

Which was agreed to by a two-third vote.

And Senate Bill No. 316 was read a third time in full.

Upon call of the roll upon the passage of the bill the vote was:

Yeas—Mr. President, Messrs. Bailey, Blitch, Brown, Faulkner, Harris, Neel, Peacock, Stockton, Wadsworth.—10.

Nays—Messrs. Carson, Crews, Crill, Dimick, Miller, Scott, Whidden, Williams, Wilson of the 7th.—9.

So the bill passed title as stated.

Mr. Raney was excused from voting.

Mr. Brown moved that the rules be waived and all bills passed by the Senate today be immediately certified to the House of Representatives.

Which was agreed to by a two-third vote.

Mr. Raney moved that the Senate adjourn until 10 o'clock a. m. tomorrow.

Which was agreed to.

Thereupon the Senate stood adjourned until 10 o'clock a m., Thursday May 21, 1903.

THURSDAY, MAY 21, 1903.

Senate met pursuant to adjournment.

The President in the chair.

The roll being called, 30 Senators answered to their names, showing a quorum present.

Mr. Neel and Mr. Scott being absent.

Prayer by the Rev. L. D. Geiger, D. D., of the Baptist Church

The reading of the Journal was dispensed with.

The Journal as corrected was approved

INTRODUCTION OF RESOLUTIONS, PETITIONS AND MEMORIALS.

Mr. Peacock presented the following petition, which was ordered spread on the Journal:

To the Legislature of the State of Florida, Now in Session at Tallahassee:

We, the undersigned petitioners, most respectfully petition your honorable body to pass the attached bill to prohibit Sabbath breaking in the State of Florida:

J. N. Meeks, J. W. Hawkins, A. D. Hemming, E. L. McArthur, W. W. Giles, P. G. Ambrose, Mrs. John W. Chasteen, A. McLeod, Mrs. A. McLeod, Miss Janie Mays, W. H. Lyle, W. L. Blackmon, Thos. Dowling, W. L. Austin, Elder J. T. Butler, W. K. Collins, C. F. Helvenston, W. H. Cox, M. D., C. H. Blackburn, Mrs. T. A. Stevens, C. B. Bonnell, Mrs. C. W. Bache, H. J. Green, C. B. Oliff, Z. Graham, Clerk Circuit Court, Miles Johns, J. H. Peavey, J. W. Bryson, Gifford Hall, J. E. Wood, Ida Haddock, J. J. Evans, E. W. Young, T. S. Anderson, J. F. Fountain, Mrs. S. T. Overstreet, P. S. Bridges, I. W. Rhoden, S. B. Jackson, O. D. McFarland, G. S. Dobson, C. O. Sanders, J. F. Sherwood, N. C. Henry, H. D. Blackburn, J. W. Cobia, Mrs. T. J. Lyle, G. D. Ash, Cordell Pitts, W. H. Williams, J. J. Carter, J. N. Harrell, D. E. Horn, J. L. Lee, J. P. Durance, T. J. Lyle, G. W. Townsend, John W. Chasteen, J. C. Baisden, C. N. Hildreth, Mrs. Arnold, J. J. Murphy, J. W. Morgan, W. C. Norton, J. D. Taylor, J. R. Austin, Elder H. V. Skipper, C. T. McDaniel, D. W. Henry, H. A. Blackburn, G. G. Mays, Lula Parsley, Mrs. W. P. Head, Ray Kincaid, Mrs. B. M. Bean, J. C. Hogans, H. C. Sealey, J. N. Conner, D. W. Tedder, R. H. Haddock, Mattie Clemons, W. R. Fulford, J. F. Cordes, C. W. Bache, A. S. Johnson, Mrs. J. C. Baisden, S. P. Mays, W. A. Rye, T. J. Nixon, S. E. Townsend, A. M. Folks, O. O. Williams, J. D. Radford, S. V. Hough, J. T. Carroll, S. P. Mays, G. B. Lord, W. P. Head, W. B. Collins, B. M. Bean, Baptist minister.

List of Grand Jury now in session in Live Oak, Suwannee County, viz.:

S. M. Martin, W. M. Cason, W. E. Floyd, M. A. Clayton, H. J. Stansel, E. K. Goff, E. A. Dampier, J. T. Bethea, R. L. Landrum, G. W. Fletcher, J. G. Bird, R. G. Daughtry, E. B. Godbolt, G. D. Ash, J. W. Bell, W. H. Bell, T. L. Dorsett, J. H. Quarterman.

INTRODUCTION OF BILLS.

By Mr. Stockton:
Senate Bill No. 360:

A bill to be entitled an act to make it unlawful to hypnotize or mesmerize, or attempt to hypnotize or mesmerize, children under certain ages, and certain circumstances, and to provide a penalty for the violation thereof.

Which was read the first time by its title and referred to the Committee on Judiciary.

By Mr. Stockton:
Senate Bill No. 361:

A bill to be entitled an act to provide for the appointment of assistant county solicitors in counties in which criminal courts of record are established, and to prescribe their powers and duties.

Which was read the first time by its title and referred to the Committee on Judiciary.

By Mr. Blitch:
Senate Bill No. 362:

A bill to be entitled an act for the relief of W. F. Hughey of Levy county Florida.

Which was read the first time by its title and referred to the Committee on Claims.

By Mr. Blitch:
Senate Bill No. 363:

A bill to be entitled an act to amend Section 1411 of the Revised Statutes of the State of Florida, relating to form of subpoena to answer.

Which was read the first time by its title and referred to the Committee on Judiciary.

By Mr. Butler:
Senate Bill No. 364:

A bill to be entitled an act to amend Section 2 of Chapter 4671, Laws of Florida, the same being an act entitled an act to authorize solvent guarantee companies, surety companies, fidelity insurance companies and fidelity deposit companies to become surety upon the bonds of city, county and State officers, and providing remedies against, or upon such bonds, and other purposes, approved June 1st, 1899.

Which was read the first time by its title and referred to the Committee on Judiciary.

By Mr. Peacock:

Senate Bill No. 365:

A bill to be entitled an act to prohibit certain sporting and game on the first day of the week, known as Christian Sabbath.

Which was read the first time by its title and referred to the Committee on Judiciary.

By Mr. Crill:

Senate Bill No. 366:

A bill to be entitled an act providing for the examination of banks and banking companies, organized under the laws of this State.

Which was read the first time by its title and referred to the Committee on Judiciary.

By Mr. Dimick:

Senate Bill No. 367:

A bill to be entitled an act to amend Section 2, Chapter 5032, Laws of Florida, approved May 31st, 1901, entitled an act to amend Sections 1 and 9 of Chapter 4255, Laws of Florida, entitled an act to increase the facilities and improve the transportation throughout the State, and to incorporate the Florida Grand Trunk Railway Company, approved June 3, 1893.

Which was read the first time by its title and referred to the Committee on Corporations.

By Mr. Butler:

Senate Bill No. 368:

A bill to be entitled an act to provide for the publication and disposition of Thompson's Compilation of the British Statutes in force in Florida.

Which was read the first time by its title and referred to the Committee on Judiciary.

REPORTS OF COMMITTEES.

Mr. Blount, Acting Chairman of the Committee on Judiciary, submitted the following report:

Senate Chamber,
Tallahassee, Fla., May 21st, 1903.

Hon. Frank Adams,

President of the Senate:

Your Judiciary Committee, to which by Senate resolution, have been referred—

"The petition of S. I. Wailes and the Estate of W. K. Beard for payment for services rendered to the State of Florida in relation to the Indian War Claims, and all other claims against the Indian War Claims Fund, or arising out of the Indian War," beg leave to report:

That in accordance with the powers given by such resolution they have sent for all persons who have been suggested to the committee as being able to give any information to it respecting the matters to be investigated; have sent for and secured all papers which have been suggested to be relevant to such investigation; have, in the presence of the claimants hereinafter to be mentioned, or of persons representing them when they desired to be represented, and in the presence of the Attorney General of the State of Florida, when he, in pursuance of an invitation extended by the committee was able to attend, examined such witnesses and papers. The persons who were examined were W. D. Bloxham, S. Pasco, R. H. M. Davidson, Charles Dougherty, Robert Bullock, Geo. P. Raney, George R. Fairbanks, S. I. Wailes, W. M. McIntosh, Jr., and Geo. Lewis. The testimony as taken by the stenographer and the papers before the committee are herewith submitted.

Your committee also requested Governor W. S. Jennings to furnish any data or information which he might have in relation to the matters presented to the committee, a list of which was given him, and he appeared before the committee and discussed with it some of such matters.

Your committee, mindful of the vast importance to the State and to the claimants of the matters submitted, have given the matter careful thought and considered all facts and circumstances which have seemed to them to be of weight in arriving at a proper and just determination, and now submit the result reached. In doing so, it is necessary to repeat much known to the Senate and to the public, but such repetition seems necessary to give coherence and symmetry to this report:

THE CLAIMS SUBMITTED.

1. The claim of S. I. Wailes and Mrs. L. G. Beard (for the estate of W. K. Beard) for fifteen per cent, of \$1,089,158.66.

2. The claim by the city of Pensacola for \$25,007.02.
 3. The claim by George Lewis, trustee, for \$4,125, with interest.

4. Sundry claims of soldiers who served in the Indian wars (or assignees or representatives of such soldiers), upon what are known as the R. C. Williams warrants, approved by the commission appointed under the Act of March 11, 1879, Chapter 4930.

5. Sundry claims of soldiers (or their assignees or representatives) who claim under like warrants unapproved by the said commission.

6. The claim of John W. Eppes for services as surgeon in Captain William Fisher's Company of Mounted Volunteers in 1849.

7. A claim by the Superintendent of Education on behalf of the State Educational Fund to interest upon the amount paid to the State July, 1902, by the United States belonging to said fund.

The following facts are either common to all of said claims, or so connected with each, that it is well to state them preliminary, and thereafter to state in order and in connection with each claim the facts pertinent only to that claim.

GENERAL FACTS.

During the years 1849 to 1857 the Indians in the State were incited to hostilities which it was incumbent upon the United States to suppress. Since, however, the safety of Florida's citizens was at stake, and since immediate action was necessary, the Governor of the State of Florida called its troops into action, relying upon the United States to reimburse it for any outlays made by it in the suppression of such hostilities. The United States recognized the obligation, fixing the amount to be paid by it as the amounts paid by the State from the time of the mustering of the Florida State Troops into the service of the State until they were mustered out of such service. In order to raise money for the purpose mentioned, the State was compelled to and did issue bonds bearing 7 per cent. interest, of which the United States bought \$132,000 for the trust fund which it held for certain Indian tribes. While this obligation of the United States to the State to

pay the outlays of the State was recognized by the former, yet the ascertainment of the amount was a matter of difficulty because of the irregular manner in which records of enlistment and time of service of the State troops had been kept, and in some cases because of the absence of authentic records.

In addition to the indebtedness by the United States to the State on this account, it also became indebted from time to time upon other accounts, namely:

On account of moneys due under Section 2 of the Act of March 2, 1855 (10 U. S. Statutes at Large, pages 634-635), which provided for the payment by the United States to the State of all moneys received by the former for lands granted by it to the latter by the Swamp Land Act of September 28th, 1850, but sold by the United States between the date of such Act and the time of selection and location by the State. We shall call this the Swamp Land Indemnity Fund.

It was further indebted on account of moneys due by it to the State under the Act of March 3rd, 1845, which gave to the State for public school purposes, five per cent. of the proceeds of all sales by the United States of lands belonging to it in the State of Florida. We shall call this the public school fund.

It became further indebted to the State on account of expenses paid to the State of Florida for the taking of the census within its borders for certain years, which expenses should of course have been paid by the United States and were chargeable to it. We shall call this The Census Fund.

Thus it will be seen that the State was indebted to the United States for its \$132,000.00 of bonds and the interest thereon, and the United States became indebted to the State upon the three accounts mentioned.

Under the settled practice of the United States it refused to pay any of the amounts due the State until the accounts between it and the State should be adjusted and the amount due to it by the State should be liquidated and paid.

After numerous endeavors, which we shall in large part set forth hereafter, to have these accounts settled and paid, such settlement was finally reached under an act

of Congress of May 27th, 1902, and the amount due to the State paid by two Treasury warrants, as follows:

Treasury Warrant received		
July 1902		\$679,698 00
Treasury Warrant received		
December, 1902		13,248 00
		<hr/>
		\$692,946 00

U. S. due State

Principal	\$	261,934 31
Interest		813,976 35
Withheld		13,248 00

\$1,089,158 66

State due U. S.

Bonds		132,000 00
Interest		264,212 66

\$ 396,212 66 \$692,946 00

Indian War Fund	\$	570,250 66	
Indemnity Fund		25,007 02	
Census Account		9,326 21	
State School Fund		88,362 11	\$692,946 00

SPECIAL FACTS RELATING TO THE WAILES CLAIM.

S. I. Wailes and the representatives of W. K. Beard, claim that they are entitled to fifteen per cent. upon the amount collected by the State from the United States upon the Indian War Claim, and that such amount so collected was \$1,089,158.66, and that fifteen per cent. of this would be \$163,373.79.

We will proceed to consider the basis of this claim at such length as its magnitude demands. The facts, as we find them from the testimony submitted, are as follows:

S. I. Wailes was, in 1877, 1878 and 1879, a resident of Washington, D. C., engaged in the prosecution of claims before the Departments of the United States Government. He not only personally was so engaged, but had a large corps of clerical assistants. He was, or had been, the agent of the States of Maryland and Delaware, the

former of which had paid him a commission of thirty per cent. and the latter a commission of twenty-five per cent. contingent upon collection of claims which he was prosecuting for those States against the General Government.

Beyond an effort to adjust the claim of the State of Florida against the United States in the year 1860, no effort in that direction was made by the State until the year 1877, when the Legislature passed an act approved March 2d, 1877, authorizing and empowering the Governor "to appoint an agent to adjust and settle all claims between the State and the United States Government growing out of the war with the Seminole Indians in the years 1856-1857, as well as other claims that may exist between the two Governments," and providing that "the expenses of such agent shall be paid out of the amount appropriated for contingent expenses of the State, and shall not exceed the sum of \$800."

Presumably under this law, Governor Geo. F. Drew on October 30th, 1877, appointed, in writing, S. I. Wailes as commissioner to represent the interests of the said State in all matters of business in the War Department of the United States, and asked the heads of departments and chiefs of bureaus to so recognize him. No compensation was agreed upon, and apparently only some special work was done by Wailes, who was paid therefor a small amount.

The Legislature on March 11th, 1879, (Chapter 4113), enacted a law providing among other things that:

"The Governor is hereby authorized and empowered to appoint a Commissioner with power to proceed to Washington and adjust the claims of the State of Florida against the United States."

And provided further that

"The sum of two thousand dollars, or so much thereof as may be necessary, from any moneys in the State Treasury not otherwise appropriated, is hereby appropriated to pay the expenses of said Commissioner to Washington, and the incidental expenses of said Commission."

The Commission mentioned was a Commission of three persons to be appointed to examine and approve or reject the warrants known as the Williams warrants to which

we will advert hereafter. These Commissioners were in no wise connected with the Commissioner to be appointed to proceed to Washington to adjust the claims of the State against the United States.

In the early part of the year 1879, Governor Drew and Wailes had some correspondence touching the employment of the latter to represent the State in the prosecution of this Indian War Claim against the United States and therein Governor Drew tendered to Wailes such employment, and offered to pay a contingent fee of fifteen per cent. On June 15, 1879, the Governor and his Cabinet passed the following resolution:

"That the Governor be authorized to appoint S. I. Wailes, Esq., of Washington City, agent of the State of Florida to settle the Indian War Claim; Mr. Wailes to receive as compensation fifteen per cent. of the moneys collected."

On June 12, 1879, Governor Drew had written to Wailes the following letter, showing his estimate of him, and laying the basis for the future contract:

Executive Office,
Tallahassee, Florida, June 12, 1879.

Dear Sir—Your favor of the 5th inst. is at hand and contents noted. We are very well satisfied with what you have done for us so far, and we believe that no one could have done better.

We have concluded to appoint you as State Agent to collect the Indian War Claims, provided you will agree to associate Col. Beard with you in the matter; and pay all the expenses that have been or may be incurred by Col. Beard or yourself in getting up the data and prosecuting the claims to a successful termination. We will give you fifteen percent. of whatever you succeed in collecting upon those claims. I hope that this will be satisfactory to you. Accept my thanks for the letter of Governor Reed's and for all the evidence of your friendship.

GEO. F. DREW.

On July 16th, 1879, the negotiations were consummated by the issuance to Wailes by Governor Drew of an appointment, which is as follows:

State of Florida,
Executive Department.

Know all men by these presents, That I, George F. Drew, reposing special trust and confidence in the ability, fidelity and prudence of Sidney I. Wailes, do hereby constitute and appoint the said Sidney I. Wailes agent for the State of Florida, before the Department at Washington City, and to ask and demand and receive of the Government of the United States, any and all sums of money due the State of Florida for expenses incurred by said State of Florida on account of Indian hostilities in said State from the year 1849 to the year 1856, inclusive. The said Wailes to receive compensation for performing the above work, FIFTEEN per cent. of the sums collected from the General Government upon such Indian War Claim, and to DEFRAY ALL EXPENSES INCURRED in the prosecution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be attached, this 16th day of July, A. D. 1879.

(Seal)

GEO. F. DREW, Governor.

Attest: W. D. BLOXHAM, Sec. State.

Wailes accepted this employment and undertook the task. It made him, as shown above, however, by Governor Drew, that Col. W. K. Beard, who was known as a thorough and accurate accountant, and had seen years of service in the State Departments, should be associated with him, and this was done; Wailes agreed with Beard that he (Wailes) would defray all the expenses of the services to be performed for the State, and that Beard should have one-half of the compensation agreed to be paid to Wailes, less the expenses paid, and that the amounts to be paid by the State for the Commission aforesaid should be to each in proportion to his interest.

Probably to remove any doubt as to the scope of the employment of Wailes, the Governor and his Cabinet subsequently, to-wit, on August 9th, 1880, adopted the following resolution:

Resolved, by the Governor and his Cabinet, That the resolution of June 15th, 1879, employing and appointing S. I. Wailes of Washington, D. C., to represent the State

of Florida before the Departments of the General Government at Washington City, to ask, demand and receive of the United States Government all sums of money due said State on account of the Indian hostilities in said State, be so amended as to include the year 1857."

In pursuance of the employment above mentioned, Beard repaired to Washington, where he and Wailes devoted themselves both, until the death of the former in 1882, and Wailes after such death, in endeavoring to adjust the claims. Such service involved the most minute and accurate search of the records in the Departments at Washington, the search for and finding of records in Florida which had been lost, the employment of agents, to travel in the State of Florida in order to obtain the personal assistance and statements of survivors of the Indian wars; the placing of this information in such shape as to be acceptable to the Departments at Washington, and the procurement of and allowance of these accounts of the State on the basis of such information, the presentation of such data and statements to the appropriate Committees of Congress, and not only the allowance of the principal, but the interest thereon. Many of the original records had at the beginning of the Civil War been sent to the United States Senators for Florida to Washington and in the confusion at the outbreak of the war and their retirement from Congress, had been lost, and had to be replaced by such information as could be procured. Thirty years had elapsed from the beginning of the Indian hostilities, and during the Republican regime in Florida no attention had been given to the claim and its prosecution was thus rendered more difficult and expensive, so expensive that the claimant testified that his outlays exceeded the sum of twenty thousand dollars. The information required and the labor in procuring it are well set forth in a letter of W. K. Beard to S. I. Wailes, dated November 20th, 1878, in the correspondence between Governor Drew and Wailes in the early part of 1879, in the report contained in the Executive Document No. 68, 51st Congress, in the elaborate brief upon the merits of the claim and the allowance of interest, prepared by Wailes and submitted to Hon. William Windom, Secretary of the Treasury, and used in presentation to Congress. Wailes had at all times insisted that interest must

be allowed to the State, and had prepared a statement relating to it which is thus referred to in Governor Drew's message to the Legislature in 1881:

"The question of interest on the State's claim is one of material importance. A statement prepared by the agent is herewith filed, which will show the equity of the claim and the abundant precedent for its payment." Page 23, Senate Journal, 1881.

During the years 1879 to 1893, (when Wailes left Washington), Wailes was in constant communication with the Senators and Representatives of the State in Congress, and was of great assistance to them in the preparation of the facts upon which the bills presented to Congress and the argument made before Congress and its committees were based. He prepared and the Senators and Representatives procured the passage of a resolution authorizing the accounting officers of the Treasury to audit and settle the State's claim. The resolution was amended in its passage so as to make the reference to the War Department, and on May 22nd, 1882, the Secretary of War reported an investigation and allowance of \$224,648.09 as a principal sum, but proposed to deduct from this the \$132,000 of State bonds held by the United States, leaving a balance due the State of \$92,648.09. A bill was actually passed through Congress for an adjustment on this basis, but Wailes insisted that the State should have further credits, and should be allowed interest, and Governor Bloxham declined to accept the amount offered—a rejection the wisdom of which Governor E. A. Perry says, "seems not to have been questioned, but to have been admitted by all." Page 19, Journal House of Representatives, 1887. If a settlement had been accepted upon the basis of this bill, the State would have lost the sum of \$586,732.85, and interest up to June 1st, 1890, which, together with the interest thereon up to the date of settlement in July, 1902, was eventually secured by the State.

Wailes' efforts continued, and on March 2d, 1889, Senator Pasco succeeded in getting an amendment in the Appropriation Bill which directed the Secretary of the Treasury to examine the claim of the State of Florida, and to report the amount of all claims of the General Government against the State of Florida, and in said re-

port to state the account between the General Government and the State of Florida.

Under this provision Wailes succeeded in getting the Secretary of the Treasury to restate the account, allowing items omitted from the statement of the Secretary of War, because disallowed by him, and increasing the principal sum due to the State to the sum of \$261,934.31. This increase was \$33,697.21, which, with the interest on it, exceeds the amount recommended by the committee to be paid to him. He also procured the statement by that officer of the interest upon the account up to January 1st, 1890, amounting to \$586,792.85 due from the United States to the State. The Secretary of the Treasury had, under the authority given him, only the right to settle the account between the State and the Government, and necessarily left to Congress the question as to whether interest should be allowed. However, this report of the Secretary of the Treasury, was, by the express terms of the act of Congress of May 27th, 1902, made the basis of the settlement between the United States and the State. That act authorized and directed the Secretary of the Treasury:

"To settle the mutual account heretofore stated between the United States and the State of Florida under the authority of an act of Congress, *according to the mode of settling the same*, found near the foot of the third page of the letter of the Secretary submitting his report dated December 16th, 1889, published as Executive Document No. 68, 51st Congress, First Session; by continuing the computation of interest to the date of settlement, and ascertaining the balance due the said State." This was done by the Secretary of the Treasury, and the exact amount stated in the report therefore made by him, with interest added from January 1st, 1890, to the date of settlement, was paid to the State in July, 1902, as shown above.

During the time of the rendition of these services, Wailes was in constant touch with the State of Florida, through its Governors and its legislators, and they were approving his action.

At the next session of the Legislature after his appointment as agent, he submitted to Governor Drew a report of the situation, and Governor Drew in turn communi-

cated to the Legislature such situation, informing it of the appointment of Wailes, in the following language, used in speaking of the Indian War Claim:

"Recognizing the importance of stopping the large amount of interest annually accumulating against us, as well as the benefit of an early settlement with the General Government, I appointed Col. S. I. Wailes of Washington, D. C., with the request that he associate with him Col. W. K. Beard of Tallahassee, as agent of the State to represent her before the Departments at Washington, to procure this settlement, with the distinct understanding that the fee was a contingent one of fifteen per cent. of the amount collected. They immediately commenced the examination and preparation of the State's claim, but encountered many difficulties in consequence of the displacements of important records and documents during the military occupation of the State Government." (Senate Journal, 1881 p. 21).

In 1883 Wailes again submitted a report to Gov. Bloxham, who called the attention of the Legislature to it, (Senate Journal, 1883, p. 33) in the following language:

"With the exception of an effort made in 1860 no step was taken to settle this important matter until Governor Drew appointed Col. S. I. Wailes of Washington City, who associated with him the late Col. W. K. Beard of Tallahassee, as agents of the State to settle the claims, with the understanding that their fee was to be a contingent one of fifteen per cent. of the amount collected."

At the session of the Legislature in 1885 a report was again made by Wailes to the Governor (Bloxham), and he again called the attention of the Legislature to it (Senate Journal, p. 29), in substantially the same language, informing the Legislature that "I have on file in the executive office the last report of S. I. Wailes, Esq., State Agent, in connection with this subject." The Senate recognized his agency by its resolution describing him as "the duly authorized agent of the State of Florida." (Page 28, Senate Journal, 1885).

Reports were made to each succeeding Legislature, and at each session the Governor communicated to the Legislature the fact, up to and including the year 1891, when Governor F. P. Fleming called attention to Wailes' con-

nection with the matter and to his services, in the following language (page 21, Senate Journal, 1891):

"The importance to the State of Florida of the account so directed to be stated was such that notwithstanding the efficient services of the State Agent at Washington, in the matter, I deemed it proper during the summer of 1889 to send the Comptroller to Washington to confer with the Government officials in reference thereto, and later in the year myself visited Washington in the same interests. I submit herewith the report of S. I. Wailes, Esq., the State Agent, which, with the papers appended thereto, will give you full information as to this claim, its present status, and the efforts made to secure its recognition by Congress and an appropriation to pay it."

Not only did all the Governors of the State communicate to the Legislatures from time to time the situation of the Indian War Claim and Wailes' connection with it, but Governors Perry and Fleming gave additional or continuing authority to represent the State in the adjustment of such claim. The former, on August 20th, 1888, certified to the Secretary of War of the United States as follows:

"I hereby certify that the appointment or commission (referring to and specifying the commission from Governor Drew to Wailes of July 10th, 1879), has not been revoked or cancelled, and I would therefore request you to allow the said Wailes access to whatever papers in your department it may be necessary for him to examine and to give him permission to file such papers as may be needful and proper in the settlement of said claims."

In a letter to Hon. William Windom, Secretary of the Treasury, dated March 28th, 1889, in speaking of the act of Congress of March 2d, 1889, and the examination to be made thereunder, Governor Fleming says:

"As in that examination evidence may be required, and possibly some now in the files of this State, I hereby respectfully request that permission be given to Mr. S. I. Wailes, the agent of the State upon this claim, to file such papers and evidence as may be necessary, and to do all other necessary acts required by your department of this State in said examination."

Thus, as we have seen, the Legislature authorized Governor Drew to appoint a commissioner to represent the State in the prosecution of this claim against the United States. Governor Drew, under that authority, contracted with Wailes for an agreed compensation, to perform the service. Every Legislature from that time to the time when the service was completed was cognizant of and acquiesced in the employment. Every Governor knew of and relied upon and confirmed the employment. Wailes completed the contract; and the money secured upon the foundation laid by him has come into the Treasury of the State to the amount of \$1,089,158.66. We do not find that any question of his authority was ever made until this money actually came into the hands of the State.

CONCLUSIONS AS TO THE WAILES CLAIM.

From the foregoing facts the committee is forced to the conclusion that the Act of March 11th, 1879, gave authority to Governor Drew to make the contract with Wailes hereinbefore set forth, and that such contract did not exceed the scope of powers conferred upon the Governor; that it was accepted by Wailes; that subsequent Legislatures and Governors ratified and acted upon it; that Wailes performed what was required of him thereby, and that he is entitled to fifteen per cent. of the sum deposited, less \$900 paid by the State to W. K. Beard, with interest, as shown hereafter.

In arriving at this conclusion, we have not been unmindful of, but upon the contrary, have carefully considered the objections which have been made to the view taken by the committee. We shall state and discuss, shortly, such as have come to our attention.

It is asserted that the service to be rendered by Wailes could only be rendered by an officer of the State; that Wailes was not a citizen of the State and could not be an officer thereof, and that if he could be, he never qualified by taking an oath of office, and that, if qualified, his term could not, under the Constitution of 1868, extend beyond four years, and that, therefore, his power ceased after that time.

These several contentions depend upon the first, that is, that the employment in which Wailes engaged under the commission from Governor Drew, was an office. We think this assumption incorrect. This is not the place to enter upon an elaborate or exhaustive discussion of this subject and we content ourselves with a few quotations and citations from the courts to show that Wailes was not an officer.

In *Mo. ex rel, vs. Walker*, 125 U. S. 339, "A contract made under authority of the statute by a State with an individual to procure at his own expense before Congress and the departments certain specified claims of the State against the United States, and to receive as full compensation of his services a certain rate or commission on the amount collected by him," was held to constitute an agency and to be recoverable until consummated by the performance of the work. If the appointment had created an office, it could not have been revoked and the officer could only have been removed for cause designated by law.

Chief Justice Marshall says: Although an office is an employment, it does not follow that every employment is an office." A man may certainly be employed under a contract, express or implied, to do an act or perform a service without becoming an officer." In *Hall vs. Wis.*, 103 U. S., 5, it was held that the commissioners appointed to make a geological survey of the State under an act naming them, were not officers, but were contractors with the State under a contract made by the Governor with them in pursuance of the act. One of the commissioners who was involved was a non-resident of the State. The court says: "The legal position of any plaintiff in error (commissioner) was not materially different from that of parties who pursuant to law enter into stipulations limited in point of time with a State for the erection, alteration or repair of public buildings or to supply the officers of employes who occupy them with fuel, light, stationery, and other things necessary for public service."

In *U. S. vs. Hatch*, 1 Pinney, 182, the Supreme Court of Wisconsin held, that the term "office" embraces "only

those officers in whom a portion of the sovereignty of the State is invested, or to whom the enforcement of municipal regulation of the control of the general interest of society is confirmed."

"A contractor is not an officer of government when he undertakes to perform work or render services for the government for a compensation to be paid to him with a view to his own profit and when his subordinates are employed and paid by him and dismissed at his pleasure."

19 A & E. Ency. of Law, p. 387; Sawyer vs. Corse, 17 Gratt. 230.

In Illinois the Legislature named commissioners to build a State house and it was contended that such appointments were void because the constitution provided that no officer should be appointed or elected by the General Assembly. The court held that they were not officers saying "a person employed for a single and specified object, in whose employment there is no enduring element, nor designed to be, and whose duties, when completed, although years have been required for their performance, *ipso facto* terminates the employment, is not an officer in the sense in which the term is used in the Constitution." Bun, et al vs People 45 Ill. 397.

See a full discussion in the 19th A. & E. Ency. of Law, pages 382-388.

The case of Cann vs. Evans, 74 Penn. St. 124, held an agent authorized to collect and collecting money for the State to be an officer, but such collection of money is a government function, which Wailes did not perform and which the Governor had no power to authorize him to perform.

We think that this matter is concluded by the decision of our own Supreme Court in the case of State, ex rel Clyatt vs. Hocker, 39 Fla. 477, in which the court distinctly decides that an office embraces the idea of tenure duration and not merely a transient, occasional or incidental employment, that it must be begun or limited by a contract, and that it must continue though the incumbent dies or is changed, and that it must consist in authority to exercise some portion of the sovereign power, either in making, executing or administering the laws.

Wailes embodied none of the sovereignty of the State; his term was not fixed, but was to last only until the accounts were adjusted, which might have taken place in a few months or years. His death would have destroyed the function, and every new incumbent of the position which he held would come only by contract. He entered upon it for his own profit and was to pay all the expenses thereof. His subordinates were amenable to him alone, and not in any wise to the State. In short, he was a mere contractor or agent. The fact that he performed this service, which was necessary for the State in order that it should carry out its duties to its people, does not show that he was an officer. If so, then the lessee of State convicts is an officer, and so the attorney employed in the convict lease litigation, and so the architect who built the Capitol, etc. etc.

The suggestion is also made that Governor Drew exceeded his power in fixing the compensation of Wailes, because the Legislature did not authorize him to do so. The committee thinks that the suggestion is not sound, because the Legislature did authorize the appointment, but did not itself fix the compensation and did not forbid the Governor to do it. No appointment could be made without an agreement with the appointee as to compensation, and under a familiar rule of law, the express power to appoint carried with it all the incidental power necessary to secure and effectuate the appointment.

It is also suggested that the commission of July 18th, 1879 to Wailes empowered him only to adjust the accounts relating to the Indian hostilities in said State from the year A. D., 1849 to the year 1856, inclusive; that there were hostilities in the early part of the year 1857, and that since the commission did not embrace this period, Wailes is not entitled to any compensation for services rendered in connection therewith. The committee thinks the position not tenable, for the reason that the commission in speaking of years 1849 to 1856, evidently intended to embrace the two years beginning in those years just as we constantly speak of the war of 1776, although it lasted seven years thereafter; or of the war of 1812, although it continued until 1814, and of the war of 1861, although it came to an end in the spring of 1865. Moreover, the same Governor and cabinet who authorized and made this

contract expressly extended it, as we have shown, so as to include the year 1857.

Not only was there no reason for making a separation between the years 1856 and 1857, when the hostilities were continuously running from the former into the latter, but the resolution of the Cabinet (June 15, 1879) under which the Governor acted, authorized the appointment of Wailes as "Agent of the State of Florida to settle the *Seminole Indian War Claim*," and no Governor or Legislature ever made a separation of the year 1856 from the year 1857, but upon the contrary all dealt with these years as continuing and as a whole.

It is also suggested that Wailes did not complete his contract, and thereon was not entitled to compensation, or if to compensation, not to the amount agreed upon. Whether this be true or not, depends upon the contract.

The scope of the contract authorized by the Legislature in the act of 1877 (March 7th), was "to adjust and settle the claims between the State and the United States Government, growing out of the war with the Seminole Indians, in the years 1865 and 1867, as well as other claims that may exist between the two governments," etc.

The authority given under the act of March 11, 1879, was to appoint a commissioner with power "to adjust the claim of the State of Florida against the United States." The direction given to the Governor by his cabinet was to appoint Wailes "Agent for the State of Florida, to settle the Seminole Indian War Claim."

The first appointment of Wailes by the instrument of October 30, 1877, was "to represent the interest of the State in all its matters of business in the War Department of the United States," and the appointment under the instrument of July 16th, 1879, was as "Agent" before the Department at Washington, and to ask, demand and receive of the Government of the United States, any and all sums of money due the State of Florida," etc.

Under this authority, all that Wailes was to do, was to act as Agent before the proper Department at Washington for the adjusting and settling of the claims of the State against the United States. He performed all of these services in the acts shown heretofore, ending upon his procurement of the statement by the Secretary

of the Treasury stating the account which the exact basis on which it was afterwards paid.

When this was accomplished, his contract was accomplished.

It is more than probable that he was selected by Governor Drew because of his friendly relation with Senators, members of Congress and officials of the Departments, and his familiarity with the minutiae of legislation, which might be availed of in procuring the passage by Congress of the necessary legislation, but this was no part of the contract, and could not have been insisted upon by the State, and was not covered by the legislative authority to Governor Drew. Moreover, he did unquestionably perform during his presence in Washington such services as were required to procure the friendly offices of persons in authority, dealing with this claim. Besides, he substituted his brother, W. E. Wailes, in his stead, and this was done with the consent of the State, acting by its Governor, H. L. Mitchell, who on June 9th, 1894, made and delivered the following to W. E. Wailes:

Executive Department,
Tallahassee, Fla., June 9, 1894.

Hon. W. E. Wailes of Selma, Alabama, is hereby authorized to act as agent for the State of Florida in the matter of the State Indian War Claims, now pending before Congress, in lieu of S. I. Wailes.

(Seal) Signed H. L. MITCHELL,
Attest: JNO. L. CRAWFORD, Governor.
Secretary of State.

Of course the State cannot object to the absence of S. I. Wailes from Washington, and contend that such absence constituted a breach of contract in whole or in part, when it consented thereto. The power of Governor Mitchell to give this consent, cannot be questioned, for the authority conferred by acts of the Legislature in 1877 and 1879 were continuing powers, and were exercisable at any time, until taken away by the Legislature.

There is one part of the authority to Wailes, given by the instrument of July 16th, 1879, which was not exercised by him, to-wit, the receipt of the money paid to him upon this claim by the United States. It was impossible for him, however, to do this, because the Government of

the United States will not pay to an attorney or agent a claim allowed to the principal, unless such attorney or agent is acting under a power of attorney given after allowance of the claim, and no such power has been given or tendered by the State to Wailes, but on the contrary, as shown by the testimony, Governor W. S. Jennings has properly taken into his own hands and control, the receipt of all money from the General Government.

There are other suggestions made in the way of objections, but this committee does not consider them of sufficient merit to justify a discussion or an extension of this report.

The committee has hereinbefore dealt with this matter as if the State was suable, and the question was whether there existed a legal liability against it. But the State is not suable by Wailes on this claim, and the real inquiry is whether if the acts recited had been done between two individuals, they would have constituted a legal or moral obligation upon the one receiving the services and the benefit thereof to pay therefor, according to the understanding between them. There is no doubt as between individuals, the acts would have constituted a contract, either by force of the original agreement or of the subsequent acquiescence and ratification.

No court in any civilized country would hesitate to declare that there was a valid, binding contract upon one or the other of these grounds.

Any discussion as to the moral obligation would seem to be unnecessary, for the enlightened conscience cannot fail to recognize it to be a high duty to pay for services rendered and benefits received according to the understanding under which they were rendered and received.

THE AMOUNT RECOMMENDED TO BE PAID TO WAILES.

A majority of the committee is of the opinion that Wailes is not entitled to fifteen per cent. upon the amount, principal and interest, allowed to the State upon this Indian War Claim in the settlement of 1902, to-wit, \$1,089,158.66, but that he is entitled only to fifteen per cent. of the principal sum allowed by the United States government, to-wit, \$261,934.31, less \$132,000 of bonds, held by

the United States against the State, to-wit, on the sum of \$129,934.31, with interest to the date of the settlement with the State, to-wit, July 1st, 1902, at the rate received by the State.

Upon this basis, the amount recommended to be paid to Wailes is as follows:

Principal allowed to State as of January 1st, 1858	\$261,934 31
Less bonds of State held by United States...	132,000 00
	\$129,934 31
Fifteen per cent. of which is.....	19,490 14
Add interest from January 1st, 1858; to January 1st, 1900 at 7 per cent.....	57,301 03
Add interest from January 1st, 1900, to July 1st, 1902, at 6 per cent.....	2,923 52
Total	\$ 79,714 70

It appears, however, from the testimony, that W. K. Beard, who was associated with Wailes, and who, by the terms of the contract, was to have one-half of the commissions, has been paid by the State the following sums upon the following dates, to-wit:

August 8, 1879	\$500
November 25, 1879	100
June 8, 1880	300

\$900

These amounts, with interest thereon, from date of payment to July 1st, 1902, aggregate \$2,299.27, which sum must be deducted from the sum above recommended, leaving the net sum of \$77,415.43.

In accordance with the instruction of the Senate, your committee has drawn a bill for the payment of this sum to S. L. Wiles and Mrs. Tetitia G. Beard, for the estate of W. K. Beard, which is herewith submitted.

THE CLAIM OF THE CITY OF PENSACOLA.

In order to reimburse the city of Pensacola for losses sustained by it during the Civil War, by removal of the rails from the Alabama and Florida Railroad, to which company it has issued bonds to aid in the construction of

said railroad, the Legislature of Florida, in March 1883, passed an act, entitled an act for the relief of the city of Pensacola, the only section of which material to the matter in hand is as follows:

"Section 1. That two hundred and fifty thousand acres of the indemnity lands received, or to be received, or moneys to be received from a settlement of indemnity lands from the State of Florida, be, and they are hereby set apart for the payment of the funded bonds of the city of Pensacola, which were issued in lieu of the original bonds, provided that this shall not affect lands already sold or money due on indemnity lands heretofore sold by the State."

The city claims that in the settlement of the accounts between the State of Florida and the United States in July 1902, there was included the sum of \$25,007.02, received by the State on account of the Swamp Land Indemnity Fund referred to in above act.

The amounts received on this account are accounted for in that settlement as follows:

May 18, 1881, Settlement 34732 Warrant 740..	\$ 4,628 40
June 16, 1882, Settlement 35949 Warrant 1131.	4,511 57
Nov. 27, 1882, Settlement 36183 Warrant 2219.	5,825 27
Dec. 9, 1882, Settlement 38113 Warrant 2339..	2,177 35
April 19, 1883, Settlement 38663 Warrant 741..	1,542 82
Aug. 27, 1883, Settlement 39353 Warrant 1690.	283 62
Jan. 29, 1884, Settlement 37472 Warrant 308...	308 06
Jan. 29, 1884, Settlement 37473 Warrant 309.	5,729 93

Total\$25,007 02

The items prior to and including the item of December 9th, 1882, were prior to the passage of the act for the relief of the city of Pensacola, while the others, amounting to \$7,864.43, were subsequent thereto.

The act gives to the city of Pensacola only moneys to be received from the settlement of indemnity lands by the State of Florida." That is, to be received after the passage of the act, and the committee is of the opinion that the moneys thus received were only those which became due and payable to the State by the United States, after the passage of the act, to-wit, the sum of \$7,864.43.

These sums were applied by the United States for the payment of interest due by the State.

The committee thinks that since this is so, and since if these sums had been paid to the city when they should have been paid, it would have been enabled to pay there-with, a portion of its debts, it should receive interest on these sums at the rate at which it has been compelled to pay on its bonds, to-wit, the average rate of five per cent. per annum.

The committee therefore recommends that the following amount be paid to the city:

Principal, as above	\$ 7,864 43
Interest at 5 per cent., calculated upon each of the above payments from the date thereof to July 1st, 1902	7,289 88
Total	\$15,154 31

Your committee has in accordance with the instructions of the Senate, prepared, and herewith submit a bill to provide for such payment.

CLAIM OF GEORGE LEWIS, TRUSTEE.

This claimant claims that he, as trustee for the estate of B. C. Lewis, William Bailey, John McDougall, and P. B. Brokaw, holder of 14 bonds of the State of Florida, dated Jan. 7th, 1862, of the following denominations:

No. of Bond	Date of last Coupon	Principal	Interest	Aggregate
1	July 1, 1867	\$ 25 00	\$ 53 25	\$ 78 25
2	July 1, 1867	100 00	213 00	313 00
3	July 1, 1867	100 00	213 00	313 00
4	July 1, 1867	100 00	213 00	313 00
5	July 1, 1867	100 00	213 00	313 00
6	July 1, 1867	100 00	213 00	313 00
433	July 1, 1867	500 00	1,065 00	1,565 00
437	July 1, 1867	500 00	1,065 00	1,565 00
438	July 1, 1867	500 00	1,065 00	1,565 00
429	July 1, 1867	500 00	1,065 00	1,565 00
1	July 1, 1867	100 00	301 00	301 00
434	July 1, 1867	500 00	1,005 00	1,505 00

435	July 1, 1867	500 00	1,005 00	1,505 00
436	July 1, 1867	500 00	1,005 00	1,505 00
				\$12,719 25
Less 15 per cent, expended by State for collecting.....				1,909 89
				\$10,811 39

Interest calculated to July 1, 1902.

That there has been paid interest on these bonds as follows:

On \$4,125, to January 1st, 1867, and on \$2,625 to January 1st, 1869. That these bonds were issued under ordinance 34 of the Secession Convention of April 21st, 1861, to take up \$3,551.00 of Certificates issued under the act of January 5th, 1859, entitled "AN ACT to provide for the appointment of the Volunteer Company of Captain Hansford D. Dyches, and other companies therein named for service in 1849." That such enterprises were valid evidences of indebtedness to the State. That they were used in the settlement of the Indian War Claim with the United States, and as evidence of payment by the State of the amount of money shown upon their face. That thereby, the State has collected a corresponding sum with interest from the United States. That the principal of the said bonds has not been paid, and only so much of interest as before set forth, and that the face of the said bonds with unpaid interest, at six per cent. should be paid to the claimant.

The committee finds these facts to be true, and this conclusion to be well founded, and recommends payment in accordance with the contention of the claimant.

These bonds represent actual amounts earned by soldiers fighting in the defense of the State, and are unpaid, and the State is legally and morally bound to pay them.

It has been sought to cast doubt upon the present validity of them, because of an assumed attempt by Section 4, Article XV, of the Constitution of 1868, to annul them by the previous annulling "all Treasury notes, all bonds issued, and all other liabilities contracted by the State of Florida, or after the 10th day of January, 1861, and before the 25th day of October, 1865,"

The committee is clear, however, that this provision was not intended to, and did not affect bonds founded on liabilities contracted by the State prior to secession, but only of those representing liabilities contracted thereafter.

It cannot be that the people represented in convention intended to annul any obligations other than those incurred during the Civil War.

This is not a liability thus incurred, but is plainly embraced in the proviso in the section as follows. "This shall not be construed so as to invalidate any authorized liability of the State contracted prior to the 10th day of January, 1861."

While these bonds were issued after the last day mentioned, yet the liability which they represent was contracted prior to that date, and therefore included within the proviso.

Since, however, they are a part of the Indian War Fund, the claimant should pay his proportion of the fee paid by the State to S. I. Wailes, as his commission for adjusting the claim, and the committee has deducted this proportion from the amount recommended, so that the net amount is arrived as follows:

Principal of Bonds.....	\$ 4,125 00
Interest at rate of 6 per cent on	
From January 1st, 1867, to July 1st, 1902, and	
Interest at rate of 6 per cent on	8,544 25
From January 1st, 1869, to July 1st, 1902.....	12,719 25
Less 15 per cent	1,907 89

Net amount recommended\$10,811 36

The committee has in accordance with the instructions of the Senate, prepared, and herewith submit a bill to carry out these recommendations:

The Claim of Soldiers Who Claimed Under Like War-
On What Are Known as the R. C. Williams Warrants,
Approved by the Commission Under the Act of March
11, 1879, Chapter 4930.

At the request of holders of these warrants represented in the bills now pending before the Legislature, this

committee defers action and may submit a report and a bill hereafter, in connection therewith.

The Claims of Soldiers Who Claimed Under Like Warrants Unapproved by the Said Commission:

The committee is impressed with the idea that these warrants ought to be disregarded, but that there may be many meritorious claims evidenced by them, and that probably some legislation ought to be enacted enabling proof to be made of such claims in a manner which will give relief to honest creditors of the State and at the same time, guard and protect the interests of the State itself.

The committee will endeavor to furnish a bill accomplishing this end and submit it to the Senate.

THE CLAIM OF J. W. EPPES.

This is not evidenced by any warrant, but may be one of the meritorious claims mentioned under the preceding bill which the committee may draw, to cover such claims.

The Claim of the Superintendent of Education on Behalf of the State School Fund.

To interest upon amount paid to the State as of July 1st, 1902, by the United States, belonging to the said fund.

As will be seen by the statements hereinbefore submitted, the United States retained all of the money arising from the 5 per cent upon the sale of United States lands in the State of Florida, the sum of \$88,362.11, which has become due to the State on said public school account at various times from April 6th 1872, as set forth on pages 27 and 28 of the pamphlet entitled "Florida Indian War Claim," prepared by Hon. J. B. Whitfield, Treasurer of the State of Florida.

Had the State been not indebted to the United States this amount would have been paid to it upon the debts when they became due, and at once have gone into the public school fund of the State and have drawn interest ever since the date of the payment. The failure, therefore, of that fund to realize such interest has been due entirely to the failure of the State to pay its debt, a pay-

ment which was not in any wise dependent upon or prevented by the fact that the United States was indebted upon the Indian War Claim Fund to the State.

This being so, the committee is of opinion that the State School Fund should receive interest upon the amounts mentioned on pages 27 and 28 as aforesaid, from the date when they would have been paid up to the time of the settlement by which they were paid to the State.

The committee, therefore, has prepared and herewith submits a bill to accomplish that end.

Your committee in view of the fact that it may have to further consider the claims of soldiers and others upon approved or unapproved warrants, and of persons who may have claims arising out of services, or supplies rendered or furnished during the Indian wars, ask to be retained until its consideration of these subjects has been completed.

Certain members of this committee reserve the right to submit minority reports upon certain subjects treated of and covered by this report.

Respectfully submitted,

W. A. BLOUNT,
Acting Chairman.

May 21, 1903.

Mr. Harris moved that 500 copies of the report of the Judiciary Committee be printed.

Which was agreed to.

By Permission—

The Judiciary Committee introduced—

Senate Bill No. 369:

A bill to be entitled an act to pay George Lewis, trustee, the amount of certain bonds issued on July 7, 1862, in accordance with an ordinance of the Secession Convention, and interest thereon.

Which was read the first time by its title.

Mr. Blount moved that Senate Bill No. 369 be placed on calendar of bills on second reading.

Which was agreed to.

By permission—

The Judiciary Committee introduced—

Senate Bill No. 370:

A bill to be entitled an act for the relief of the city of Pensacola.

Which was read the first time by its title.

Mr. Blount moved that Senate Bill No. 370 be placed on calendar of bills on second reading.

Which was agreed to.

By permission—

The Judiciary Committee introduced—

Senate Bill No. 371:

A bill to be entitled an act for the relief of S. I. Wailes and the estate of W. K. Beard, deceased.

Which was read the first time by its title.

Mr. Blount moved that Senate Bill No. 371 be placed on calendar of bills on second reading.

Which was agreed to.

Mr. Blount moved that Senate Bill No. 371 be made a special order for Saturday at 12 m.

Which was agreed to.

Mr. Wilson of the 4th, Chairman of the Joint Committee of Enrolled Bills, submitted the following report:

Senate Chamber,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate.

SIR—Your Joint Committee on Enrolled Bills to whom was referred—

An act entitled an act to amend an act to prescribe the mode of procedure in cases of supposed insanity, to provide for competent examination, to define the duties of county and circuit judges and to repeal all laws in conflict with this act.

Also,

An act to amend Section 1638 of the Revised Statutes relative to attachment when debt is not actually due.

Also,

An act to amend section seven of an act entitled an act to provide for the issue, custody and redemption, sale and transfer of tax sale certificates and issue of tax deeds and prescribing the duties of certain officers there-

with, the same being Chapter 4888 of the Laws of Florida, approved May 30, 1901.

Also,

An act to make an appropriation for transportation of the Florida State Troops, and for their pay and subsistence during encampment, or while participating in practice marches during the years of 1903 and 1904.

Also,

An act to incorporate the town of Wellborn, in the county of Suwannee.

Have carefully examined the same and find them correctly enrolled.

Very respectfully,

C. L. WILSON,
Chairman of Committee.

And the acts contained in the above report was referred to the Joint Committee on Enrolled Bills, to be conveyed to the House of Representatives for the signature of the Speaker and Chief Clerk thereof.

Mr. Blitch, Chairman of the Committee on Engrossed Bills, submitted the following report:

Senate Chamber,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate.

SIR—Your Committee on Engrossed Bills, to whom was referred—

Senate Bill No. 262:

A bill to be entitled an act authorizing the Board of Commissioners of State Institutions to sell or contract for the sale of the marsh grasses and other grasses and vegetation growing upon the lands belonging to the State in its sovereign capacity and to protect the same in the interest of the State.

Also,

Senate Bill No. 312:

A bill to be entitled an act to amend Section 2642 of the Revised Statutes of Florida, and fining and punishing vagrants.

Also,

Senate Bill No. 280:

A bill to be entitled an act defining who are emigration agents, prescribing a tax thereon; also providing a penalty.

Have carefully examined the same and find it correctly engrossed.

Very respectfully,

N. A. BLITCH,
Chairman of Committee.

And Senate Bills Nos. 280, 312, and 262, contained in the above report, were placed on the calendar of bills on third reading.

Mr. McCaskill, Chairman of the Committee on Public Roads and Highways, submitted the following report:

Senate Chamber,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—Your Committee on Public Roads and Highways, to whom was referred—

Senate Bill No. 356:

A bill to be entitled an act to empower the Boards of County Commissioners of the several counties in this State to provide wells or watering places for animals on the public roads.

Have had the same under consideration and recommend that it do pass.

Very respectfully,

E. V. McCASKILL,
Chairman of Committee.

And Senate Bill No. 356, contained in the above report, was placed on the calendar of bills on second reading.

Mr. Butler, Chairman of the Committee on Corporations, submitted the following report:

Senate Chamber,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—Your Committee on Corporations, to whom was referred—

Senate Bill No. 345:

A bill to be entitled an act providing for the garnishment of municipal corporations, and public and quasi-public corporations.

Have had the same under consideration and return same without recommendation.

Very respectfully,

P. W. BUTLER,
Chairman of Committee.

And Senate Bill No. 345, contained in the above report, was placed on the calendar of bills on second reading.

Mr. Stockton, Chairman of the Committee on Privileges and Elections, submitted the following report:

Senate Chamber,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—Your Committee on Privileges and Elections, to whom was referred—

Senate Bill No. 343:

A bill to be entitled an act amending Section 18 of Chapter 5014, of the Laws of Florida, entitled an act to regulate the holding of political primary elections in the State of Florida, for nominating candidates for any office under the laws of this State, and for nominating delegates to political conventions, approved May 31, 1901.

Offer the following amendment to be added as another section:

All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Have had the same under consideration and recommend that it do pass as amended.

Very respectfully,

TELFAIR STOCKTON,
Chairman of Committee.

And Senate Bill No. 343, contained in the above report, together with the amendment thereto, was placed on the calendar of bills on second reading.

Mr. Wilson of the 4th, Chairman of the Joint Committee on Enrolled Bills, submitted the following report:

Senate Chamber,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—Your Joint Committee on Enrolled Bills, to whom was referred—

An act to amend an act entitled an act to prescribe the mode of procedure in cases of supposed insanity, to provide for competent examination, to define the duties of county and circuit judges and to repeal all laws in conflict with this act.

Also,

An act to amend Section 1638 of the Revised Statutes relative to attachment when debt is not actually due.

Also,

An act to amend Section 7 of an act entitled an act to provide for the issue, custody, redemption, sale and transfer of tax sale certificates and issue of tax deeds and prescribing the duties of certain officers therewith, the same being Chapter 4888 of the Laws of Florida, approved May 30, 1901.

Also,

An act to make an appropriation for transportation of the Florida State Troops, and for their pay and subsistence during encampments, or while participating in practice marches during the years of 1903 and 1904.

Also,

An act to incorporate the town of Wellborn, in the County of Suwannee.

Beg to report that the same has been duly signed by the Speaker and Chief Clerk of the House of Representatives, and is herewith presented to the Senate for the signatures of the President and Secretary thereof.

Very respectfully,

C. L. WILSON,
Chairman of Committee.

ENROLLED.

The President announced that he was about to sign—

An act to amend an act entitled an act to prescribe the mode of procedure in cases of supposed insanity, to provide for competent examination, to define the duties of county and circuit judges and to repeal all laws in conflict with this act.

Also,

An act to amend Section 1638 of the Revised Statutes relative to attachment when debt is not actually due.

Also,

An act to amend Section 7 of an act entitled an act to provide for the issue, custody, redemption, sale and transfer of tax sale certificates and issue of tax deeds and prescribing the duties of certain officers therewith, the same being Chapter 4888 of the Laws of Florida, approved May 30, 1901.

Also,

An act to make an appropriation for transportation of the Florida State Troops, and for their pay and subsistence during encampments, or while participating in practice marches during the years of 1903 and 1904.

Also,

An act to incorporate the town of Wellborn, in the County of Suwannee.

The acts were therefore duly signed by the President and Secretary of the Senate and ordered returned to the Chairman of the Joint Committee on Enrolled Bills, to convey to the Governor for his approval.

Mr. Stockton, Chairman of the Committee on Privileges and Elections, submitted the following report:

Senate Chamber,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—Your Committee on Privileges and Elections, to whom was referred—

Senate Bill No. 330:

A bill to be entitled an act to amend Section 30, Chapter 4328, Laws of Florida, as amended by Section 10,

Chapter 4537, Laws of Florida, approved June 7th, 1897, entitled an act to amend Sections 2, 3, 4, 6, 10, 12, 22, 24, 25, 30, 37, 40 of an act entitled an act to provide for the registration of all legally qualified voters in the several counties of the State, and to provide for general and special elections, and for the returns of elections, approved May 25, 1895.

Have had the same under consideration, and report it with the recommendation that it do pass.

Very respectfully,
 TELFAIR STOCKTON,
 Chairman of Committee.

And Senate Bill No. 330, contained in the above report, was placed on the calendar of bills on second reading.

Mr. Harris, Chairman of the Committee on Public Health, submitted the following report:

Senate Chamber,
 Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—Your Committee on Public Health, to whom was referred—

Senate Bill No. 335:

A bill to be entitled an act to prohibit the placing of impure food of any kind on tables for consumption by guests or boarders in any hotel or boarding house in this State.

Have had the same under consideration and recommend that it do pass with the following amendment:

Make a new section of all that follows the word repealed in line two of Section two—to be numbered Section 3.

Very respectfully,
 W. HUNT HARRIS,
 Chairman of Committee.

And Senate Bill No. 335, contained in the above report, together with the amendment thereto, was placed on the calendar of bills on second reading.

Mr. Harris, Chairman of the Committee on Public Health, submitted the following report:

Senate Chamber,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—Your Committee on Public Health, to whom was referred—

Senate Bill No. 329:

A bill to be entitled an act to appropriate seven hundred and sixty-nine dollars and seventy-five cents to be used for the payment and reimbursement of Escambia county, Florida, for money expended by said county in stamping out small pox in the years 1902 and 1903.

Have had the same under consideration and recommend that it do not pass.

Very respectfully,
W. HUNT HARRIS,
Chairman of Committee.

And Senate Bill No. 329, contained in the above report, was placed on the calendar of bills on second reading.

Mr. Harris, Chairman of the Committee on Public Health, submitted the following report:

Senate Chamber,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—Your Committee on Public Health, to whom was referred—

House Bill No. 230:

A bill to be entitled an act to prevent the adulteration of food and drugs, and to provide a penalty for the violation of this act.

Have had the same under consideration, and recommend that it do pass with the following amendment:

Insert the word "any" between the words "that" and "person" in the first line of Section 9 of said bill.

Very respectfully,
W. HUNT HARRIS,
Chairman of Committee.

And House Bill No. 230, contained in the above report, together with the amendments thereto, was placed on the calendar of bills on second reading.

Mr. Wilson of the 4th, Chairman of the Joint Committee on Enrolled Bills, submitted the following report:

Senate Chamber,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—Your Joint Committee on Enrolled Bills, to whom was referred—

An act to amend an act entitled an act to prescribe the mode of procedure in cases of supposed insanity, to provide for competent examination, to define the duties of county and circuit judges and to repeal all laws in conflict with this act.

Also,

An act to amend Section 1638 of the Revised Statutes relative to attachment when debt is not actually due.

Also,

An act to amend Section 7 of an act entitled an act to provide for the issue, custody, redemption, sale and transfer of tax sale certificates and issue of tax deeds and prescribing the duties of certain officers therewith, the same being Chapter 4888, of the Laws of Florida, approved May 30, 1901.

Also,

An act to make an appropriation for transportation of the Florida State Troops, and for their pay and subsistence during encampments, or while participating in practice marches during the years 1903 and 1904.

Also,

An act to incorporate the town of Wellborn, in the County of Suwannee.

Beg to report that the same has been presented to the Governor for his approval.

Very respectfully,
C. L. WILSON,
Chairman of Committee.

BILLS ON THIRD READING.

Senate Substitute for—

House Bill No. 160:

A bill to be entitled an act to prohibit shooting and the reckless handling of firearms on any passenger boat plying the waters of any river or waters of this State, and prescribing a penalty therefor.

Was taken up and read the third time in full and put upon its passage.

Upon call of the roll on Senate substitute for House Bill No. 160 the vote was:

Yeas—Mr. President, Messrs. Bailey, Blicht, Blount, Brown, Carson, Crews, Faulkner, Gillen, Harris, Law, McCaskill, McCreary, Miller, Peacock, Raney, Rouse, Sams, Stockton, Wadsworth, Whidden, Williams, Wilson of the 7th, Wilson of the 4th.—24.

Nays—Dimick—1.

So the bill passed, title as stated.

Senate Bill No. 229:

A bill to be entitled an act amending Section 1296 of the Revised Statutes of the State of Florida, concerning the publication of legal and official advertisements.

Was taken up and read the third time in full and put upon its passage.

Upon call of the roll on Senate Bill No. 229 the vote was:

Yeas—Mr. President, Messrs. Bailey, Blicht, Blount, Butler, Carson, Crill, Dimick, Faulkner, Gillen, Kirk, McCaskill, McCreary, MacWilliams, Miller, Peacock, Raney, Rouse, Sams, Stockton, Wadsworth, Whidden, Williams, Wilson of the 4th.—24.

Nays—Wilson of the 7th.—1.

So the bill passed, title as stated.

A message was received from the House of Representatives.

Senate Bill No. 257:

A bill to be entitled an act to regulate the practice of embalming, and the care and disposition of the human dead, and to provide for the appointment of a State Board of Embalmers.

Was taken up and read the third time in full.

Mr. Stockton moved that Senate Bill No. 257 be placed back on second reading.

Which was agreed to.

A communication was received from the Governor.

Senate Bill No. 219:

A bill to be entitled an act to provide for the holding of Farmers' Institutes in the several counties of the State of Florida, and providing for the payment of the expenses thereof.

Was taken up and read the third time in full and put upon its passage.

Upon call of the roll on Senate Bill No. 219 the vote was:

Yeas—Mr. President, Messrs. Bailey, Blount, Brown, Butler, Crews, Crill, Dimick, Faulkner, Law, McCaskill, McCreary, MacWilliams, Peacock, Raney, Sams, Wadsworth, Williams, Wilson of the 4th.—19.

Nays—Messrs. Blitch, Carson, Gillen, Harris, Kirk, Miller, Whidden, Wilson of the 7th.—8.

So the bill passed, title as stated.

House Bill No. 193:

A bill to be entitled an act to prohibit the placing of water hyacinths in certain fresh water lakes and streams of this State, and to prescribe a penalty for violation thereof.

Was taken up and read the third time in full and put upon its passage.

Upon call of the roll on House Bill No. 193 the vote was:

Yeas—Mr. President, Messrs. Bailey, Blitch, Blount, Brown, Butler, Crews, Dimick, Faulkner, Gillen, Harris, Law, McCaskill, McCreary, MacWilliams, Peacock, Raney, Rouse, Wadsworth, Williams, Wilson of the 7th, Wilson of the 4th.—22.

Nays—Messrs. Carson, Crill, Kirk, Miller, Sams, Whidden.—6.

So the bill passed, title as stated.

Senate Bill No. 197:

A bill to be entitled an act declaring that certain facts constitute a fraud and to prescribe a punishment in such cases, and to repeal Chapter 4032, Appendix to Revised Statutes of the State of Florida.

Was taken up,

Mr. Peacock asked permission to withdraw Senate Bill No. 197.

Which was granted.

And Senate Bill No. 197 was withdrawn.

Mr. Peacock moved that the rules be waived and House Bill No. 212 be taken up out of its order and now considered.

Which was agreed to by a two-thirds vote.

And—

House Bill No. 212:

A bill to be entitled an act declaring that certain facts constitute a fraud, and to prescribe a punishment in such cases, and to repeal Chapter 4032, Appendix to Revised Statutes of Florida.

Was taken up.

Mr. Peacock moved that the rules be waived and House Bill No. 212 be read a second time by its title only.

Which was agreed to by a two-thirds vote.

And House Bill No. 212 was read a second time by its title only.

Mr. Peacock moved that the rules be further waived, and that House Bill No. 212 be read a third time in full and put upon its passage.

Which was agreed to by a two-thirds vote.

And House Bill No. 212 was read a third time in full.

Upon call of the roll on the passage of the bill the vote was:

Yeas—Mr. President, Messrs. Harris, McCreary, Miller, Peacock.—5.

Nays—Messrs. Bailey, Blich, Blount, Brown, Carson, Crews, Dimick, Kirk, Law, McCaskill, MacWilliams, Raney, Rouse, Sams, Stockton, Wadsworth, Williams, Wilson of the 7th, Wilson of the 4th.—19.

So the bill failed to pass.

The following communications from the Governor were ordered spread on the Journal:

State of Florida,
Executive Department.
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

DEAR SIR—I have the honor to inform you that I

have this day approved and signed the following acts which originated in your honorable body:

An act to amend Section 1310, Revised Statutes, so as to prescribe regulations for calling circuit judges into the Supreme Court to hear and determine matters pending before the Court, in the place of justices thereof, who shall be disqualified, or disabled from interest, sickness or other cause, and to define the cases wherein circuit judges shall or may be called into the Supreme Court to hear and determine matters therein pending.

Also,

An act for the relief of R. J. Chillingworth.

Also,

An act to provide for the approval of bonds in criminal cases before the courts of county judges and justices of the peace.

Also,

An act to amend an act entitled an act to amend Section 2347 of the Revised Statutes of the State of Florida, relating to the disposition of the proceeds of life insurance, approved June 4th, 1897, being Chapter 4555, Laws of Florida.

Also,

An act requiring water companies to clean tanks and flush mains.

Also,

An act enabling any corporation not for profit heretofore or hereafter formed, to submit itself to indebtedness or liability, according to an amount or limit indicated in the original charter or amendment.

I beg to further inform you that the said acts as enumerated herein, have been filed in the office of the Secretary of State.

Yours truly,

W. S. JENNINGS,

Governor.

BILLS ON SECOND READING.

Senate Bill No. 275:

A bill to be entitled an act to amend Section 2256 of Sub-Chapter 6, Article 4, of the Laws of Florida, entitled an act "Special Provisions for Telegraph Companies to Occupy Roads."

Was taken up and read a second time in full, together with the amendments of the Committee on Canals and Telegraphs.

The following committee amendment was read:

1. Insert in the 4th line of Section 1 the words "or telephone," after the word "telegraph."

Mr. Wilson of the 4th moved the adoption of the committee amendment.

Which was agreed to.

The following committee amendment was read:

2. Insert in the 6th line of Section 1 the words "or telephone," after the word "telegraph."

Mr. Wilson of the 4th moved the adoption of the committee amendment.

Which was agreed to.

And Senate Bill No. 275, as amended, was ordered referred to the Committee on Engrossed Bills.

House Bill No. 143:

A bill to be entitled an act to provide for the compensation of the treasurers of the county school funds.

Was taken up and read a second time in full, together with the amendments of the Committee on Education.

The following committee amendment was read:

Strike out the words "County Commissioners from the general county fund," and insert in lieu thereof the following: "County Board of Public Instruction from the county school fund."

Mr. Carson moved the adoption of the committee amendment.

Which was agreed to.

And House Bill No. 143, as amended, was placed on the calendar of bills on third reading.

Senate Bill No. 274:

A bill to be entitled an act to repeal Chapter 4857, Laws of Florida, approved June 1st, 1899, entitled an act to incorporate the Farmers' Mutual Insurance Association of the State of Florida.

Was taken up.

Mr. Wilson of the 4th moved that Senate Bill No. 274 be placed on table subject to call.

Which was agreed to.

Senate Bill No. 310:

A bill to be entitled an act to provide for the protec-

tion of sheep and lambs running at large in the ranges in the various counties of the State of Florida and for other purposes.

Was taken up and read a second time in full.

And Senate Bill No. 310 was ordered referred to the Committee on Engrossed Bills.

House Bill No. 172:

A bill to be entitled an act to amend Section 20, Chapter 4338, Laws of Florida, entitled an act to provide for establishing, working and repairing and maintaining the public roads and bridges of the several counties of this State, and to provide penalties for failure thereof, approved May 29, 1895.

Was taken up and read a second time in full.

Mr. Law moved that the rules be waived and that House Bill No. 172 be read a third time and put upon its passage.

Which was agreed to by a two-thirds vote.

And House Bill No. 172 was read a third time in full.

Mr. Law moved that House Bill No. 172 be placed back on second reading.

Which was agreed to.

House Bill No. 92:

A bill to be entitled an act to provide for forming sub-road districts in the counties of the State of Florida, and for the election of road trustees, and empowering trustees to improve and maintain the public roads of their district, and to provide for the assessment and collection of a special tax for such purpose.

Was taken up.

Mr. McCreary moved that House Bill No. 92 be made a special order for Saturday next at 10:30 o'clock a. m., and 100 copies printed.

Which was agreed to.

Senate Bill No. 253:

A bill to be entitled an act to provide for the division of counties into road districts and for the election biennially of three road trustees, and to prescribe their duties and powers, and for levying, collecting and disbursing district road taxes.

Was taken up.

Mr. McCreary moved that Senate Bill No. 253 be made

a special order for Saturday next at 10:40 a. m., and 100 copies be printed.

Which was agreed to.

Senate Bill No. 299:

A bill to be entitled an act to amend section 8, chapter 4515, Laws of Florida, the same being an act entitled an act to amend sections 29, 32, 35, 47, 48, 50, 66 and 67 of Chapter 4322, Laws of Florida, entitled an act for the assessment and collection of revenue, approved June 5, 1897.

Was taken up.

Mr. Butler asked permission to withdraw Senate Bill No. 299.

Which was granted

And Senate Bill No. 299 was withdrawn.

Mr. Butler moved that the rules be waived and House Bill No. 261 be taken up out of its order and now considered.

Which was agreed to by a two-thirds vote.

And

House Bill No. 261:

A bill to be entitled an act to fix the salaries of certain administrative officers.

Was taken up and read a second time in full.

Mr. Gillen moved that House Bill No. 261 be made a special order for Tuesday next at 11 o'clock a. m.

Which was agreed to.

Mr. Stockton moved that the rules be waived and Senate Bill No. 257 be taken up out of its order and now considered.

Which was agreed to by a two-thirds vote.

And,

Senate Bill No. 257:

A bill to be entitled an act to regulate the practice of embalming, and the care and disposition of the human dead, and to provide for the appointment of a State Board of Embalming.

Was taken up.

Having previously been read a second time.

Mr. Stockton offered the following amendment to Senate Bill No. 257:

Add to section 8: Provided this shall not apply to practicing physicians and surgeons.

Mr. Stockton moved the adoption of the amendment.

Which was agreed to.

And Senate Bill No. 257, as amended, was ordered referred to the Committee on Engrossed Bills.

Mr. Palmer moved that the rules be waived and Senate Bill No. 52 be taken up out of its order and now considered.

Which was agreed to by a two-thirds vote.

And,

Senate Bill No. 52:

A bill to be entitled an act to repeal chapter 4616 of the Laws of Florida, the same being an act requiring a special license tax to be paid by express companies doing business in this State.

Was taken up and read a second time in full, together with the committee substitute therefor, with the following title:

A bill to be entitled an act requiring special license tax to be paid by express companies doing business in this State to provide a penalty for its non-payment, and to provide for the distribution of the license tax so paid.

The substitute was then read a second time in full.

Mr. Palmer moved the adoption of the substitute.

Which was agreed to.

Mr. Harris offered the following amendment to Senate Bill No. 52:

Strike out the words and figures \$4,500 and insert in lieu thereof the following: Three thousand.

Mr. Harris moved the adoption of the amendment.

Which was not agreed to.

Mr. Stockton offered the following amendment to Senate Bill No. 52:

Strike out the words forty-five hundred dollars and insert in lieu thereof the following: Thirty-five hundred dollars.

Mr. Stockton moved the adoption of the amendment.

Which was not agreed to.

Mr. Harris offered the following amendment to Senate Bill No. 52:

Strike out the words "assessed valuation" in lines 4 and 5, section 4, and insert in lieu thereof the following: "According to the population."

Mr. Harris moved the adoption of the amendment
Which was not agreed to.

Mr. Palmer moved that the rules be further waived
and that committee substitute for Senate Bill No. 52 be
read a third time and put upon its passage.

Which was agreed to by a two-thirds vote.

And committee substitute for Senate Bill No. 52 was
read a third time in full.

Upon call of the roll on the passage of the bill the vote
was:

Yeas—Mr. President, Messrs. Bailey, Blicht, Blount,
Brown, Butler, Canson, Crews, Grill, Dimick, Faulkner,
Gillen, Kirk, Law, McCaskill, MacWilliams, Miller, Pal-
mer, Peacock, Raney, Rouse, Sams, Stockton, Wads-
worth, Whidden, Williams, Wilson of the 7th, Wilson of
the 4th.—28.

Nays.—Mr. Harris.—1.

So the bill passed, title as stated.

SPECIAL ORDER.

Senate Bill No. 234:

A bill to be entitled an act to appropriate all money
paid to the State of Florida by the Government of the
United States, known as the Indian War Claim Fund.

Was taken up.

The hour of 12 o'clock m., the time set for its consider-
ation, having arrived.

The bill was read a second time in full.

Mr. Harris offered the following amendment to Sen-
ate Bill No. 234:

Strike out the word "School" in line 9 section 1.

Mr. Harris moved the adoption of the amendment.

Which was agreed to.

Mr. Harris offered the following amendment to Senate
Bill No. 234:

Strike out all after the word "In" in line 3 of section
1, and insert in lieu thereof the following: "Governor,
Comptroller and Attorney-General. Said apportionment
shall be based upon the last census."

Mr. Harris moved the adoption of the amendment.

Pending which—

Mr. Butler moved that further consideration of Senate

Bill No. 234 be deferred, and House Bill No. 27 be taken up and considered.

Which was agreed to.

And

House Bill No. 27:

A bill to be entitled an act to provide for the application of the money received from the settlement of the Florida Indian War Claims which amounts to \$692,946, and is now held by the State Treasurer in the Indian War Claims Fund, to the bonded debt of the State of Florida.

Was taken up and read a second time in full.

Mr. Peacock offered the following amendment to House Bill No. 27:

Strike out Section 1 of the bill and insert in lieu thereof the following: Section 1. That after the amounts due the State School Fund and the amount appropriated by the Legislature to be paid from the Indian War Claim Fund have all been paid from that fund the remainder thereof shall be used for the payment of the bonded debt of the State as far as it will go.

Mr. Peacock moved the adoption of the amendment.

Which was not agreed to.

Mr. Kirk offered the following amendment to House Bill No. 27:

Strike out all after the enacting clause and insert the following thereof:

Section 1. That all money which has been paid to the State of Florida by the Government of the United States, after the payment and settlement of all just and legal claims which shall be allowed and declared to be legal claims against said money, shall be appropriated to the public free schools of the State of Florida; that each county in the State of Florida shall be entitled to and shall receive from said money an amount in proportion to the school population of said county.

Section 2. That within ninety days from the passage of this act, the Comptroller shall draw his warrants upon the State Treasurer, payable to the County Treasurer of each county, for the amount of which each county shall respectively be entitled to under the above provisions, and said County Treasurer shall pass such money so re-

ceived to the credit of the public free schools of said county.

Mr. Kirk moved the adoption of the amendment.

Mr. Kirk withdrew the amendment.

Mr. Harris moved that House Bill No. 27 be indefinitely postponed.

The yeas and nays were demanded.

Upon call of the roll on the motion to indefinitely postpone the vote was:

Yeas—Messrs. Blount, Crill, Harris, Kirk, WacWilliams, Raney, Rouse, Sams, Whidden, Wilson of the 7th, Wilson of the 4th.—11.

Nays—Mr. President, Messrs. Bailey, Blitch, Brown, Butler, Carson, Crews, Dimick, Faulkner, Gillen, Law, McCaskill, McCreary, Miller, Palmer, Peacock, Stockton, Wadsworth, Williams—19.

So the motion to indefinitely postpone was not agreed to.

And House Bill No. 27 was placed on calendar of bills on third reading.

Mr. Palmer moved to adjourn until 11 o'clock a. m. tomorrow.

Which was not agreed to.

Mr. Kirk moved to adjourn.

Which was agreed to.

Thereupon the Senate stood adjourned until 4 o'clock this afternoon.

AFTERNOON SESSION, 4 O'CLOCK.

Senate met pursuant to adjournment.

The President in the chair.

The roll being called 32 Senators answered to their names, showing a quorum present.

Mr. Brown moved that the rules be waived and House Bill No. 27, now on third reading, be taken up out of its order and considered.

Mr. Brown withdrew his motion.

By permission—

Mr. Dimick introduced:

Senate Bill No. 372:

A bill to be entitled an act to create the First Taxing District of Brevard county, and to authorize the issue of bonds and levy of taxes to build permanent highways in said district.

Which was read the first time by its title and referred to the Committee on Judiciary.

The Senate resumed consideration of—

Senate Bill No. 234:

A bill to be entitled an act to appropriate all money paid to the State of Florida by the government of the United States, known as the Indian War Claim Fund.

Upon which action was deferred at this morning's session, with the following amendment offered by Mr. Harris:

Strike out all after the word "The" in line 3, of Section 2, and insert in lieu thereof the following:

Governor, Comptroller and Attorney-General, said apportionment shall be based upon the last census.

And the motion to adopt pending.

Mr. Palmer moved that Senate Bill No. 232 be made a special order for Wednesday next, at 12 o'clock m.

Which was not agreed to.

Mr. Wilson of the 7th offered the following substitute for Mr. Harris' amendment to Senate Bill No. 234:

Strike out the words "School population," in line 6, Section 2, and insert in lieu thereof the following: "Assessed valuation."

Mr. Wilson of the 7th moved the adoption of the amendment.

Which was not agreed to.

Mr. Carson offered the following substitute for Mr. Harris' second amendment to Senate Bill No. 234:

Strike out the words "Population," in lines 6 and 7, Section 2, and insert in lieu thereof the following: "Average school attendance."

Mr. Carson moved the adoption of the amendment.

Which was not agreed to.

The question then recurred on the motion to adopt the amendment offered by Mr. Harris.

Which was agreed to.

Mr. Harris offered the following amendment to Senate Bill No. 234:

Strike out the whole of Section 3 and insert in lieu thereof the following: "The Comptroller shall issue his warrant upon the State Treasurer, payable to the County Treasurer of each county, for the amount which each county shall respectively be entitled to under the above provisions, and said County Treasurer shall pass such money so received to the credit of the public free school of said county."

Mr. Harris moved the adoption of the amendment.

Which was agreed to.

And Senate Bill No. 234, as amended, was ordered referred to the Committee on Engrossed Bills.

BILLS ON SECOND READING.

Senate Bill No. 277:

A bill to be entitled an act to define and punish breaking, or entering without breaking, a dwelling house, with intent to commit a misdemeanor.

Was taken up and read a second time in full, together with the amendments of the Committee on Judiciary.

The following committee amendment was read:

Strike out the title of said bill the words "define and."

Mr. Raney moved the adoption of the committee amendment.

Which was agreed to.

And Senate Bill No. 277, as amended, was ordered referred to the Committee on Engrossed Bills.

House Bill No. 172:

A bill to be entitled an act to amend Section 20, Chapter 4338, Laws of Florida, entitled an act to provide for establishing, working and repairing and maintaining the public roads and bridges of the several counties of this State, and to provide penalties for failure thereof, approved May 29, 1895.

Was taken up and read a second time in full.

Mr. Neel offered the following amendment to House Bill No. 172:

Strike out the word "And" before the word "bridges" in line 6, page 1, and after the word "Bridges" insert "And river crossings."

Mr. Neel moved the adoption of the amendment.

Which was agreed to.

Mr. Neel offered the following amendment to House Bill No. 172:

Strike out the word "and" before the word "bridges" on line 9, page 2, and after the word "bridges" insert "and river crossings."

Mr. Neel moved the adoption of the amendment.

Which was agreed to.

Mr. Neel offered the following amendment to House Bill No. 172:

Strike out the word "and" before the word "bridges," on line 8, page 3, and after the word "bridges" insert "and river crossings."

Mr. Neel moved the adoption of the amendment.

Which was agreed to.

Mr. Peacock offered the following amendment to House Bill No. 172:

Strike out the word "five" and insert in lieu thereof the following: "Four."

Mr. Peacock moved the adoption of the amendment.

Which was not agreed to.

And House Bill No. 172, as amended, was placed on calendar of bills on third reading.

Mr. Scott moved that the rules be waived and Senate Bill No. 280 be taken up out of its order and now considered.

Which was agreed to by a two-thirds vote.

And,

Senate Bill No. 280:

A bill to be entitled an act defining who are emigration agents, prescribing a tax thereon, also providing a penalty.

Was taken up and read the third time in full and put upon its passage.

Upon call of the roll on Senate Bill No. 280 the vote was:

Yeas—Mr. President, Messrs. Bailey, Brown, Butler, Carson, Crews, Dimick, Gillen, Harris, Law, McCaskill, Miller, Neel, Peacock, Scott, Stockton, Wadsworth, Whidden—18.

Nays—Messrs. Blount, Crill, Kirk, Palmer, Raney, Sams, Williams, Wilson of the 7th, Wilson of the 4th.

—9.

So the bill passed, title as stated.

Mr. Peacock moved that the rules be waived and Senate Bill No. 334 be taken up out of its order and now considered.

Which was agreed to by a two-thirds vote.

And,

Senate Bill No. 334:

A bill to be entitled an act for the relief of sheriffs of this State.

Was taken up.

Mr. Peacock moved that Senate Bill No. 334 be re-committed to the Judiciary Committee.

Which was agreed to.

And Senate Bill No. 334 was so referred.

Mr. Kirk moved that the rules be waived and messages from the House of Representatives be taken up and considered.

Which was agreed to by a two-thirds vote.

The following messages from the House of Representatives was read:

House of Representatives,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

House Bill No. 463:

A bill to be entitled an act to prohibit the catching of food fish in the fresh water lakes of Polk county, State of Florida, with any seine, net or set device, also to prohibit common carriers from transporting or receiving for transportation such fish within the limits of said county, and prescribing a penalty for violation thereof.

And respectfully requests the concurrence of the Senate therein.

Very respectfully,

WM. FORSYTH BYNUM,
Chief Clerk House of Representatives.

And House Bill No. 463, contained in the above message, was read the first time by its title.

Mr. Wilson of the 7th moved that House Bill No. 463 be placed on calendar of bills on second reading without reference to a committee.

Which was agreed to.

The following message from the House of Representatives was read:

Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed:

House Bill No. 226:

A bill to be entitled an act to provide a penalty for selling spirituous, vinous, malt or other intoxicating liquors in counties or precincts voting against such sale under the provisions of Chapter 8, Title 11, Division 1, of the Revised Statutes of the State of Florida, and to prescribe certain rules of evidence and the duties of sheriffs in such cases.

And respectfully requests the concurrence of the Senate therein.

Very respectfully,

WM. FORSYTH BYNUM,
Chief Clerk House of Representatives.

And House Bill No. 226, contained in the above message, was read the first time by its title.

Mr. Wilson of the 7th moved that House Bill No. 226 be placed on calendar of bills on second reading without reference to a committee.

Which was agreed to.

The following message from the House of Representatives was read:

House of Representatives,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

House Bill No. 280:

A bill to be entitled an act to regulate the sale of domestic wines and other domestic, malt or spirituous liquors to minors.

And respectfully requests the concurrence of the Senate therein.

Very respectfully,
WM. FORSYTH BYNUM,
Chief Clerk House of Representatives.

And House Bill No. 280, contained in the above message, was read the first time by its title and referred to the Committee on Temperance.

The following message from the House of Representatives was read:

House of Representatives.
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

House Bill No. 357:

A bill to be entitled an act to amend an act entitled an act in relation to obtaining money or any other personal property under false promises, or for the violation of contracts, and providing penalties therefor, the same being Chapter 4032, Laws of Florida, approved June 8th, 1891.

And respectfully request the concurrence of the Senate therein.

Very respectfully,
WM. FORSYTH BYNUM,
Chief Clerk House of Representatives.

And House Bill No. 357, contained in the above message, was read the first time by its title and referred to the Committee on Judiciary.

The following message from the House of Representatives was read:

House of Representatives,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

House Bill No. 286:

A bill to be entitled an act to prevent the purchase, sale or transportation of mullet fish caught from the waters of the State of Florida during the closed season of each year.

And respectfully requests the concurrence of the Senate therein.

Very respectfully,

WM. FORSYTH BYNUM,
Chief Clerk House of Representatives.

And House Bill No. 286, contained in the above message, was read the first time by its title and referred to the Committee on Fisheries.

The following message from the House of Representatives was read:

House of Representatives,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

House Bill No. 366:

A bill to be entitled an act providing for the payment of a jailor where the employment of a jailor is necessary.

And respectfully request the concurrence of the Senate therein.

Very respectfully,

WM. FORSYTH BYNUM,
Chief Clerk House of Representatives.

And House Bill No. 366, contained in the above message, was read the first time by its title and referred to the Committee on Judiciary.

The following message from the House of Representatives was read:

House of Representatives,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

House Bill No. 401:

A bill to be entitled an act to amend Sections 25 and 26, of Chapter 4323, Laws of Florida, approved June 1st, 1895, relating to the assessment and collection of revenue.

And respectfully requests the concurrence of the Senate therein.

Very respectfully,

WM. FORSYTH BYNUM,

Chief Clerk House of Representatives.

And House Bill No. 401, contained in the above message, was read the first time by its title and referred to the Committee on Judiciary.

The following message from the House of Representatives was read:

House of Representatives,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed by a three-fifths vote—

House Joint Resolution No. 479:

A Joint Resolution proposing an amendment to Section 1, of Article IX, of the Constitution of the State of Florida.

And respectfully requests the concurrence of the Senate therein.

Very respectfully,

WM. FORSYTH BYNUM,

Chief Clerk House of Representatives.

And House Joint Resolution No. 479, contained in the above message, was read the first time by its title and referred to the Committee on Constitutional Amendments.

The following message from the House of Representatives was read:

House of Representatives,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

House Bill No. 298:

A bill to be entitled an act to restrict the exercise of the power of eminent domain, and prohibit the acquiring by condemnation of lands and riparian rights bordering upon lakes, bays, rivers, inlets and other waterways in this State, except for certain purposes, and as herein provided.

And respectfully requests the concurrence of the Senate therein.

Very respectfully,

WM. FORSYTH BYNUM,
Chief Clerk House of Representatives.

And House Bill No. 298, contained in the above message, was read the first time by its title and referred to the Committee on Judiciary.

The following message from the House of Representatives was read:

House of Representatives,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

House Bill No. 492:

A bill to be entitled an act to prescribe the time for holding the term of the circuit courts in and for the First,

Third, Fourth, Fifth, Sixth, Seventh and Eighth Judicial Circuits of the State of Florida.

And respectfully requests the concurrence of the Senate therein.

Very respectfully,
WM. FORSYTH BYNUM,
Chief Clerk House of Representatives.

And House Bill No. 492, contained in the above message, was read the first time by its title and referred to the Special Committee on Judicial Circuits.

The following message from the House of Representatives was read:

House of Representatives,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

House Bill No. 290:

A bill to be entitled an act to regulate the employment and occupation of railway telegraph operators, and establishing a Board of Railway Telegraphy Examiners.

And respectfully requests the concurrence of the Senate therein.

Very respectfully,
WM. FORSYTH BYNUM,
Chief Clerk House of Representatives.

And House Bill No. 290, contained in the above message, was read the first time by its title and referred to the Committee on Organized Labor.

The following message from the House of Representatives was read:

House of Representatives,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

Senate Bill No. 225:

A bill to be entitled an act in aid of the Confederate Soldiers' and Sailors' Home at Jacksonville, Fla.

Very respectfully,
 WM. FORSYTH BYNUM,
 Chief Clerk House of Representatives.

And Senate Bill No. 225 contained in the above message was referred to the Committee on Enrolled Bills.

The following message from the House of Representatives was read:

House of Representatives,
 Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

Senate Bill No. 29:

A bill to be entitled an act to amend section 1, chapter 4683, Laws of Florida, approved June 2nd, 1899, being an act to prohibit the sale of intoxicating liquors within four miles distance of public or private school buildings and houses of worship, and to provide penalties therefor.

Very respectfully,
 WM. FORSYTH BYNUM,
 Chief Clerk House of Representatives.

And Senate Bill No. 29 contained in the above message was referred to the Committee on Enrolled Bills.

The following message from the House of Representatives was read:

House of Representatives,
 Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

Senate Bill No. 271:

A bill to be entitled an act to define the grades of instruction which shall be taught in the uniform system of the public schools of Florida, to aid and encourage the establishment of public high schools and rural graded schools, to prescribe conditions, provide for inspection, and to make appropriations therefor.

With amendments thereto.

And respectfully request the concurrence of the Senate therein.

Very respectfully,
WM. FORSYTH BYNUM,
Chief Clerk House of Representatives.

And Senate Bill No. 271 as amended by the House of Representatives was placed before the Senate.

Mr. Blount moved to concur in the amendment of House of Representatives to Senate Bill No. 271.

Which was agreed to.

And Senate Bill No. 271 as amended by the House of Representatives and concurred in by the Senate, was referred to the Committee on Enrolled Bills.

The following message from the House of Representatives was read:

House of Representatives,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

Senate Bill No. 37:

A bill to be entitled an act to fix the pay of the members, officers and attaches of the Legislature of A. D. 1903.

With amendments thereto.

And respectfully request the concurrence of the Senate therein.

Very respectfully,
WM. FORSYTH BYNUM,
Chief Clerk House of Representatives.

And Senate Bill No. 37, as amended in the House of Representatives, was placed before the Senate.

The following House amendment was read:

Which was agreed to.

The Janitor of the House of Representatives shall be paid seventy-five dollars additional to his per diem to partly reimburse him for wages paid help in clearing up the Hall.

Mr. Carson moved to concur in the amendments of House of Representatives to Senate Bill No. 37.

The following House amendment was read:

Strike out the words "Recording Clerk of the House," after the words "Recording Secretary of the Senate," and insert after the words "shall have ten days extra," "The Recording Clerk of the House shall have thirty days extra after the session."

Mr. Harris moved the Senate refuse to concur in the House amendment.

Which was agreed to.

The following message from the House of Representatives was read:

House of Representatives,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

House Bill No. 335:

A bill to be entitled an act to amend section 12 of chapter 5014 of the Laws of Florida, approved May 31, 1901, relating to the holding of political primaries in the State of Florida.

And respectfully request the concurrence of the Senate therein.

Very respectfully,
WM. FORSYTH BYNUM,
Chief Clerk House of Representatives.

And House Bill No. 335, contained in the above message was read the first time by its title and referred to the Committee on Privileges and Elections.

The following message from the House of Representatives was read:

House of Representatives,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

House Bill No. 411:

A bill to be entitled an act for the relief of Dr. George Macauley, for services rendered and material furnished the State Board of Health of the State of Florida.

And respectfully request the concurrence of the Senate therein.

Very respectfully,
WM. FORSYTH BYNUM,
Chief Clerk House of Representatives.

And House Bill No. 411, contained in the above message, was read the first time by its title and referred to the Committee on Public Health.

The following message from the House of Representatives was read:

House of Representatives,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

House Bill No. 387:

A bill to be entitled an act to provide for the revision and consolidation of the Public Statutes of this State.

And respectfully request the concurrence of the Senate herein.

Very respectfully,
WM. FORSYTH BYNUM,
Chief Clerk House of Representatives.

And House Bill No. 387, contained in the above message was read the first time by its title and referred to the Committee on Judiciary.

The following message from the House of Representatives was read:

House of Representatives,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

House Bill No. 91:

A bill to be entitled an act to amend section 42 of chapter 4322 of the Laws of Florida.

And respectfully request the concurrence of the Senate therein.

Very respectfully,
WM. FORSYTH BYNUM,
Chief Clerk House of Representatives.

And House Bill No. 91 contained in the above message, was read the first time by its title and referred to the Committee on Finance and Taxation.

The following message from the House of Representatives was read:

House of Representatives,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has passed—

House Bill No. 356:

A bill to be entitled an act to establish the Florida Agricultural Institute, and to provide for the location, support, functions and control of the same.

And respectfully request the concurrence of the Senate therein.

Very respectfully,
 WM. FORSYTH BYNUM,
 Chief Clerk House of Representatives.

And House Bill No. 356, contained in the above message, was read the first time by its title and referred to the Committee on Appropriations.

The following message from the House of Representatives was read:

House of Representatives,
 Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has indefinitely postponed—

Senate Bill No. 155:

A bill to be entitled an act to establish a State Board of Medical Examiners and to prescribe their duties and terms of office; to provide for a uniform system of medical examinations and certificates, to protect the public from ignorant and incompetent practitioners of medicine and to fix penalties for the violation of this act.

Very respectfully,
 WM. FORSYTH BYNUM,
 Chief Clerk House of Representatives.

The following message from the House of Representatives was read:

House of Representatives,
 Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—I am directed by the House of Representatives to inform the Senate that the House of Representatives has declined to recede from House amendments to—

Senate Bill No. 130:

And respectfully request the appointment of a committee of conference, and have appointed Messrs. Wall

of Putnam, Trammell of Gadsden, Mote of Lake and Wilson of Hernando, such Committee on part of the House.

Very respectfully,
WM. FORSYTH BYNUM,
 Chief Clerk House of Representatives.

Mr. Butler moved that the Senate accede to the request of the House of Representatives for a committee of conference on Senate Bill No. 130.

Which was agreed to.

The President appointed Messrs. Butler, Gillem, Carson and MacWilliams as a committee of conference on the part of the Senate on Senate Bill No. 130.

The Senate resumed consideration of—

'BILLS ON SECOND READING.

House Bill No. 370:

A bill to be entitled an act in relation to appointment of acting State's Attorney in certain cases.

Was taken up and read a second time in full.

Mr. Wilson of the 7th moved that House Bill No. 370 be indefinitely postponed.

Which was agreed to.

Senate Bill No. 111:

A bill to be entitled an act to provide for, and require the payment of taxes on franchises and to prescribe the method for the return and payment of said taxes.

Was taken up.

Mr. Scott moved that Senate Bill No. 111 be placed on table subject to call.

Which was agreed to.

Senate bill No. 99:

A bill to be entitled an act to amend section eight (8) of an act entitled "An act to make it unlawful for live stock to run at large in certain election districts of Leon county, and to provide for the impounding and sale of stock so running at large."

Was taken up and read a second time in full.

Mr. Raney moved that Senate Bill No. 99 be referred to the Committee on Judiciary.

Which was agreed to.

And Senate Bill No. 99 was so referred.

Senate Bill No. 306:

A bill to be entitled an act to legalize the assessment and levies of taxes for the year 1903 and previous years, by the town of Leesburg, and to legalize the tax sale certificates held by the town of Leesburg, for taxes assessed in 1902 and years previous thereto, and to prescribe the method of collecting the same and to prescribe the method of collecting the taxes thereafter assessed and levied by said town.

Was taken up.

Mr. Butler moved that Senate Bill No. 306 be placed on table subject to call.

Which was agreed to.

Senate Bill No. 265:

A bill to be entitled an act in relation to the recovery of damages from railroad companies for overweighing of freights, and to provide penalties for certain acts in violation thereof.

Was taken up.

Mr. Blich moved that Senate Bill No. 265 be placed on table subject to call.

Which was agreed to.

Senate Bill No. 286:

A bill to be entitled an act to regulate the catching of fish in the St. Lucie river, in the counties of Brevard and Dade, State of Florida, to define the limit in which fishing shall be prohibited on the St. Lucie river inlet by land marks, and to provide a penalty for the violation thereof.

Was taken up.

Mr. Dimick asked permission to withdraw Senate Bill No. 286.

Which was agreed to.

And Senate Bill No. 286 was withdrawn.

Senate Bill No. 324:

A bill to be entitled an act to protect the food fishes in the waters of the fresh water rivers of this State, of over one hundred miles in length, in the lakes connected therewith, and in the streams tributary thereto; and to regulate the taking, sale or offering for sale thereof.

Was taken up.

Mr. Sams moved that Senate Bill No. 324 be placed on table subject to call.

Which was agreed to.

Senate Bill No. 278:

A bill to be entitled an act defining the punishment of petit larceny.

Was taken up and read a second time in full, together with the amendments of the Committee on Judiciary.

The following committee amendment was read:

In line 3, of Section 1, strike out the words "one year," and insert in lieu thereof the words "six months."

Mr. Raney moved the adoption of the committee amendment.

Which was agreed to.

And Senate Bill No. 278, as amended, was ordered referred to the Committee on Engrossed Bills.

Senate Bill No. 188:

A bill to be entitled an act relating to conditional sales of personal property.

Was taken up and read a second time in full, together with a committee substitute therefor, with the following title:

A bill to be entitled an act relating to conditional sales of personal property.

The substitute was then read a second time in full.

Mr. Raney moved the adoption of the substitute.

Which was agreed to.

Mr. Stockton offered the following amendment to Senate Bill No. 188:

After the words "That in conditional bills of sale of personal property" in first line, insert the following: "The value of which exceeds three hundred dollars."

Mr. Stockton moved the adoption of the amendment.

Which was not agreed to.

Mr. Stockton offered the following amendment to Senate Bill No. 188:

After the words "that in conditional bills of sale of personal property," in first line, insert the following: "The value of which exceeds one hundred dollars."

Mr. Stockton moved the adoption of the amendment.

Which was agreed to.

Mr. Stockton offered the following amendment to Senate Bill No. 188:

Add after "shall be," in eighth line, "Within three months after date."

Mr. Stockton moved the adoption of the amendment.
Which was not agreed to.

Mr. Stockton offered the following amendment to Senate Bill No. 188:

Add after "Shall be," in eighth line, the words, "Within thirty days after date its date."

Mr. Stockton moved the adoption of the amendment.
Which was not agreed to.

And committee substitute for Senate Bill No. 188, as amended, was ordered referred to the Committee on En-grossed Bills.

By permission—

The following report of the minority of the Committee on Judiciary was ordered spread on the Journal.

Senate Chamber,
Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—As members of the Judiciary Committee, we beg to submit herewith a minority report upon the claims of O. S. I. Wailes and the estate of W. K. Beard, for services rendered concerning the Indian War Claim of the State of Florida. We beg to dissent from the findings of a majority of the committee, in two important particulars:

First. As to the validity of the original contract between Mr. Wailes and the State of Florida.

Second. If the majority of the committee were correct in declaring that it is a valid contract, we respectfully dissent from their construction of the contract and their calculations showing the compensation due to the said Wailes and the estate of W. K. Beard.

Based upon the opinion of the Attorney-General of the State of Florida, accompanying this report, and marked "Exhibit A," we most respectfully suggest that the original contract was not binding in law. With this view of the case we are thus confronted with the proposition as to whether the said Wailes actually rendered any services to the State of Florida, and if so, what service, and to what compensation he is entitled therefor. The testimony in this matter is not definite as to the actual amount of labor performed by the said Wailes, or the time

required in its performance or the number of assistants necessarily employed, or their length of service. The original contract was dated in 1879. The accounting by the War Department was made on the 22nd day of May, 1882, and showed that the United States owed the State of Florida \$221,618.49. The accounting by the Treasury Department was made on December 16th, 1899, and showed the United States to be due the State of Florida \$261,943.31. In his testimony before this committee Mr. Wailes stated that he was employed to represent the State of Florida before the "Department" at Washington City. He also says in the statement made by him, "Until the allowance was made by the accounting officer when my contract was completed." As pertinent to the question as to services rendered and the value of such services, it is well to state that the following extract from the minutes of the Board of Trustees of the Internal Improvement Fund of Florida, shows that Mr. Wailes was employed by the State in other capacities, and received therefor large compensation, during the same time that he was supposed to be representing the State with reference to the Indian War Claim: "Be it resolved by the Board of Trustees of the Internal Improvement Fund of Florida, that as compensation for the services of Sidney I. Wailes, Esq., agent and attorney of the State of Florida before the Department of the Interior at Washington in procuring an adjustment of the claims of the State for lands granted by Congress under the act of September 28th, 1850, this board will pay to said Wailes 20 per cent. of all moneys paid over to the State on account of swamp lands purchased from the United States prior to the 3rd day of March, 1857, under the act of Congress of March 2d, 1855, and March 3, 1857, and also 20 per cent. of all warrants or certificates issued to the State under said acts on account of lands located by warrants or script prior to said 3rd day of March, 1857. And upon receipt of the patents for any lands selected by the State as swamp land prior to 1861, which have not been patented to the State for any reason, this board will convey to the said S. I. Wailes eight per cent. thereof, in consideration of his services in procuring said patents, and for securing the approval and confirmation of the lands selected for the State as swamp lands since 1861 the board

will pay such reasonable compensation as may hereafter be agreed upon."

On October 19th, 1878, the following extract from the minutes of the Board of Trustees of the Internal Improvement Fund is presented: "The Secretary laid before the board a letter from S. I. Wailes, Esq., stating what progress had been made in the general land office toward the adjustment of the land claims of the State, and inquired what compensation would be allowed him for procuring the approval and patenting of swamp lands selected for the State since 1861."

"It was unanimously agreed by the board that they will allow as compensation to Mr. Wailes for procuring the confirmation of the swamp lands selected for the State since the war, two cents per acre for every acre patented to the State, to be paid in lands at the current price of such lands at the date of any payment."

There is before this committee a certificate from the Commissioner of Agriculture which shows that the said Wailes received on account of lands under the 20 per cent. contract above named, 18,658.24 acres; on account of lands under the 8 per cent. contract 65,538.61 acres; on account of the two cents per acre contract, 159,074.19 acres, making a grand total of 243,221.04 acres.

This employment of Mr. Wailes by the Board of Trustees of the Internal Improvement Fund began in 1878. He resigned as such agent in 1886, with the understanding that he was to continue to represent the State in such land matters as had already been undertaken, specifically referred to in resolutions of the board of July 24th, 1886. His employment, therefore, as agent for the Board of Trustees of the Internal Improvement Fund, was contemporary with his employment in reference to the Indian War Claim, both being included in a period of eight or ten years, assuming that he is correct in claiming that his services were completed when that account had been stated and sent to Congress. In view, therefore, of the testimony submitted before this committee as to the services performed, taken in connection with the contemporary employment of Mr. Wailes before the Land Department, and his compensation therefor, amounting to \$243,191.04 acres of land, the minority of your committee believe he will be very liberally rewarded by the payment of twenty-

five thousand dollars for his services in connection with the Indian War Claim.

Addressing the second point, namely, the construction of the original contract, if it were a contract, your committee dissent from the calculations made by the majority. In Executive Document No. 68, on page 2, we find that the Treasury Department on December 16th, 1889, stated the account as follows: On the claim originating in the years 1855 and 1859 (vide detailed statement), I find an expenditure proven in the sum of \$246,426.21. Deducting the amount realized by the State of Florida by sales of military stores, \$1,405.65, leaves a difference of \$245,024.86. In the items of expense in 1849, paid by the State in 1859, I find an expenditure proven (vide detailed statement), in the sum of \$16,913.45, an aggregate of \$261,934.31." Deducting from this the amount of bonds due by Florida to the United States Government \$132,000, would leave the difference in favor of Florida \$129,934.31.

On page 3 of said Executive Document No. 68, W. H. Hart, Auditor, who made the above statement, says, "the question now arises in respect to the interest upon the demands of the State. If this were a case wherein the accounting officers had been directed to make a final settlement, I would be compelled to say that the Executive Department has no power to award interest upon claims against the United States, unless expressly so provided by statute, but this proceeding is not of that nature. Congress has reserved to itself the determination of what shall be the terms of the general and final settlement between the United States and the State." It will be seen by this that the payment of interest was purely a congressional function. Mr. Wailes has testified before this committee that he was not employed to "lobby" this claim through Congress, but that his work was before the Department, and that when the Department had stated the account, his work was complete. This being true, we fail to see how he could claim a commission on an amount other than that which was shown to be due the State as per statement on page 2 of Executive Document No. 68, namely, \$129,934.31. It certainly will not be contended that any fee was due him before the statement of the account on December 16th, 1889. It is a

question whether he would be entitled to any interest on that commission between the date of the stating of the account and its final payment by the United States Government. Even granting that he would be entitled to interest on this fee, we fail to see why said interest should antedate December 16th, 1889. If, therefore, his commission at the time of the stating of the account was fifteen per cent. of \$129,934.31, or \$19,490.15, then interest thereon at 7 per cent. from December 16th, 1889, to January 7st, 1900, and from that date to July 1st, 1902, at 6 per cent., would be \$18,678.45, making a total, both principal and interest, of \$38,168.60.

If, therefore, the majority of the committee were correct in declaring the contract a legal and binding instrument, your minority respectfully represent that the fee of fifteen per cent with interest thereon from the date above mentioned, would not exceed \$38,168.60.

From this amount should be deducted the \$900 paid Col. W. K. Beard, with interest thereon, amounting to \$1,399.27, making a total deduction of \$2,299.27. This, therefore, would leave, according to the above calculation, which, in our opinion is the correct one, if the contract were valid, due S. I. Wailes and the estate of W. K. Beard the sum of \$35,869.33.

For these reasons the minority beg to dissent from the majority report.

GUY GILLEN,
C. A. CARSON,
J. B. CREWS,
C. L. WILSON.

In my opinion the contract originally made was valid, but the terms of it were violated, and therefore the contract was forfeited by S. I. Wailes. With this explanation, I concur in this report.

T. J. FAULKNER,

I concur in this minority report as to the second point of dissension; that is, the construction of the contract, and the calculations thereon.

C. C. WILSON.

Tallahassee, Fla., May 21, 1903.

Hon. Frank Adams,

President of the Senate:

SIR—As a part of the Committee on Judiciary, ap-

pointed by this honorable body, after careful consideration and a full discussion relative to the claim presented by Messrs. B. C. Lewis, William Bailey, John C. McDougall and P. B. Brokaw, relative to bonds held by them for which, it is claimed, they exchanged certain State warrants, I beg leave to submit this, the minority report, based upon the following objections, to-wit:

1. These bonds are payable in Confederate money.
2. The same being payable in Confederate money are not a legal claim against the State of Florida.
3. It was purely a business matter, and he who sought to exchange State warrants for Confederate bonds did it as a business venture, subject to the same successes and failures that many other persons did at the same time, and is no more deserving of State aid for the lack of good judgment than thousands of our fellow citizens who exchanged property for Confederate money, for which they have not received State aid. I have the honor to be,

Yours very respectfully,

T. J. FAULKNER.

EXHIBIT A.

OPINION OF THE ATTORNEY GENERAL.

Office of the Attorney-General,
Tallahassee, Fla., March 3, 1903.

To His Excellency, W. S. Jennings,

Governor of Florida, Tallahassee, Fla.

SIR—I have the honor to acknowledge the receipt of your letter of February 28th, 1903, in which you state that your predecessor, Hon. George F. Drew, appointed Mr. Sidney I. Wailes agent for the State of Florida, under an instrument of writing, of which the following is a copy:

State of Florida,
Executive Department.

Know all men by these presents, that I, George F. Drew, Governor of the State of Florida, reposing special trust and confidence in the ability, fidelity and prudence of Sidney I. Wailes, do hereby constitute and appoint the said Sidney I. Wailes, agent for the State of Florida, before the department at Washington City, and to ask and demand and receive of the government of the United

States any and all sums of money due the said State of Florida for expenses incurred by said State on account of Indian hostilities in said State from the year 1849 to the year 1856 inclusive.

The said Wailes to receive as compensation for performing the above word fifteen per cent. of the sums collected from the General Government upon such Indian War Claim and to defray all expenses incurred in the prosecution of the same.

In testimony whereof, I have hereunto set my hand and Caused the Great Seal of the State of Florida to be attached, this 16th day of July A. D. 1879.

GEO. F. DREW, Governor.

(Seal.) Attest: W. D. BLOXHAM, Sec. State.

You asked to be advised as to the validity, power and effect of the above instrument, and request that I furnish you with an opinion on this subject covering the following points:

1. Does this appointment carry with it the powers and functions sufficient to create an office and make the appointee an officer?

2. If so, what were the powers and duties of the appointee thereunder?

3. Is this commission authority at force at this time?

4. If not, when did it expire, either by operation of its conditions, the operation of the law or the constitution?

5. Has the Governor the power to make such an appointment, and, if so, would such an appointment, when made, become perpetual or continue in force until revoked by a written instrument signed by the Governor or his successor in office, attested by the Secretary of State, with the Great Seal affixed thereto?

When the appointment referred to was made the following act of the Florida Legislature was in force.

Chapter 3030. (No. 54.)

An act to provide for the settlement of claims between the State of Florida and the United States.

The people of the State of Florida, represented in Senate and Assembly do enact as follows:

Section 1.—That the Governor is hereby authorized and empowered to appoint an agent to adjust and settle all claims between the State and the United States Gov-

ernment, growing out of the war with the Seminole Indians in the years 1856 and 1857, as well as other claims that may exist between the two governments.

Section 2—The expenses of such agent shall be paid out of the amount appropriated for contingent expenses of the State, and shall not exceed the sum of eight hundred dollars.

Section 3—Such agent shall report to the Legislature at its next regular session.

Approved March 2, 1877.

This act gave authority to exercise a governmental power to-wit:

Agent to adjust and settle all claims between the State and the United States Government, growing out of the war with the Seminole Indians in the years 1856 and 1857, as well as other claims that may exist between the two governments; and, also provide for the appointment of persons to exercise this governmental power.

A person having lawful authority to exercise any governmental power is a public officer.

Stae ex rel. Clyatt vs. Hocker, Judge, 39 Fla. 477.

Such officer can only exist by force of law.

Section 27, Article 4, Constitution of 1868.

Norton vs. Shelby County, 118 U. S., 425.

There was no law other than the act above quoted to warrant the appointment in this case. The act established an office.

Commonwealth vs. Evans, 74 Pa. St., 124.

If Section 5, of Chapter 3113, acts of 1879, was constitutionally enacted it has no application here.

The authority conferred by this appointment was "agent for the State of Florida, before the Department at Washington City, and to ask and demand and receive of the Government of the United States any and all sums of money due the said State of Florida for expenses incurred by said State on account of Indian hostilities in said State from the year 1849 to the year 1856 inclusive." This authority was within the scope of, but not as broad as, the terms of the act above given, Chapter 3030, Acts of 1877.

The appointment, therefore, in so far as is designated the agent and stated his authority was provided for by law, and constituted an officer, if the person appointed

was qualified to hold the office. Section 27, Article 4, Constitution of 1868. The qualifications then required for officers as stated in Section 22, of Article 16, of the Constitution of 1869. The expenses of this officer to a given limit, were by said act authorized to be paid from the State Treasury.

The act fixed no term of office, but Section 14 of Article 16, of the Constitution of 1868, in force when the appointment was made, provided that "the Legislature shall not create any office the term of which shall be longer than four years." This limited the term of office of the appointee to a period of not "longer than four years" from the date of the appointment, if the official duties to be performed were not completed before that time.

There was no general provision in the Constitution of 1868, as is contained in Section 14, of Article 16, of the present Constitution, that "all State, county and municipal officers shall continue in office after the expiration of their official terms until their successors are duly qualified."

Section 27, of Article 4, of the Constitution of 1868, in force at the time this appointment was made is as follows:

"The Legislature shall provide for the election by the people or appointment by the Governor of all State, county or municipal officers not otherwise provided for by this constitution, and fix by law their duties and compensations."

This constitutional provision vested in the Legislature the power to fix the compensation for such officers as the one here referred to.

The Governor, as Chief Executive, had no inherent or constitutional power to to fix the compensation of any officer. There was no law fixing the compensation for such an officer as the one in this case. As a result the provisions for compensation in the appointment here considered was made without authority of law.

Section 4, Article 16, Constitution of 1868.

Mechem Public Officers, Section 856.

Commonwealth vs. Evans, 74 Pa., St. 124.

The requirements in this act that "such agent shall report to the Legislature at its next regular session" did

not terminate the office, or term of the officer, if appointed before the next regular session and the duties were not completed by that time; and did not take from the Governor the authority to appoint an agent after such "next regular session," when this appointment was made if the duties prescribed by law had not been completely performed.

It is within the province of the Legislature to fix the compensation for services previously rendered the State by authority of law, and to make an appropriation therefor. Section 11, Article 16, Constitution of 1885.

Very respectfully,

J. B. WHITFIELD, Attorney-General.

Mr. Dimick moved that the Senate adjourn until 10 o'clock a. m. tomorrow.

Which was agreed to.

Thereupon the Senate stood adjourned until 10 o'clock a. m., Friday, May 22, 1903.

FRIDAY, MAY 22, 1903.

Senate met pursuant to adjournment.

The President in the chair.

The roll being called, 32 Senators answered to their names, showing a quorum present.

Prayer by the Chaplain.

The reading of the Journal dispensed with.

The Journal as corrected was approved.

INTRODUCTION OF BILLS.

By Mr. McCaskill:

Senate Bill No. 373:

A bill to be entitled an act making copies of records evidence in re-establishment proceedings.

Which was read the first time by its title and referred to the Committee on Judiciary.

By Mr. Neel:

Senate Bill No. 374:

A bill to be entitled an act declaring the town of Esto,