3. An act to amend Section Nine of the Laws of Florida.

4. An act to Empower Executors and Administrators to Sell the Real Estate of their Testators and Intestates.

5. An act for the Relief of L. B. Sutton and others.

6. An act Making Appropriations to Supply Deficiencies.

The Senate refused to postpone until 11 o'clock to-morrow.

Pending the calling of the roll on the question of Mr. McAuley's right to vote, the Chair ruled that the Senator from the Twenty-first had a right to vote.

Mr. McKinnon appealed from the decision of the Chair.

On the question, Shall the Chair be sustained?

The yeas and nays were called with the following result:

Those voting in the affirmative were—

Messrs. Dennis, Durkee, Hill, Howell, Johnson, Long, Meacham, Oliveros, Osgood, Parlin, Pope, Smith, and Wallace—13.

Those voting in the negative were—

Messrs. Brantley, Cottrell, Crawford, Fortner, Hendry, Knight, Lykes, McAuley, and McKinnon—9.

So the decision of the Chair was sustained.

Mr. Osgood moved that the whole matter be made the special order for 10 o'clock to-morrow.

On the question of making the matter the special order, the yeas and nays were called with the following result:

Those voting in the affirmative were—

Messrs. Dennis, Durkee, Hill, Howell, Johnson, Long, Meacham, Osgood, Parlin, Pope, and Wallace—11.

Those voting in the negative were—

Mr. President, Messrs. Brantley, Cottrell, Crawford, Fortner, Hendry, Knight, Lykes, McKinnon, Oliveros, and Smith—11.

So the motion was not agreed to.

Mr. Dennis moved that the whole matter be postponed until 5 o'clock this evening;

On which the yeas and nays were called with the following result:

Those voting in the affirmative were—

Messrs. Dennis, Durkee, Hill, Howell, Johnson, Long, Meacham, Osgood, Parlin, Pope, and Wallace—11.

Those voting in the negative were—

Mr. President, Messrs. Brantley, Cottrell, Crawford, Fortner, Hendry, Knight, Lykes, McKinnon, Oliveros, and Smith—11.

So the motion was not agreed to.

Mr. McKinnon moved to postpone the matter until one minute of 12.

Mr. Dennis moved to amend by postponing until one minute to 5 o'clock;

On which the yeas and nays were called with the following result :

Those voting in the affirmative were—

Messrs. Brantley, Cottrell, Crawford, Fortner, Hendry, Knight, Lykes, Oliveros, and Smith—9.

Those voting in the negative were—

Messrs. Dennis, Hill, Howell, Johnson, Long, Meacham, Osgood, Parlin, Pope, and Wallace—10.

Which was not agreed to.

Mr. Meacham moved to postpone the matter until five minutes to 5 o'clock.

On which the yeas and nays were called with the following result :

Those voting in the affirmative were—

Messrs. Dennis, Durkee, Hill, Howell, Johnson, Long, Meacham, Osgood, Parlin, Pope, and Wallace—11.

Those voting in the negative were—

Mr. President, Messrs. Brantley, Cottrell, Crawford, Fortner, Hendry, Knight, Lykes, McKinnon, Oliveros, and Smith—11.

So the motion was not agreed to.

Mr. Parlin moved to adjourn ;

On which the yeas and nays were called with the following result :

Those voting in the affirmative were—

Messrs. Dennis, Durkee, Hill, Howell, Johnson, Long, Meacham, Osgood, Parlin, Pope, Sturtevant, and Wallace—12.

Those voting in the negative were—

Mr. President, Messrs. Brantley, Cottrell, Crawford, Fortner, Hendry, Knight, Lykes, McAuley, McKinnon, Oliveros, and Smith—12.

So the Senate refused to adjourn.

Mr. Meacham moved that the matter be postponed until six minutes to 5 o'clock ;

On which the yeas and nays were called with the following result :

Those voting in the affirmative were—

Messrs. Dennis, Durkee, Hill, Howell, Johnson, Long, Meacham, Osgood, Parlin, Pope, and Wallace—11.

Those voting in the negative were—

Mr. President, Messrs. Brantley, Cottrell, Crawford, Fortner, Hendry, Knight, Lykes, McKinnon, Oliveros, and Smith—11.

Mr. Hendry moved that no dilatory motion be entertained until the case now before the Senate, in which the Senator from the Twenty-first is interested, be disposed of.

Mr. Wallace offered the following amendment to the motion of Mr. Hendry :

Also in which case the Senator from the Eleventh is interested.

Mr. Wallace withdrew his amendment.

On the motion that no dilatory motion be entertained, the yeas and nays were called with the following result:

Those voting in the affirmative were—

Mr. President, Messrs. Brantley, Cottrell, Crawford, Fortner, Hendry, Knight, Lykes, McAuley, McKinnon, Oliveros, and Smith—12.

Those voting in the negative were—

Messrs. Dennis, Durkee, Hill, Howell, Johnson, Long, Meacham, Osgood, Parlin, Pope, and Wallace—11.

Objection being made to the reception of the vote of the Senator from the Eleventh, and the Chair ruled that the Senator from the Eleventh was entitled to vote, but that the Senator from the Twenty-first was not entitled to vote on the motion of Mr. Hendry.

Mr. Wallace appealed from the ruling of the Chair.

On the question, Shall the Chair be sustained?

The roll was called with the following result:

Those voting in the affirmative were—

Messrs. Brantley, Cottrell, Crawford, Fortner, Hendry, Knight, Lykes, McKinnon, Oliveros, and Smith—10.

Those voting in the negative were—

Messrs. Dennis, Durkee, Hill, Howell, Johnson, Long, Meacham, Osgood, Parlin, Pope, and Wallace—11.

So the Chair was not sustained, and Mr. McAuley's vote being rejected the motion of Mr. Hendry was lost.

Mr. Parlin moved that the Senate now adjourn.

On the question of adjournment a division was called for which showed the matter determined in the affirmative.

So the Senate was declared adjourned until 4 o'clock.

FOUR O'CLOCK.

The Senate met pursuant to adjournment.

The President *pro tem.* in the chair.

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

Mr. President, Messrs. Brantley, Cottrell, Crawford, Dennis, Durkee, Fortner, Hendry, Hill, Howell, Johnson, Long, Lykes, McAuley, McKinnon, Meacham, Oliveros, Osgood, Parlin, Pope, Smith, Sturtevant, and Wallace—23.

A quorum present.

The Chair announced that he had appointed Messrs. Crawford and Howell to act with members of the Assembly as joint committee to examine the Comptroller's office.

The following messages were received from the Assembly :

ASSEMBLY HALL,
TALLAHASSEE, Fla., February 23, 1875. }

Hon. A. L. Mc Caskill, President pro tem. of the Senate :

SIR: I am directed by the Assembly to inform the Senate that the Assembly has this day passed Assembly Bill No. 58, a bill to be entitled An act for the Relief of Homer Bryan.

Very respectfully,

H. S. HARMON,
Clerk Assembly.

ASSEMBLY HALL,
TALLAHASSEE, Fla., February 23, 1875. }

Hon. A. L. Mc Caskill, President pro tem. of the Senate :

SIR: I am directed by the Assembly to inform the Senate that the Assembly has this day passed—

Assembly Bill No. 148:

To be entitled An act to Re-establish the Records of Bradford County;

Also:

Senate Bill No. 15:

A bill to be entitled An act Relating to Proceedings before Justices of the Peace and Judgments of Justices' Courts.

Respectfully,

H. S. HARMON,
Clerk Assembly.

And the accompanying bills placed among the orders of the day.

The President announced that the unfinished business of the Senate was the next thing in order.

Mr. Parlin moved that the further consideration of the majority report of the Committee on Privileges and Elections be postponed until three minutes of 5 o'clock;

On which the yeas and nays were called with the following result:

Those voting in the affirmative were—

Messrs. Howell, Long, Osgood, Parlin, Pope, and Wallace—6.

Those voting in the negative were—

Messrs. Brantley, Cottrell, Crawford, Dennis, Durkee, Fortner, Hendry, Hill, Johnson, Knight, Lykes, McKinnon, Meacham, Oliveros, and Smith—15.

So the motion was not agreed to.

The following messages were then received from the Assembly:

ASSEMBLY HALL, }
TALLAHASSEE, Fla., February 23, 1875. }

Hon. A. L. McCaskill, President pro tem. of the Senate:

SIR: I am directed by the Assembly to inform the Senate that the Assembly has passed Senate Bill No. 65, An act to Convert Certain School and Seminary into Bonds Authorized to be Issued by an Act of February 21, 1873.

Very respectfully,

H. S. HARMON,
Clerk Assembly.

ASSEMBLY HALL, }
TALLAHASSEE, Fla., February 23, 1875. }

Hon. A. L. McCaskill, President pro tem. of the Senate:

SIR: I am directed by the Assembly to inform the Senate that the Assembly has this day passed Assembly Bill No. 151, a bill to be entitled An act Making Appropriations for Defraying the Expenses of the State Government for the Year 1875, and for other purposes.

Very respectfully,

H. S. HARMON,
Clerk Assembly.

Mr. Johnson moved to postpone the matter before the Senate and take up the appropriation bill.

Mr. Dennis moved to suspend the matter now before the Senate until the minority report of the Committee on Privileges and Elections be read;

On which the yeas and nays were called with the following result:

Those voting in the affirmative were—

Mr. President, Messrs. Dennis, Fortner, Hendry, Hill, Howell, Johnson, Long, Lykes, McKinnon, Meacham, Oliveros, Osgood, Parlin, Pope, Smith, Sturtevant, and Wallace—18.

Those voting in the negative were—

Messrs. Brantley, Cottrell, Crawford, Durkee, Knight, and McAuley—6.

So the motion was not agreed to.

The following minority report was then received and read:

SENATE CHAMBER, }
TALLAHASSEE, Fla., February 20, 1875. }

Hon. A. L. McCaskill, President pro tem. of the Senate:

SIR: Your committee, to whom was referred the petition of Israel M. Stewart, who contests the seat of E. T. Sturtevant, sitting member from the Twenty-first Senatorial District, beg leave to submit the following report. The committee find the facts to be as follows:

At the general election held in Dade county on November 5, 1872, thirty persons voted. The inspectors of said election were E. T. Sturtevant, the sitting member, Jesse Bennett, and one Wagner. Only one precinct was held in the county, which was known as the Sears precinct. At said precinct Peter Johnson, Michael Axer, and Simon Frow, all three being foreigners, voted. They were asked and required to produce before voting their papers of naturalization, as required by section three of article fourteen of the Constitution of Florida, which reads as follows:

"At any election at which a citizen or subject of any foreign country shall offer to vote under the provisions of this Constitution, he shall present to the persons lawfully authorized to conduct and supervise such election, a duly sealed and certified copy of his declaration of intention, otherwise he shall not be allowed to vote; and any naturalized citizen offering to vote shall produce before said persons lawfully authorized to conduct and supervise the election, the certificate of naturalization or a duly sealed and certified copy thereof, otherwise he shall not be permitted to vote."

The said Johnson, Axer, and Frow were unable to do this when their votes were challenged by William H. Gleason, but were, nevertheless, received. It also appears that E. T. Sturtevant, as one of the inspectors, remonstrated against the reception of the said three votes. These were, nevertheless, received by the order of the other two inspectors, Bennett and Wagner, and the return from said precinct was duly returned to the Board of County Canvassers. But said precinct return was signed under protest by said Sturtevant, and appended to said precinct return was a certificate signed by Sturtevant, Wagner, and Bennett, the inspectors in which it is acknowledged that Johnson, Axer, and Frow were foreigners, and that they voted in violation of the Article of the Constitution above referred to. It is also exhibited beyond any doubt that Johnson, Axer, and Frow voted for one Israel Stewart. In addition to the protest of E. T. Sturtevant which accompanied the Sears precinct return, we find a petition signed by William H. Gleason accompanying the return and addressed to the County Canvassers, setting forth the facts above stated. When the county canvass was made the County Canvassers rejected the votes of Johnson, Axer, and Frow, which left the returns as follows: Whole number of votes for State Senator, twenty-seven, of which number E. T. Sturtevant received fourteen, Israel Stewart twelve, and Israel M. Stewart one.

It will be seen from the above that Israel M. Stewart, the contestant, only received one vote in Dade county. It would have

been proper for the contestant to have shown by evidence (if such was the case) that the twelve votes given for Israel Stewart were intended for him, but no such attempt has been made, and we are forced to the conclusion that the said contestant does not claim in Dade county the twelve votes returned for Israel Stewart. We have already referred to the fact that the votes of Johnson, Axer, and Frow, which were cast for Israel Stewart, were rejected because they, being foreigners, did not exhibit their naturalization papers as required by the Constitution. Attached to the petition of Israel M. Stewart, contestant, are the naturalization papers of Johnson, Axer, and Frow. But we are of the opinion the attaching of these papers now avail nothing. We have seen the Constitution is emphatic, and requires, without any ifs or ands, that naturalization papers and declaration of intention must be exhibited by aliens before voting. In this case it is evident that Johnson, Axer, and Frow failed to produce evidence of their citizenship; that their votes were challenged, but that they, nevertheless, voted, and that their votes which were cast for Stewart were ultimately rejected. The point has been urged in behalf of Mr. Stewart inasmuch as the naturalization papers of these parties are now produced that their votes now become legal. Unfortunately for the contestant, his plea is not a good one. In Brightly, Leading Cases on Election, pages 92 and 93, we find the following language used: "But the modern and better opinion seems to be that such votes being illegal when received cannot be made legal by the production of evidence of qualification on the trial which ought to have been, but was not, produced to the election officers." Sheppard vs. Gibbons, 2 Breust, 129. In same work, page 558, which reads as follows: "A vote *prima facie* illegal must be disallowed if the vote did not at the time of offering it produce the preliminary proof required by law."

From the above authorities, and these are conclusive upon the subject, it will appear that the inspectors had no right to receive the votes of Johnson, Axer, and Frow, and that when said votes were thrown out by the County Canvassers, E. T. Sturtevant, the sitting member, received a legal and constitutional majority of all the votes cast. Your committee would not recommend the Senate to reverse, for a mere technicality, the action of the County Canvassers, and give the seat now occupied by E. T. Sturtevant to Israel M. Stewart.

Your committee would now report another point. From the evidence and county canvass it would appear that Israel M. Stewart, the contestant, received but one vote in Dade county, while Israel Stewart received twelve and E. T. Sturtevant thirteen. Your committee are free to acknowledge that it would have been legal for the contestant, Israel M. Stewart, to have

proven that the twelve votes cast for Israel Stewart were designed for him, but no proof of this kind was offered before your committee, and, in its absence, your committee must conclude that Israel M. Stewart, the contestant, does not claim the twelve votes given for Israel Stewart.

Your committee find this question amply settled in the case of Carpenter vs. Ely, which was a case in the Supreme Court of Wisconsin. See Brightly, Leading Cases on Election, 258 to 268, in which it appears that in the town of Turtle, for the office of Attorney-General, Geo. B. Ela received ninety-eight votes, Ely Ely one vote, Ely three votes, Matthew D. Carpenter, the relator, 1,081 votes, D. M. Carpenter four votes, M. D. Carpenter two votes, M. T. Carpenter one vote, Carpenter one vote. In this case the court held that it was admissible for the respondent, Geo. B. Ely, to show that the votes cast for Geo. B. Ela, for Ely Ely, and for Ely were intended for the respondent, and the votes cast for Matthew H. Carpenter, the relator, under the initials D. M. Carpenter, M. D. Carpenter, M. T. Carpenter, and for Carpenter were intended for the said relator, Matthew H. Carpenter. Your committee is well aware that such is the law, and that it would have been competent for Israel M. Stewart, contestant, to have shown that he was entitled to the twelve votes cast in Dade county. But as he has not done so, the committee cannot do it for him, and the committee must therefore report from the evidence before them that contestant received but one vote in Dade county. But should the Senate differ with the committee it will be discovered that after the rejection of the votes of Axer, Johnson and Frow, which were received in violation of the Constitution, that the contestant still lacks votes enough, as far as the election in Dade county is concerned, to entitle him to a seat in this body. The conclusion to which your committee has arrived at as far as Dade county is concerned, is this: The votes of Johnson, Axer, and Frow, which have been proven as cast for Israel Stewart, State Senator, were received in violation of the Constitution, and should have been rejected. Israel M. Stewart, the contestant, received but one vote, and if he had desired to have credit for the twelve votes cast for Israel Stewart, he should have established to the satisfaction of your committee that said twelve votes were cast for him, the contestant.

Your committee therefore report that as far as the election in Dade county is concerned, the contestant has no right to a seat in this Senate as a representative from the Twenty-first District.

As regards the election in Brevard county, your committee would report that there has been nothing before them to show that an election was held in said county on the 5th day of No-

vember, 1872. A paper has been introduced by the contestant purporting to be a return from Brevard county. It is signed by one J. Quincy Stewart, Sheriff of Brevard county, Alexander A. Stewart, Clerk of the Circuit Court of Brevard county, and R. C. Willard, a Justice of the Peace. A certificate is appended to said purported return to which no public seal is appended, no marks of filing are upon the reported returns, and there is nothing connected with said paper or document to indicate that it ever received any official recognition even in Brevard county—in other words your committee has no evidence before them to indicate that the return which has been presented from Brevard county is anything else than a private paper. Any person could present to your committee a similar one. The committee understands the rule of law to be that in a case like this if there is no public seal of office, evidence must be produced to show that the persons who executed it have the authority to act in an official capacity, and in this case no evidence has been offered by the contestant to show that Alexander A. Stewart, who certifies to the reported return, is the clerk of Brevard county, or that his genuine signature is attached thereto, and even if contestant had shown that the Alexander A. Stewart was clerk, inasmuch as the seal attached is a private one, the signature of said clerk would have to be proven. Your committee again report that there has been no evidence before them to show that the reported return from Brevard county is anything more than a private paper.

The contestant has had all the time he required to make out his case if he had one, and if he has failed to do so, and your committee are of the opinion he has, the result is with him and not with your committee. Your committee therefore offers the following resolution, and ask its adoption.

Resolved, That in the matter of the contested election of Israel M. Stewart vs. E. T. Sturtevant, for the Twenty-first Senatorial District, that E. T. Sturtevant has been duly, legally, and constitutionally elected Senator from the Twenty-first Senatorial District, and is entitled to retain his seat in this body.

FREDERICK HILL.

The Committee on Enrolled Bills made the following report :

SENATE CHAMBER,
TALLAHASSEE, Fla., February 23, 1875. }

Hon. A. L. Mc Caskill, President of the Senate :

SIR: The Committee on Enrolled Bills, to whom was referred—

Senate Bill No. 2:

An act for the Relief of William F. Robertson ;

Also:

Senate Bill No. 46 :

An act to amend section two of An act to Provide for the Organization and Government of the Supreme Court ;

Also :

Concurrent resolution requesting the Comptroller to furnish a list of defaulting tax collectors and amount of defalcations ; have examined the same and find them correctly enrolled.

Respectfully submitted,

M. A. KNIGHT, Chairman.

The President announced the signing of the following enrolled bills :

Senate Bill No. 2 :

An act for the Relief of William F. Robertson ;

Also :

Senate Bill No. 46 ;

An act to amend section two of An act to Provide for the Organization and Government of the Supreme Court ;

Also :

Concurrent resolution requesting the Comptroller to furnish a list of defaulting tax collectors and amount of defalcation.

Mr. Dennis moved the adoption of the minority report.

The Chair ruled that the motion of Mr. Dennis was out of order ; and, also, that even after the rejection of the majority report it would not be competent for the Senate to take up the minority report.

Mr. Johnson renewed his motion to postpone the matter and take up the appropriation bill.

Pending the consideration of which Mr. Cottrell moved a call of the Senate.

On which the yeas and nays were called with the following result :

Those voting in the affirmative were—

Mr. President, Messrs. Brantley, Cottrell, Crawford, Fortner, Hendry, Knight, McAuley, Oliveros, and Smith—10.

Those voting in the negative were—

Messrs. Dennis, Howell, Johnson, Long, Meacham, Osgood, Pope, Sturtevant, and Wallace—10.

So the call of the Senate was not agreed to.

On the motion of Mr. Johnson the yeas and nays were called with the following result :

Those voting in the affirmative were—

Messrs. Dennis, Hill, Howell, Johnson, Long, Meacham, Osgood, Pope, Sturtevant, and Wallace—10.

Those voting in the negative were—

Mr. President, Messrs. Brantley, Cottrell, Crawford, Fortner, Hendry, Knight, McAuley, Oliveros, and Smith—10.

So the motion was not agreed to.

Mr. Meacham moved that the Senate adjourn *sine die*.

The Chair ruled the motion out of order.

Mr. Howell moved that the Senate do now adjourn;

On which the yeas and nays were called with the following result :

Those voting in the affirmative were—

Mr. President, Messrs. Dennis, Hill, Howell, Johnson, Long, Meacham, Osgood, Pope, Sturtevant, and Wallace—11.

Those voting in the negative were—

Messrs. Brantley, Cottrell, Crawford, Fortner, Hendry, Knight, McAuley, Oliveros, and Smith—9.

So the Senate was declared adjourned until 10 o'clock tomorrow.

WEDNESDAY, FEBRUARY 24, 1875.

The Senate met pursuant to adjournment.

The President *pro tem.* in the chair.

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

Mr. President, Messrs. Brantley, Cottrell, Crawford, Dennis, Durkee, Fortner, Hendry, Hill, Howell, Johnson, Knight, Long, Lykes, McAuley, McKinnon, Meacham, Oliveros, Osgood, Pope, Smith, and Sturtevant—22.

A quorum present.

Prayer by the Chaplain.

Reading of the Journal.

Mr. Oliveros moved that the further reading of the Journal be dispensed with ;

Which was agreed to, and the correction of the Journal was in order.

The Private Secretary of the Governor appeared at the bar of the Senate with a message from the Governor.

The following messages were received from the Assembly :

ASSEMBLY HALL,
TALLAHASSEE, Fla., February 23, 1875. }

Hon. A. L. McCaskill, President pro tem. of the Senate :

SIR : I am directed by the Assembly to inform the Senate that the Assembly has this day passed—

Assembly Bill No. 13 :

A bill to be entitled An act Relating to the Bond of State and County Officers ;

Assembly Bill No. 39 :

A bill to be entitled An act for the Apportionment, Qualification, and Duties of Coroners ;