

WEDNESDAY, February 26, 1879.

The Senate met pursuant to adjournment.

The President *pro tem.* in the chair.

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

Messrs. Allen, Barnes, Durkee, Eagan, Genovar, Hagan, Hatcher, Johnson, Jones, Judge, Long, Lykes, McClenny, McMeekin, McGuire, McKinnon, Meacham, Niblack, Orman, Patterson, Richard, Sharpe, Speer, Thompson, Walker of the 23rd, Walker of the 6th, and Wallace—28.

A quorum present.

Prayer by the Chaplain.

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

By permission, Mr. Lykes presented a petition of citizens of Hernando county in regard to school lands, which was placed among the orders of the day.

The following bills were introduced and placed among the orders of the day:

By Mr. Richard:

Senate bill No. 166, to be entitled an act to provide for the inspection of kerosene oil, and the appointment of inspectors therefor in the several counties of the State.

By Mr. Jones:

Senate bill No. 167, to be entitled an act for the relief of Wm. J. Jones and Wm. F. Smith.

Mr. Bryson made the following report:

SENATE CHAMBER, TALLAHASSEE, February 25, 1879.

HON. W. D. BARNES,

President pro tem. of the Senate:

SIR: Your Committee on Engrossed Bills respectfully report that they have examined Senate bill No. 135, to be entitled an act to amend sections 2, 3, 4, 5 and 6 of an act to amend sections 2, 6, 7, 8, 9 and 10 of an act entitled an act to fix and regulate the fees and per diem of certain officers herein designated, and found the same correctly engrossed. We return the same herewith properly endorsed.

Respectfully,

WM. BRYSON, JR., Chairman.

Which was read, and Senate bill No. 135 placed among the orders of the day.

Mr. Jones made the following report:

ASSEMBLY HALL, TALLAHASSEE, February 25, 1879.

HON. W. D. BARNES,

President pro tem. of the Senate:

SIR: Your Committee on City and County Organizations to whom was referred Senate bill No. 123, to be entitled an act to legally locate the county site of Sumter county, report that they have had the same under consideration, and recommend its passage.

Very respectfully,

W. J. JONES, Chairman.

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

Mr. Genovar made the following report:

SENATE CHAMBER, TALLAHASSEE, February 25, 1879.

HON. W. D. BARNES,

President pro tem. of the Senate:

SIR: Your committee to whom was referred Assembly bill No. 70, beg leave to report that they have examined the same, and recommend that it do pass.

Very respectfully,

F. B. GENOVAR, Chairman.

J. G. SPEER.

Which was read, and Assembly bill No. 70, to be entitled an act for the relief of Washington Waller and Reuben Wright, was placed among the orders of the day.

Mr. Niblack made the following report:

SENATE CHAMBER, TALLAHASSEE, February 26, 1879.

HON. W. D. BARNES,

President pro tem. of the Senate:

SIR: Your Committee on Railroads and Telegraphs, to whom was referred Senate bill No. 107, entitled an act to incorporate the Ocala, Brooksville and Tampa Railroad Company, have examined the same and recommend its passage.

Very respectfully,

S. L. NIBLACK, Chairman.

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

Also the following:

SENATE CHAMBER, TALLAHASSEE, February 26, 1879.

HON. W. D. BARNES,

President pro tem. of the Senate:

SIR: Your committee to whom was referred Assembly bill

No. 114, entitled an act to settle the title of the Pensacola and Georgia and the Tallahassee Railroad, now known as the Jacksonville, Pensacola and Mobile Railroad, and to protect the interest of the internal improvement fund therein, have had the same under consideration, and I am directed by a majority of the committee to recommend the passage of the bill.

Respectfully,

S. L. NIBLACK, Chairman.

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

Mr. Wallace, by permission, introduced Senate bill No. 168, to be entitled an act for the adoption of two children by Elmore Red;

Which was placed among the orders of the day.

ORDERS OF THE DAY.

Petition of citizens of Hernando county,

Was read the first time and referred to the Committee on Public Lands.

Assembly bill No. 105 :

To be entitled an act to incorporate the Florida State Grange,

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

Senate bill No. 166 :

To be entitled an act to provide for inspectors of kerosene oil,

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

Senate bill No. 167 :

To be entitled an act for the relief of Wm. J. Jones and Wm. F. Smith,

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

Senate bill No. 168 :

To be entitled an act for the adoption of two children by Elmore Red,

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

Senate bill No. 5 :

To be entitled an act to limit and define the jurisdiction of justices of the peace,

Was read the second time, and amended by the adoption of the substitute bill recommended by the committee.

The title of the bill was amended, on motion of Mr. Bryson,

so as to read, "an act requiring Justices of the Peace to give bonds."

The bill was then ordered to be engrossed.

Memorial No. 23 :

In relation to Federal Courts,

Was read the second time, and, on motion of Mr. McKinnon, the rule was waived, and it was read the third time and put upon its passage.

The vote was :

Yeas—Messrs. French, Genovar, Hagan, Hatcher, Johnson, Jones, Judge, Lykes, McClenny, McMeekin, McGuire, McKinnon, Niblack, Orman, Patterson, Richard, Sharpe, Speer, Thompson, Walker of the 23d and Walker of the 6th—21.

Nays—Messrs. Durkee, Eagan and Meacham—3.

So the memorial passed, title as stated.

Ordered that the same be certified to the Assembly.

Senate bill No. 90 :

To be entitled an act to amend sections five and thirty of an act to provide for and encourage a liberal system of internal improvements, approved January 6, 1855,

Was read the second time, and, on motion of Mr. Niblack, recommitted to the Committee on Railroads.

Senate bill No. 151 :

To be entitled an act authorizing the Governor to employ an agent to collect from the United States the monies due the State of Florida for the purpose of education,

Was read the second time, and on motion of Mr. McGuire, was indefinitely postponed.

Senate bill No. 157 :

To be entitled an act for the relief of W. H. Coleman,

Was read the second time and, on motion of Mr. Walker of the 6th, was read a third time and put upon its passage.

The vote was :

Yeas—Messrs. Genovar, Hagan, Johnson, Jones, Judge, Leslie, Long, Lykes, McClenny, McMeekin, McGuire, Niblack, Orman, Patterson, Sharpe, Speer, Thompson, Walker of the 23d, Walker of the 6th and Wallace—20.

Nays—None.

So the bill passed, title as stated.

Ordered that the same be certified to the Assembly.

Assembly bill No. 167 :

To be entitled an act in relation to a uniform system of common schools,

Was taken up for a second reading.

On motion of Mr. Eagan, section 1 was amended by striking out "of the United States," in the 7th line.

Mr. Judge moved to amend section 1 by striking out all after

the word geography, in the 8th line, and inserting "and no other branches shall be introduced."

The yeas and nays being called for,

The vote was:

Yeas—Messrs. Genovar, Hatcher, Johnson, Judge, McClenny, McMeekin, McGuire and Orman—8.

Nays—Messrs. Allen, Bryson, Durkee Eagan, French, Jones, Leslie, Long, Lykes, McKinnon, Meacham, Patterson, Richard, Sharpe, Speer, Thompson, Walker of the 6th and Wallace—13.

So the amendment was not agreed to.

Mr. Judge moved to amend section 1 by adding:

Teachers of public free schools may be permitted to give instruction in the higher branches, for which they may charge tuition;

Provided, That said instruction in the higher branches shall not be allowed to interfere with regular and efficient instruction in the elementary English branches specified in clause 2d, and not to embrace the regular common school hours;

And to secure this end, not less than six hours each day shall be given exclusively to instruction in the elementary branches;

Provided further, That the introduction of such higher branches in any school shall be first sanctioned by the Trustees, and shall be discontinued whenever said Trustees shall think advisable;

Which was not agreed to.

Section 1 was then adopted as amended.

Mr. Durkee moved to amend section 2, by striking out "two" in line 57 and insert "five";

Which was agreed to.

Mr. Eagan moved to amend by striking out " $\frac{1}{4}$ " in line 70 and inserting " $\frac{1}{2}$."

Upon which the yeas and nays were called for.

The vote was:

Yeas—Messrs. Allen, Durkee, Eagan, French, Long, Meacham and Wallace—7.

Nays—Messrs. Barnes, Hagan, Hatcher, Johnson, Jones, Judge, Leslie, Lykes, McClenny, McMeekin, McGuire, Orman, Patterson, Richard, Sharpe, Speer, Thompson, Walker of the 23rd and Walker of the 6th—19.

So the amendment was not agreed to.

Mr. McKinnon moved to strike out in line 55, all from "services" to "provided" in line 56; also to strike out "as" in 54th line and insert "reasonable" after "a";

Which was agreed to.

Mr. Durkee moved to strike out in line 70 "one-fourth of one per cent.," and insert "three mills."

Upon which the yeas and nays were called for.

The vote was:

Yeas—Messrs. Allen, Bryson, Durkee, Eagan, French, Genovar, Long, Lykes, McKinnon, Meacham, Sharpe, Thompson, Walker of the 23d and Wallace—14.

Nays—Messrs. Barnes, Hagan, Hatcher, Johnson, Judge, Leslie, McMeekin, McGuire, Orman, Patterson, Richard and Speer—12.

So the amendment was adopted.

Mr. Judge moved the following be inserted immediately after "Sec. 2," in section two, line 1: "The officers of the department of public instruction shall be a superintendent of public instruction, the State board of education, a board of public instruction for each county, which board shall consist of the members of the board of county commissioners for the county, a superintendent of schools for each county, local school trustees, treasurers and agents."

The yeas and nays being called for,

The vote was:

Yeas—Messrs. Barnes, Bryson, Eagan, French, Hagan, Hatcher, Johnson, Judge, Leslie, McMeekin, McGuire, Meacham, Orman, Patterson, Speer and Walker of the 23d—16.

Nays—Messrs. Allen, Durkee, Genovar, Lykes, McKinnon, Richard, Sharpe and Thompson—8.

So the amendment was agreed to.

Mr. Orman moved to add, "and the higher branches of education" after "arithmetic," in line 20, section 2;

Which was not agreed to.

Mr. Judge moved to strike out the 11th and 12th lines of section 2, and insert: "the Board of Public Instruction of each county shall district the county into suitable school districts and said Board shall appoint for each school district three school trustees for each scholastic year;"

Which was agreed to.

Mr. Bryson asked that the rule be waived so as to reconsider the amendment of Mr. Durkee in substituting "five" for "two" in line 57, section 2;

Upon which the yeas and nays were called for.

The vote was:

Yeas—Messrs. Barnes, Bryson, French, Genovar, Hagan, Hatcher, Johnson, Jones, Leslie, McKinnon, Meacham, Orman, Patterson, Sharpe, Speer and Walker of the 6th—16.

Nays—Messrs. Allen, Durkee, Judge, Long, Lykes, McMeekin, McGuire, Richard, Thompson, Walker of the 23rd and Wallace—11.

So the suspension of the rule was not agreed to, as it required a two thirds vote.

Mr. Bryson moved that the further consideration of the bill be put off till to-morrow;

Which was not agreed to.

Mr. McKinnon moved that Senate bill No. 149, be made the special order for 10:30 A. M. to-morrow;

Which was agreed to.

Mr. Judge moved to insert after "twenty-one" in the 39th line, "and the trustees of each school district shall apportion among the schools in each district;"

Which was agreed to.

Mr. Orman moved to strike out in lines 14 and 15 all after "teachers" to the word "fix" and insert, "and examine them;"

Which was not agreed to.

Mr. Thompson moved that section 2 be adopted as amended;

Which was agreed to.

Mr. Eagan moved to amend section 3, by striking out "trustees of the district," and insert "Public Instruction of the county;"

Which was agreed to.

Section 3 was then adopted as amended.

Mr. Long moved to amend section 4, by striking out "7," in line 3, and insert "6."

Mr. Eagan moved an amendment to the amendment so as to strike out all after "be," in the 3rd line, to "less," in the same line;

Which was adopted.

Section 4 was then adopted as amended.

Mr. Thompson moved to amend section 5, by striking out "election," in lines 2 and 5, and insert "school;"

Which was agreed to.

Section 5 was then adopted as amended.

Mr. Judge moved the following as section 6:

That section fourteen of an act, approved January 30, 1869, entitled an act to establish a uniform system of common schools and a university, being chapter 1686 of the laws of Florida, be amended so as to read as follows: Each board of public instruction shall consist of the members of the board of county commissioners for the county, and is hereby constituted a body corporate by the name of the Board of Public Instruction for the County of _____, State of Florida, and in this name may acquire and hold real and personal estate, receive bequests and donations, and sue for and recover all moneys or other property which may belong to, or be due them, and suits and actions at law may be instituted by them in their name, or in the name

of the State for their use, to recover of all defaulting treasurers and collectors of revenue, and other officers and their sureties, or either or any of them, and of all persons, all moneys belonging to said board or any school or educational funds, as to which any such officer or person may be in default, and to recover of all collectors of revenue and their sureties all school or educational taxes as to which they may be in default, and such suits shall be conducted by the State's Attorneys at the request of the aforesaid boards of public instruction, and for their services said State's Attorneys shall receive the compensation allowed by law for similar suits;

Which was adopted.

Mr. Judge moved the following to be section 7:

The Treasurer and Sheriff of each county shall make, at the end of every quarter, an itemized report to the President of the Board of Education of all the fines and forfeitures collected in the county;

Which was adopted.

The bill was then laid over for a third reading to-morrow.

The following communication was received from the Governor:

EXECUTIVE OFFICE, }
TALLAHASSEE, February 25, 1879. }

HON. W. D. BARNES,

President pro tem. of the Senate:

SIR: I have the honor to return through you to the Senate three bills which originated in that body. One is entitled "An act to grant certain lands to the Tampa, Pease Creek and St. Johns Railway Company;" the second "An act to grant certain lands to the Gainesville, Ocala and Charlotte Harbor Railroad Company;" and the third, "An act to incorporate the Chattahoochee and Pensacola Railroad Company."

The first bill proposes to grant to the Tampa, Pease Creek and St. Johns Railway Company the alternate sections of the swamp and overflowed lands granted to the State by the act of Congress of September 28, 1850, lying along and adjacent to its projected line of railway from Tampa to the St. Johns river, a distance of about one hundred and ten (110) miles, to the extent or quantity of ten thousand acres per running mile, and further provides that if any of such lands are sold before a survey of the route is filed in the office of the Secretary of State, then that the quantity so sold shall be made up from the even-numbered sections of such land or any State lands lying nearest the line. Upon the grading of ten miles of the road-bed and placing cross-ties thereon, the Trustees are to convey to this company lands at the rate of ten thousand acres

per running mile, and so on for each ten miles "graded and tied" until the completion of the road, it being provided, however, that for every forty miles so graded and furnished with ties, there shall be ten miles of road fully equipped and in running condition.

The second bill proposes to grant to the Gainesville, Ocala and Charlotte Harbor Railroad Company the alternate sections of swamp and overflowed lands for fifteen miles on either side of its projected road, including its branches, to the amount or quantity of eight thousand acres per mile.

The proposed line of road is to commence at or near Lake City, in Columbia county, and run in a southerly direction through or near Gainesville, in Alachua county, Ocala, in Marion county, Leesburg, in Sumter county, and Brooksville, in Hernando county, to the waters of Tampa Bay, with one branch from some point in Sumter county, through or near Bartow, in Polk county, to the waters of Charlotte Harbor, in Manatee county, and another branch to Palatka, in Putnam county. The length of this line, including the two branches, is at least four hundred miles. The Trustees of the Internal Improvement Fund are to withdraw from sale the lands covered by this grant, and lying adjacent to each section of twenty miles of the route, on the survey of each section of twenty miles being filed with them, and so on till the whole route is surveyed. The Trustees may make sales of such lands to actual settlers, and are to place the proceeds thereof to the credit of the company. As the company constructs sections of ten miles of the road, the Trustees are to convey to it the lands so granted adjacent to the completed road. Should any deficiency of land be found upon filing the preliminary survey, the Trustees are to supply the same by granting other lands adjacent to and nearest the line of road.

The third bill proposes to grant to the Chattahoochee and Pensacola Railroad Company, whose projected line of road is to extend from the Apalachicola river, at or near the terminus of the Jacksonville, Pensacola and Mobile Railroad, westward to Pensacola bay, with an extension to St. Andrews bay, and with branches to Freeport, on Choctawhatchie bay, and to the Perdido river, and to the Alabama line west of the Escambia river, a distance of about two hundred and seventy-five miles, the aid provided for in the Internal Improvement act (Chapter 610), and its amendments, including those which may be passed at the present session, and also the swamp and overflowed lands lying along and adjacent to said line, its extension and branches, to the amount of ten thousand acres per lineal mile, and the Trustees of the Internal Improvement Fund are authorized, upon the grading of sections of five miles and putting a

cross-ties thereon, to convey to the company ten thousand acres of such lands for each mile, it being provided that for every forty miles of road so graded and furnished with ties, the company shall equip ten miles in a manner suitable for carrying passengers and freight before any other lands shall vest in such company.

The company is not, however, to take under the act more than ten thousand acres per mile. Should any of the lands granted be sold after the passage of this act and before the survey of the route, or should the lands adjacent to the route be insufficient to supply the number of acres granted, the deficiency is to be made up from other "swamp and overflowed, internal improvement or State lands," nearest the route. After the commencement of the line of railway, all the lands granted and lying west of the Apalachicola and Chattahoochee rivers are to be withdrawn from market, till after the expiration of the time allowed for the completion of the road, unless the charter is sooner forfeited. The road is to be commenced in one and completed in five years.

An early development of our State is the desire of every good citizen, and should be the aim of all persons of individual or official influence. Nothing will secure this result sooner than the construction and operation of railroads, managed by persons feeling an interest in the country and controlling their business upon those healthy principles of reciprocal support, which always exist between the proprietary carrier, on the one hand, and the producer and consumer on the other. I yield to no one in earnest wishes to see such an end attained; and the character of the corporators, in the above named companies, satisfies me that if the roads proposed should be constructed, that their completion would soon be followed by a new era of prosperity and happiness to our people, and it is only in obedience to a pressing sense of official duty that I consent to withhold my approval of the bills named. The reasons for so doing I will now submit.

The lands covered by these grants are those granted to the State by the United States by the act of September 28th, 1850, and are commonly known as the "swamp and overflowed lands." As is well known, these lands and the five hundred thousand acres of internal improvement lands granted to the State by the act of Congress of September 4th, 1841, were, by the act of the Legislature entitled "an act to establish a liberal system of internal improvement in this State," approved January 6th, 1855, vested in the Board of Trustees of the Internal Improvement Fund of the State. To this board was given power to make arrangements for reclaiming swamp and overflowed lands as contemplated by the act of Congress of September 28th,

1850, and decided by our Supreme Court in the case of the Trustees of the Internal Improvement Fund vs. Gleason (15 Florida), and to manage and sell the lands. The net proceeds of the sales of these lands, over and above the amounts necessary for the purpose of management and reclamation, were, by this act of January 6, 1855, pledged to the payment of the interest on the bonds which might be issued by railroad companies which should undertake the construction of any part of the line of railroad from the St. Johns River to Pensacola Bay, with an extension from suitable points on this line to St. Marks' River, or Crooked River at White Bluff on Apalachicola Bay in Middle Florida, and to the waters of St. Andrew's Bay in West Florida, and a line from Amelia Island to Tampa Bay, with an extension to Cedar Key. Certain companies constructed railroads on these lines from Jacksonville, on the St. Johns River, to Quincy, in Middle Florida, and from Tallahassee to St. Marks, and from Amelia Island to Cedar Key. To aid in their construction, these companies issued bonds, which were endorsed by the Trustees of the fund, with an agreement guaranteeing the payment of the interest thereon out of the proceeds of the land. Thus these lands became pledged to the payment of this interest. It was a provision of this act of January 6, 1855, that no bonds issued after the end of eight years from its passage should be so guaranteed.

There are now outstanding of the past due coupons representing the interest on these bonds about \$367,000, and as these coupons, like other negotiable paper, bear interest themselves, there is now due upon these about \$650,000. These are the amounts given by the Master in the Vose case. There are additional coupons. It was the evident intent and purpose of the Internal Improvement Law that these lands or their proceeds should be applied to no purposes of internal improvement other than those named in the fourth section of that act, until the coupons had all been paid, or at least placed on a safe basis of payment. That this was the contract between the coupon-holder and the State, is not only plain from the language of the act, but it has several times been adjudged by the courts, and it is shown by the history contemporaneous with the enactment of the law.

In November, 1855, Governor James E. Broome vetoed two bills, one entitled "an act granting certain lands to the Palatka & Micanopy Plank-road Company," and the other entitled "an act to remove the obstruction to the navigation of the Suwannee river." These acts, as will be inferred from their titles, contemplated the use of lands or their proceeds for purposes not embraced in the internal improvement act. In speaking of the internal improvement act, he says: "This act vests

the whole fund in a Board of Trustees, for certain well defined purposes, and divests the General Assembly of title. These bills seek, under the authority of the General Assembly, to withdraw a portion of the fund; and if the power exists to withdraw any portion or for any purpose *not expressly provided*, then it exists to withdraw the whole, and the deed of trust is of no value. The fund cannot be applied to objects other than those specified in the general law; and, therefore, had the bills been signed, they could only have led to unpleasant litigation." It is unnecessary to say that these bills never became laws.

A careful perusal of the journals of these years will discover how fully it was the intention of the Legislature, as understood by contemporaries, to appropriate these lands to objects set forth in the Internal Improvement act, and to prevent, not only any diversion of them from such purposes, but any thing that would interfere with the management of that fund by the Board of Trustees in the interests of the objects for which it was thereby pledged.

In 1861, when the fund was not embarrassed anything like it is now, or at all, save from the state of war in which the country then was, it was attempted by the Legislature to appropriate part of this fund to cleaning out the channel of the Apalachicola river. In a suit instituted by a holder of bonds, the interest on which the fund was pledged to pay, it was held by the Supreme Court of the State that the Legislature had the power to pass the Internal Improvement act and so pledge the lands and money composing that fund, and that it constituted a contract with the bondholders, and that the improvement of the channel of the river not being one of the improvements designated in the Internal Improvement act, that the act of 1861 was in derogation of the rights of the bondholders, and therefore unconstitutional and void. (Trustees vs. Bailey 10 Fla.) In the case of Gonzalez vs. Sullivan (16 Fla. 817) the Supreme Court, in speaking of the above case, says: "The ground of the action was that the measure of the right of the holder of the bond was the act of 1855; that upon a sale of the bonds therein authorized rights became vested, a contract was brought into existence; that the terms of the law measured its obligation, and that the act appropriating funds for the improvement of the river was a violation of the contract in that it divested a *portion of the fund* pledged for the payment of the bond contrary to the terms of the law." * * * * *
"That case is authority for the position that an antecedent bondholder can set aside or enjoin an appropriation of the fund for any purpose to which it was not applicable at the time that his right as a bondholder attached."

In the case of the Trustees vs. the St. Johns Railway Company (16 Fla.), the Internal Improvement act is held to have for one of its main objects the carrying into effect of the purposes of the grant of Congress under the act of September 28, 1850, and the court says that the "companies" accepting it, their creditors and the Trustees, acquired all the rights conferred by this act, subject to its restrictions and reservations, which formed a part of the law of their contract with the State when they accepted its provisions."

Subsequent to 1868 and prior to 1873, the Trustees of the Internal Improvement Fund attempted to donate or sell at nominal prices these lands for purposes other than as contemplated by the act. The result was a suit by holders of the bonds, and an injunction, and finally the appointment of a receiver, to whom all moneys derived from sale of lands are paid, to be applied to the payment of the coupons, as contemplated by the Internal Improvement act. In this case (Vose vs. Trustees, 2 Woods), Mr. Justice Bradley, in speaking of the case of the Trustees vs. Bailey, says: "By the decision in that case, neither they (the Trustees) nor the Legislature itself have the right to appropriate any part of the Internal Improvement Fund to the promotion of any other schemes of internal improvement than those mentioned in the act of 1855, until the bonds issued to carry out the system therein mentioned have been paid or placed on a safe basis of payment as prescribed by the act." He also, in speaking of the injunction before alluded to, says: "The Trustees and their successors were enjoined from selling or disposing of, or donating the land belonging to the trust otherwise than in strict accordance with the act of 1855," or "from using or applying any of the moneys of the fund, except in applying them to the creation of the sinking fund under the act or in the payment of coupons according as they belong to one purpose or another," and the Trustees are required to pay to the receiver all moneys in their possession or control, and to pay him from time to time all moneys which might come into their hands from the sale of lands or any other source whatever.

In the light of these authorities and history, it is plain that neither the Legislature nor the Trustees can divert these lands from the payment of the interest on the bonds. The only question, then, is whether or not these bills propose any such diversion.

The Legislature, by the twenty-ninth section of the internal improvement act, expressly reserved the right to grant alternate sections of the swamp and overflowed lands for six miles on each side of roads of companies thereafter chartered, and grants of such sections within such limits made thereunder

are proper, and will doubtless receive the approval of the courts, as in the case of the grant to the St. Johns Railway Company, reported in the 16th volume of Florida reports. Admitting, however, for the sake of argument, that these bills are effectual as to the alternate sections now owned within the limit of six miles, it is plain that outside of this limit they are in violation of the contract with the bondholders. The whole number of acres of land proposed by these acts to be donated, outside of the alternate sections within six miles, even if we assume that all of these alternate sections are still the property of the fund, would be 4,028,000 acres, but it cannot be safely assumed that there are more than one million acres in the alternate sections now belonging to the fund. The whole quantity of lands granted to these companies within and without this limit is seven millions of acres, so deducting the one million of acres, we have here grants of six millions of acres, which, as above shown, are pledged to the payment of the interest on the bonds, and cannot be diverted from the purposes of the internal improvement act, within which the schemes proposed by these bills do not fall. The whole quantity of land so far selected as swamp and overflowed lands is about fifteen millions of acres. Of this, about 1,600,000 have been heretofore disposed of, leaving about 13,400,000 acres selected. Only, however, 11,794,000 acres have been confirmed by the United States government, and taking from this the amount disposed of, there is on hand, under control of the board, only 10,200,000 acres. So, from this fund of 10,200,000 acres, the seven millions of acres granted by these bills is to be taken, and thus seven-tenths of the fund pledged as above stated is disposed of contrary to the contract.

Judging from the sales found for lands in the last twelve years, no other conclusion can be reached than that any such grants would be a most serious blow to the creditors of the fund. These sales during this period, with the whole fund to sell from, have not more than kept down the interest on the past due coupons. Should the seven millions of acres be withdrawn from the market, the sales would not even approach such a result. So it is evident that such legislation would be very far from putting the creditors on a safe basis for their payment, which must be done before any other internal improvements than those mentioned in the Internal Improvement Act can become a beneficiary of the fund, either from the action of the Legislature or the Board. These grants would tend to deter purchasers in case the legality of the same was insisted upon by the companies, and thus another injury would result from them.

In view of the existence of the contract and of the injunc-

tional orders under which the Board and Fund are, the burden will be upon the grantees in these bills to assert the validity of the grants. The Board will be compelled to obey the injunctive orders of the Court, made to secure the application of the funds to the purposes of the act, until a reversal of them shall have been obtained. It is very difficult to conceive upon what ground any Court would reverse that current of decision which has for years, in such strong, clear and uninterrupted flow, swept away every opposition to the lawful property of the Internal Improvement Act, and the inviolable contract rights of the holders of bonds issued thereunder. In the shape in which this legislation comes, the right of these companies to the alternate sections within the six miles limit is so mingled and mixed up with the attempted grant beyond these limits, that it is made as doubtful and as difficult of assertion as any form of legislation can make it.

It would be a blessed consummation if this Legislature would start a well-digested scheme looking to the completion of the roads to Tampa and Pensacola bays, with such aid as the Internal Improvement Act permits to the other lines contemplated by these bills. Such a scheme, embodying in it the settlement of the present indebtedness of the fund, would be productive of great good. The grant of alternate sections within the six-mile limit, attended by a construction of the roads upon the terms of the Internal Improvement law, will render the residue of the sections in the same locality more valuable than both were before.

It must be plain to every one that until the fund shall be placed in a more healthy condition as to meeting its past obligations, such legislation as that now proposed can be of no value to the State nor of any benefit to the grantors thereunder, at least beyond the grant within the six-mile limit. Besides this, we all know how necessary and wise it is for private and public bodies, looking to a future involving a necessity for financial credit, to adhere strictly to contracts that have been made; particularly in this time, when they have been adjudicated and explained by the courts.

The sixteenth article of our Bill of Rights declares that no law impairing the obligation of contracts shall ever be passed; and believing as I do that these bills are in violation of this provision, I am compelled, for the reasons stated, to withhold my signature.

Very respectfully,
GEO. F. DREW,
Governor of Florida.

Which was read.

Mr. Thompson presented the following report:

SENATE CHAMBER, TALLAHASSEE, February 26, 1879

HON. W. D. BARNES,

President pro tem. of the Senate:

SIR: Your Joint Committee on Asylum and State Prison to whom was referred Senate bill No. 104, to be entitled an act to amend sections 1 and 2 of an act entitled an act to provide for the superintendence and management of the asylum for indigent lunatics, recommend the passage of the bill when amended as per amendment herewith attached.

Very respectfully,

W. N. THOMPSON,
Chairman Senate Committee.
R. BULLOCK,
Chairman Assembly Committee.

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

Mr. Bryson moved that the Senate adjourn until 10 A. M. to-morrow;

Which was not agreed to.

Mr. Bryson moved that the Senate adjourn until 9 A. M. to-morrow;

Which was not agreed to.

The Senate then adjourned until 4 P. M. this afternoon.

FOUR O'CLOCK, P. M.

The Senate met pursuant to adjournment.

Mr. McKinnon was called to the Chair.

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

Messrs. Allen, Bryson, Durkee, Eagan, French, Genovar, Hagan, Hatcher, Johnson, Jones, Judge, Leslie, McMeekin, McKinnon, Niblack, Patterson, Richard, Sharpe, Speer and Thompson—20.

A quorum present.

Assembly bill No. 114:

To be entitled an act to settle the title of the Pensacola and Georgia Railroad, and to protect the interest of the Internal Improvement Fund therein,

Was read the second time.

Mr. Thompson moved to strike out section 13.

The yeas and nays being called for,

The vote was :

Yeas—Messrs. Bryson, Durkee, Eagan, Long and Thompson—5.

Nays—Messrs. French, Genovar, Hagan, Johnson, Jones, Judge, Leslie, Lykes, McMeekin, McKinnon, Niblack, Orman, Patterson, Richard, Sharpe, Speer and Walker of the 23d—17.

So the motion was not agreed to.

Messrs. Barnes, Hatcher, Wallace and Allen were excused from voting.

Mr. Bryson moved to strike out "are," in the 2d line of section 2, and insert "they may deem;"

Which was not agreed to.

Mr. Bryson moved that the bill lie over until 11 o'clock tomorrow for further consideration;

Which was agreed to.

Mr. Durkee offered the following resolution :

Resolved, That the veto message of the Governor this day communicated to the Senate be referred to the Committee on the Judiciary, with instructions to examine the same and report back to this Senate what action should be taken by the Senate in the premises;

Which was adopted.

The following message was received from the Assembly :

ASSEMBLY HALL, TALLAHASSEE, February 26, 1879.

HON. W. D. BAENES,

President pro tem. of the Senate :

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

Assembly bill No. 130, to be entitled an act to amend an act to fix the time of holding the Circuit Courts in the Fourth Judicial Circuit, being chapter 1990 of the Laws of Florida; also,

Assembly bill No. 206, to be entitled an act to amend section 2 of chapter 210 of the Laws of Florida, being an act to provide for and encourage a liberal system of internal improvement in this State, approved January 6, 1855; also,

Assembly bill No. 115, to be entitled an act to protect and preserve the internal improvement fund of the State of Florida, against the suit of Francis Vose, 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.

Senate bill No. 129 :

To be entitled an act to authorize the Trustees of the Internal Improvement Fund to institute suit to settle the claims of certain railroads constructed under the provisions of the Internal Improvement Act and to protect the interests of said fund therein,

Was read a third time and put upon its passage.

The vote was :

Yeas—Messrs. Barnes, Bryson, French, Genovar, Hagan, Hatcher, Johnson, Jones, Judge, Leslie, Lykes, McMeekin, McKinnon, Niblack, Orman, Patterson, Sharpe, Speer, Walker of 23rd and Wallace—20.

Nays—Messrs. Durkee, Eagan, Long, Meacham and Thompson—5.

So the bill passed, title as stated.

Ordered that the same be certified to the Assembly.

Senate bill No. 154 :

To be entitled an act for levying a tax for the years 1879 and 1880,

Was read a third time, and on motion of Mr. McKinnon, was put back on its second reading so as to be amended.

On being read a second time, Mr. McKinnon moved to insert after "currency" in the 9th line, "and may levy a half mill as a pauper tax to be collected in currency;"

Which was agreed to.

Mr. Thompson moved to amend by adding: "and such amount as is necessary to provide for the payment of interest and principal of outstanding obligations;"

Which was not agreed to

Mr. McKinnon moved to amend section 2 by striking out "five" in the 3d line and inserting "six."

Mr. Bryson moved to amend the amendment by inserting "eight;"

Which was not agreed to.

The amendment of Mr. McKinnon was then agreed to by the following vote :

Yeas—Messrs. Barnes, French, Genovar, Hagan, Hatcher, Johnson, Jones, Judge, Leslie, McClenny, McMeekin, McKinnon, Niblack, Orman, Patterson, Richard, Sharpe, Speer, Thompson, Walker of the 23d and Wallace—21.

Nays—Messrs. Bryson, Eagan and Meacham—3.

So the amendment of Mr. McKinnon was agreed to.

Mr. Eagan moved to amend by adding after currency in the 9th line as amended, "the County Commissioners shall be prohibited from levying any tax for payment of interest on county bonds which were issued for railroad purposes, until such time

as they are able to ascertain the amount of such bonds properly out;”

Which was agreed to.

Mr. French moved to strike out “2½ mills” in 7 and 8 lines where it relates to school purposes and insert “3 mills;”

Which was adopted.

The bill was then ordered to be engrossed as amended.

Senate bill No. 120:

To be entitled an act for the relief of G. A. Lamb,

Was read the third time.

Mr. Bryson moved to put it back on its second reading;

Which was not agreed to.

The bill was put upon its passage.

The vote was:

Yeas—Messrs. Durkee, Eagan, French, Genovar, Jones, Judge, Leslie, Lykes, McClenny, Meacham, Niblack, Orman, Patterson, Richard, Speer, Thompson, Walker of the 23rd and Wallace—18.

Nays—Messrs. Bryson, Hatcher, Johnson, McMeekin and McKinnon—5.

So the bill passed, title as stated.

Ordered that the same be certified to the Assembly.

Assembly bill No. 204:

To be entitled an act to incorporate the Jacksonville, St. Augustine and Indian River Railroad Company,

Was read the second time, and amended, on motion of Mr. Genovar, by striking out “ten” and inserting “six” in first line on 13th page; and also by striking out on page 14 all after “company” down to “and” in 23d line.

The rule was then waived, the bill read the third time and put upon its passage.

The vote was:

Yeas—Messrs. Bryson, Durkee, Eagan, French, Genovar, Hatcher, Jones, Judge, Leslie, McClenny, McMeekin, McKinnon, Meacham, Niblack, Orman, Patterson, Richard, Speer, Thompson, Walker of the 23d, Walker of the 6th and Wallace—22.

Nays—Mr. Johnson—1.

So the bill passed, title as stated.

Ordered that the same be certified to the Assembly.

Senate bill No. 158:

To be entitled an act to incorporate the Suwannee and Gulf Railroad and Navigation Company,

Was read the second time, and amended as recommended by the committee.

Mr. Bryson moved to amend by adding the name of H. M. Wood among the incorporators in section 1;

Which was agreed to.

Mr. Bryson moved to amend by striking out “two” in line six of section four, and inserting “five.” Also to strike out all of section three. Also to strike out in section two all after “bed,” in line fifteen, and insert “within six miles of said line of railroad.” Also to strike out “three” in last line of section four, and insert “five;”

Which was agreed to, and the bill ordered to be engrossed as amended.

The Senate then adjourned to 10 o'clock to-morrow.

THURSDAY, February 27, 1879.

The Senate met pursuant to adjournment.

The President *pro tem.* in the chair.

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

Messrs. Allen, Barnes, Bryson, Durkee, Eagan, French, Genovar, Hagan, Hatcher, Johnson, Jones, Leslie, Long, Lykes, McClenny, McMeekin, McGuire, McKinnon, Meacham, Niblack, Orman, Patterson, Richard, Sharpe, Speer, Thompson, Walker of the 23d, Walker of the 6th and Wallace—29.

A quorum present.

Prayer by the Chaplain.

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

By permission, Mr. Barnes introduced the following bills:

Senate bill No. 169, to be entitled an act in relation to the qualification of judges, approved December 4, 1862, and to repeal the 2d section thereof; also,

Senate bill No. 170, to be entitled an act to quiet titles to real estate; also,

Senate bill No. 171, to be entitled an act to cure defects of title deeds and conveyances;

Which were placed among the orders of the day.

Mr. McClenny, by permission, introduced Senate bill No. 172, to be entitled an act for the relief of Wm. Wilson, of Clay county;

Which was placed among the orders of the day.