

Mr. McKinnon withdrew his motion to suspend the rule.  
 Mr. Meacham moved that the bill be made the special order for half-past ten to-morrow;  
 Which was agreed to.  
 Mr. Osgood moved to adjourn;  
 Which was agreed to.

## REMOVALS.

Horatio Jenkins, as Assessor of Revenue of Duval county.  
 E. B. Simmons, Alexander Wallace, Thomas S. Ehs, as Pilot Commissioners for the port of Jacksonville.  
 J. H. Mann, as Sheriff of Putnam county.  
 W. C. Snow, as Clerk of Putnam county.  
 Wm. Thompson, County Judge of Putnam county.  
 Geo. J. Arnow, as State Attorney for the Fifth Judicial District.  
 T. S. Stearns, from the office of Clerk of the Circuit Court of Gadsden county.

## CONFIRMATIONS.

Henry J. Stewart, to be County Judge of Hamilton county.  
 Uriah Bowden, to be Sheriff of Duval county.  
 Thomas E. Buckman, to be Clerk of Duval county.  
 Joshua L. Burch, to be Assessor of Duval county.  
 Wm. F. Forward, to be Clerk of Putnam county.  
 Tippoo S. Haughton, to be County Judge of Putnam county.  
 L. G. Sibley, to be Sheriff of Putnam county.  
 Robert Bullock, to be State Attorney for the Fifth Judicial District.  
 Robert F. Jones, to be Clerk of Gadsden county.

TUESDAY, January 23, 1877.

The Senate met pursuant to adjournment.  
 Mr. Cottrell in the chair.  
 The roll was called, and the following Senators answered to their names:  
 Messrs. Barnes, Brantley, Cottrell, Hendry, Hill, Howell, Johnson, Long, McKinnon, McMeekin, Meacham, Osgood, Patterson, Richard and Walls—15.  
 A quorum present.  
 Prayer by the Chaplain.  
 Mr. McKinnon moved that the Senate proceed to the election of a President *pro tem*.  
 Which was agreed to.

Mr. McKinnon nominated Mr. Cottrell.  
 Mr. Walls nominated Mr. Barnes.  
 Mr. Barnes requested that his name be withdrawn from the nomination.

Mr. Walls declined to withdraw it.

The vote was:

*For Cottrell*—Messrs. Barnes, Brantley, Hendry, Lykes, McCaskill, McKinnon, McMeekin, Orman, Patterson, Richard and Walker—11.

*For Barnes*—Messrs. Cottrell, Durkee, Hill, Howell, Johnson, Long, Meacham, Osgood, Wallace and Walls—10.

So Mr. Cottrell was elected President *pro tem*.

Mr. Osgood moved that the reading of the journal be dispensed with;

Which was agreed to, and the journal was corrected and approved.

The hour for the special order of the day having arrived, Mr. McKinnon moved that Assembly bill No. 36, to be entitled an act to declare and establish the appointment by the State of Florida of Electors of President and Vice-President, be taken up and read the third time, and put upon its passage.

A message was received from the Governor at the hands of his Private Secretary.

Mr. McCaskill moved that the further consideration of the bill be postponed and placed among the orders of the day;

Which was agreed to.

Under a suspension of the rule, Mr. McCaskill introduced Senate bill No. 25, to be entitled an act requiring Timber and Lumber Inspectors to give Bonds;

Which was read, and referred to the Committee on Finance and Taxation.

The Committee on Privileges and Elections made the following report:

SENATE CHAMBER,  
 TALLAHASSEE, FLA., January 23, 1877.)

HON. NOBLE A. HULL,

*President of the Senate:*

SIR: The undersigned, members of your Committee on Privileges and Elections, to whom has been referred the contested election of the First Senatorial District, in which John J. McGuire is contestant and Alonzo Ferguson respondent, respectfully offer the following report:

That they have thoroughly examined a large mass of written as well as the hearing of lengthy oral testimony, and have patiently listened to exhaustive arguments by learned counsel on both sides.

That from the evidence presented, your committee are satis-

fied that irregularities, and possibly frauds, were committed, but the testimony was of too vague a character, the portion touching the Naval Reservation, to effect its summing up and final action of your committee.

It appears from the returns on file in the Secretary of State's office that the whole number of votes cast for the Senator for the said First Senatorial District on the 7th day of November, 1876, were 3,007, and of which said vote said Ferguson received 1,585 and the said McGuire received 1,422, and that of the said votes cast in the county of Escambia, which constitutes the said 1st Senatorial District, two hundred and seventy-nine (279) were cast at Nix's Precinct by persons who, at the time of said election, on the 7th of November, 1876, resided upon the Naval Reservation of the United States. If these persons were at the time qualified electors under the Constitution of this State, then the respondent is clearly entitled to the seat he occupies; if not, then the contestant must be seated.

It, therefore, became the duty of your committee to determine whether the said persons were qualified electors when they voted.

It is conceded by the contestant that the only disqualification attaching to them grows out of the fact of their residence being at the time upon the said Naval Reserve, and it is admitted by the respondent that this was then the place of residence of these persons.

The sole question then, in respect of this branch of the case, was, "Are persons, otherwise qualified, who reside upon the Naval Reserve, qualified electors of this State?"

Your Committee submit this question must be determined by reference to the Constitution, and to that alone. It is the fundamental law of the land. It supercedes—takes the place of—all previous legislation on every subject which it undertakes to regulate; nor can its provisions be in any, the slightest degree, modified by any subsequent enactment of the Legislature.

These are doctrines so well established as to require neither argument nor authority for their support.

Article 14, section 1, provides that every male person, etc., who shall have resided and had his habitation and place of abode in the State of Florida for one year and six months next preceding the election in the county, etc., etc., shall be deemed a qualified elector, etc.

Now it will be perceived that if the said Naval Reservation is in Florida, within the meaning of the section above quoted, the issue must be decided in favor of the respondent.

The piece of ground which constitutes the Naval Reserva-

tion was never any part of the State, but was reserved by the United States Government for naval purposes, before the territory became a State, and before the State was admitted into the Union.

It has ever since been used, and was at the time of said election, on the 7th of November, 1876, used by the United States as a naval station, where vessels of the United States are built and repaired, and where they rendezvous, and upon which numerous buildings needful for the purposes of the government have been erected. The State of Florida has therefore no right nor title to nor interest in said piece of ground that constitutes the Naval Reservation.

In legal contemplation, it is the opinion of the undersigned, members of your committee, that it forms *no part* of the State of Florida.

Upon the terms of its reservation to the United States, it was in the eye of the law *lifted out* of the State of Florida, and annexed to the great body of lands belonging to the United States.

It is true that the said Naval Reserve lies within the boundary lines specified in article I. of the Constitution; but the undersigned, members of your committee, are clearly of the opinion that section 1, touching the qualifications of electors is to be construed as though it read "in any part of the State of Florida," and that the framers did not intend to attempt to confer the sacred right of suffrage upon inhabitants of a place which though situated within the outer limits of the geographical boundaries of the State, is still no part or parcel of the State, a place which is not and cannot be effected by any legislation of the State, the *inhabitants* of which are not within the jurisdiction of the courts of this State nor of any department of the State government—a place into which the process of the courts, civil or criminal, of this State cannot run, except by grace of the United States government.

The conclusion of the undersigned, members of your committee, seems to be inevitable, *i. e.*, the said Naval Reservation is no part of the State of Florida, is not in Florida, according to the manifest spirit and intent, the only just and rational construction of the Constitutional provision.

It would seem to the undersigned, members of your committee, that further arguments were needless, but they are anxious that no suspicion of party bias shall stain this investigation, and they therefore beg leave to refer to one of the most respected authorities in this or any land. We refer to the third volume of Story's Commentaries on the Constitution of the United States, Book 3, Chapter xxiii.

The undersigned members of your committee are persuaded

that a careful perusal of this chapter will convince any fair-minded man that the persons in question were not qualified voters.

It will be observed that we have given no weight to the act of 1859 of this State, which was pressed upon our notice. For this, a sufficient reason they think has been furnished at the outset of this report.

The testimony shows that of the 279 votes cast at Nix's precinct, 224 were cast for the respondent and that 55 were cast for the contestant.

This precinct, in the opinion of the undersigned, had no legal existence, for the reason that two of the inspectors and the clerk were residents of the naval reservation; their acts, therefore, as inspectors were not legal, and the votes cast at that precinct were wholly null and void, because they were not citizens of the State of Florida in the meaning of the law.

The vote at the said Nix's precinct being entirely illegal, and allowing 55 of said votes, cast at the precinct, to be deducted from the contestant, and 224 to be deducted from the respondent, and thus throwing out this said precinct, it gives to the contestant a majority of votes cast at the general election held on the 7th day of November, 1876, and he is, therefore, entitled to the seat in the Senate of Florida from the 1st Senatorial District now occupied by Alonzo Ferguson.

Therefore we recommend the adoption of the following resolution:

*Resolved*, That John J. McGuire is entitled to the seat as Senator from the 1st Senatorial District now held by Alonzo Ferguson.

WHITFIELD WALKER, Chm'n.  
W. T. ORMAN,  
G. C. BRANTLEY.

Which was read.

Mr. Walker moved to postpone the further consideration of the report until to-morrow;

Which was agreed to.

The Committee on Claims made the following report:

SENATE CHAMBER,  
TALLAHASSEE, January 23, 1877. }

HON. NOBLE A. HULL,

*President of the Senate:*

SIR: Your Committee on Claims, to whom was recommitted the memorial of Thomas F. King, have had the same under consideration, and we learn that Colonel R. Bullock was appointed Acting State Attorney by Judge Goss, and that said Goss also appointed T. F. King as Assistant State Attorney,

and we find authority for the same in Bush's Digest, page 709, section 12, but we failed to find any provision for the pay of said assistant, and it is a reasonable presumption that the pay, if any, must come from the pay of the State Attorney, as the law has provided no way in which it is to be paid; therefore, your committee report it back to the Senate without any recommendation, for the action of the Senate.

Respectfully,  
A. D. MCKINNON, Chm'n.

Which was read, and placed among the orders of the day.  
The Committee on State Affairs made the following report:

SENATE CHAMBER,  
TALLAHASSEE, FLA., January 23, 1877. }

HON. NOBLE A. HULL,

*President of the Senate:*

SIR—Your Committee on State Affairs to whom was referred Assembly Joint Resolution relative to inviting immigration, have had the same under consideration, and recommend that it be adopted.

C. S. D. JOHNSON Chairman.

Which was read and placed among the orders of the day.  
The following message was received from the Assembly:

ASSEMBLY HALL,  
TALLAHASSEE, FLA., January 22, 1877. }

HON. NOBLE A. HULL,

*President of the Senate:*

SIR—I am directed by the Assembly to inform the Senate that the Assembly has passed  
Assembly bill No. 28:

To be entitled an act to audit the accounts of Witnesses summoned before committees of the Senate and Assembly.

Also Assembly bill No. 45:

To be entitled an act for the relief of Peter Davidson and John Hoffman of Escambia county, Florida,

And respectfully request the concurrence of the Senate therein.

Very respectfully,  
WM. FORSYTH BYNUM,  
*Chief Clerk of the Assembly.*

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

Also the following:

ASSEMBLY HALL,  
TALLAHASSEE, FLA., January 23, 1877. }

Hon. NOBLE A. HULL,  
*President of the Senate:*

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

Assembly bill No. 18:

To be entitled an act to allow Merchants and Dealers to sell patent medicines without being subject to additional tax.

Assembly bill No. 20:

To be entitled an act to transfer causes pending in the County Courts on the fourth day of May, 1875, to other courts,

And respectfully request the concurrence of the Senate therein.

Very respectfully,

WM. FORSYTH BYNUM,

*Chief Clerk of the Assembly.*

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

#### ORDERS OF THE DAY.

Assembly bill No. 7:

To be entitled an act to amend an act to exempt Maimed persons from professional or occupational tax, approved February 14, 1870,

Was read the third time and put upon its passage.

Upon the question, Shall the bill pass?

The vote was:

Yeas—Messrs. Barnes, Brantley, Cottrell, Howell, Johnson, Lykes, McMeekin, Orman, Osgood, Richard and Weeks—11.

Nays—Messrs. Durkee, Hendry, Hill, Long, McCaskill, McKinnon, Meacham, Walker, Wallace and Walls—10.

So the bill passed—title as stated.

Ordered that the same be certified to the Assembly.

Assembly bill No. 36:

To be entitled an act to declare and establish the appointment by the State of Florida of Electors of President and Vice President,

Was read the third time.

Upon the question, Shall the bill pass?

The vote was:

Yeas—Messrs. Barnes, Brantley, Cottrell, Hendry, Johnson, Lykes, McCaskill, McKinnon, McMeekin, Orman, Patterson, Richard, Walker and Weeks—14.

Nays—Messrs. Durkee, Hill, Howell, Long, Meacham, Osgood, Wallace and Walls—8.

So the bill passed.

Mr. Walls offered to amend the title as follows:

*Resolved*, That the title of Assembly bill No. 37, read as follows: An act to be entitled an act to empower the reformed Legislature of Florida to elect the President of the United States.

Mr. Barnes moved to lay the amendment on the table.

The yeas and nays being called for by Messrs. Walls, Wallace and Osgood, the vote was:

Yeas—Messrs. Barnes, Brantley, Cottrell, Hendry, Johnson, Lykes, McCaskill, McKinnon, McMeekin, Orman, Patterson, Richard, Walker and Weeks—14.

Nays—Messrs. Durkee, Hill, Howell, Long, Meacham, Osgood, Wallace and Walls—8.

So the amendment was laid on the table.

Mr. Meacham offered the following amendment:

The title of the bill shall be as follows: A bill entitled an act to count four men in office without being elected.

Mr. Orman moved to lay the amendment on the table;

Upon which the yeas and nays being called for by Messrs. Walls, Wallace and Osgood, the vote was:

Yeas—Messrs. Barnes, Brantley, Cottrell, Hendry, Johnson, McCaskill, McKinnon, McMeekin, Orman, Patterson, Richard, Walker and Weeks—13.

Nays—Messrs. Hill, Howell, Long, Meacham, Osgood, Wallace and Walls—7.

So the motion to amend was laid on the table.

Mr. Osgood offered the following amendment:

To amend by striking out the enacting clause, and insert so as to read as follows: A bill to be entitled an act to recanvass the votes cast in the year 1872.

The President ruled it out of order.

Mr. Long offered the following amendment:

A bill to be entitled an act showing the ability and wisdom of the Florida Legislature;

Which, on motion, was laid on the table.

Mr. Walls offered the following amendment:

That the last word of the title be stricken out.

Mr. McCaskill offered the following as an amendment to the amendment:

Mr. McCaskill moved as an amendment to the amendment that the Senate take final action at eighteen minutes before 12 o'clock.

Which was agreed to, and the title remained as stated.

The Joint Resolution on immigration was read, and, on motion of Mr. Walls, placed among the order of the day for the 24th.

The report of the Committee on Claims upon the memorial of Thos. F. King was taken up and read.

A message was received from the Governor at the hands of his Private Secretary.

Mr. Cottrell offered the following resolution:

*Resolved*, That the petition of Thos. F. King be referred to the Committee on Judiciary, and that said committee be instructed to report to the Senate a bill appropriating two hundred dollars, in accordance with the prayer of the petition.

Upon which the yeas and nays being called for, the vote was:

Yeas—Messrs. Cottrell, Ferguson, Hill, Walker and Walls—5.

Nays—Messrs. Barnes, Brantley, Durkee, Howell, Johnson, Long, McCaskill, McKinnon, McMeekin, Meacham, Orman, Osgood, Patterson, Richard, Wallace and Weeks—16.

So the resolution was not adopted.

On motion, the petitioner had leave to withdraw his petition.

Assembly bill Mo. 28:

To audit the accounts of Witnesses summoned before the committees of the Senate and Assembly,

Was taken up and read.

Mr. McKinnon moved to refer it to the Committee on Appropriations;

Which was agreed to.

Assembly bill No. 45:

To be entitled an act for the relief of Peter Davidson and John G. Hoffman, of Escambia county,

Was read the first time.

Under a suspension of the rule it was read the second time.

Mr. Meacham moved the suspension of the rule, and that the bill be read the third time, and put upon its passage;

Which was agreed to.

Upon the question, Shall the bill pass?

The vote was:

Yeas—Messrs. Barnes, Brantley, Cottrell, Durkee, Hendry, Hill, Howell, Johnson, Long, Lykes, McKinnon, McMeekin, Meacham, Orman, Osgood, Patterson, Richard, Walker, Wallace and Weeks—20.

Nays—None.

So the bill passed, title as stated.

Ordered that the same be certified to the Assembly.

Assembly bill No. 18:

To be entitled an act to allow Merchants and Dealers to sell patent medicines without being subject to additional tax,

Was taken up, read the first time, and referred to the Committee on Finance and Taxation.

Assembly bill No. 20:

To be entitled an act to transfer causes pending in the County Courts, on the 4th of May, 1875, to other courts,

Was read the first time, and referred to the Committee on Judiciary.

On motion, the Senate adjourned.

#### FOUR O'CLOCK, P. M.

The Senate resumed its session.

The President *pro tem.* in the Chair.

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

Messrs. Brantley, Cottrell, Johnson, Long, Lykes, McKinnon, McMeekin, Meacham, Orman, Osgood, Patterson, Richard, Walker, Walls and Weeks—15.

A quorum present.

On motion of Mr. Weeks, the Senate went into Executive Session.

The doors being opened,

A message was received from the Governor by the hands of his Private Secretary.

On motion of Mr. Walker, the Senate again went into Executive Session.

The doors being opened, the following message was received from the Assembly:

ASSEMBLY HALL,  
TALLAHASSEE, FLA., January 23, 1877. }

HON. NOBLE A. HULL,

*President of the Senate:*

SIR—I am directed by the Assembly to inform the Senate that the Assembly has refused to concur in Senate amendments to Assembly bill No. 1, to be entitled an act to amend the second, twenty-ninth, thirty-fifth, thirty-sixth, fifty-eighth and sixty-eighth sections, and repealing the fifty-third and fifty-fourth sections of an act entitled an act relating to proceedings before Justices of the Peace and Judgments of Justices' Courts, approved February 27, 1875, and have appointed Messrs. McClellan, Hocker, Bishop, Thompson of Nassau, Lee, Mallory and Stripling, a committee of conference on part of the Assembly, and ask the appointment of a similar committee on part of the Senate for the consideration of said amendments.

Very respectfully,

WILLIAM FORSYTH BYNUM,

*Chief Clerk of the Assembly.*

Which was read.

Mr. Osgood moved that the Senate agree to the conference asked for by the Assembly, and to the appointment of a committee ;

Which was agreed to.

Thereupon Messrs. Barnes, Lykes and Durkee were appointed on the part of the Senate by the President *pro tem.*

Mr. Walker moved that the Senate adjourn;

Which was agreed to, and the Senate adjourned.

#### REMOVALS.

John W. Butler, from office of Sheriff, Santa Rosa county.

Frank Smith, from office of Clerk Circuit Court, Santa Rosa county.

Alfred Holly, from office of Assessor, Santa Rosa county.

Joseph A. Atkins, from office of Clerk, Franklin county.

Robert Knickmeyer, from office of Collector, Franklin county.

#### SENATE CONFIRMATIONS.

F. E. de LaRua, to be Clerk Circuit Court, Escambia county.

Owen M. Avery, to be County Judge, Escambia county.

Joseph A. Atkins, to be Clerk of Franklin county.

WEDNESDAY, January 24, 1877.

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 :

Messrs. Barnes, Cottrell, Hendry, Long, McKinnon, McMeekin, Orman, Osgood, Patterson, Richard, Walker and Walls—12.

No quorum present.

On motion of Mr. Osgood, the Sergeant-at-Arms was instructed to summon absent members.

Other members coming in, Mr. Osgood moved to suspend a further call of the Senate, there being a quorum present ;

Which was agreed to.

Prayer by the Chaplain.

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

Which was agreed to, and the Journal corrected and approved.

A report to the Senate on the indebtedness of the estate of I. V. Garnie, by T. A. McDonell, State Attorney Fourth Circuit,

Was received, and referred to the Committee on Claims. A communication from the Supreme Court, as to appropriations to buy books for the Senate,

Was read, and referred to the Committee on Judiciary.

A package endorsed as testimony in the contested election in the First Senatorial District, addressed to the President of the Senate, was received.

Mr. Orman moved that it be referred to the Committee on Privileges and Elections.

On motion of Mr. Walls, General Wallace was invited to a seat within the bar of the Senate.

The Joint Committee on Enrollment made the following report :

SENATE CHAMBER,  
TALLAHASSEE, FLA., January 24, 1877. }

HON. J. L. F. COTTRELL,

*President pro tem. of the Senate :*

SIR :—The Joint Committee on Enrollment has examined Assembly bill No. 36, an act to declare and establish the appointment by the State of Florida of Electors for President and Vice-President, and find it correctly enrolled.

A. D. KcKINNON.

The President *pro tem.* announced to the Senate the signing of the following act to declare and establish the appointment by the State of Florida of Electors for President and Vice-President.

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

That the further consideration of the contested election case in the First Senatorial District be postponed until to-morrow morning at 10.30 o'clock, and that the paper purporting to be testimony in said case, received by the President of the Senate this day, be referred to the Committee on Privileges and Elections, with instructions to report upon the same to-morrow at 10.30 o'clock A. M.

Mr. Hill offered the following amendment :

That the petition be referred to the Committee on Privileges and Elections, with instructions to report at as early a day as possible.

Mr. Hill withdrew his amendment.

Mr. Walls offered the following resolution :