

6 of Article VIII. of the Constitution of the State of Florida relative to County Officers.

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

By Mr. Johnson—
Senate Bill No. 20:

A Bill to be entitled An Act dividing the State of Florida into four Congressional Districts and prescribing and setting forth the territorial limits and boundaries of each district.

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

By Mr. Johnson—
Senate Bill No. 21:

A Bill to be entitled An Act providing for issuing a certificate of authority to insurance companies insuring only live stock or other domestic animals.

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

By Mr. Cooper—
Senate Bill No. 22:

A bill to be entitled An Act to cure all informalities in the execution of deeds and other instruments conveying real property or any interest therein made prior to the first day of April, A. D. 1913.

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

By Mr. McClellan—
Senate Bill No. 23:

A Bill to be entitled An Act providing for the creation of Bay County, in the State of Florida, and for the organization and government thereof.

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

By Mr. Davis—
Senate Bill No. 24:

A Bill to be entitled An Act to amend sections 1660, 1661 and 1662 of the General Statutes of the State of Florida relating to the powers and duties of and procedure before referees.

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

By Mr. Davis—
Senate Bill No. 25:

A Bill to be entitled An Act to amend Section 3356 of the general statutes of the State of Florida, relating to the disposition of personal property under a lien.

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

By Mr. Davis—
Senate Bill No. 26:

A Bill to be entitled An Act to amend Section 800 of the general statutes of the State of Florida, relating to the duties of Tax Collectors and Trustees of County Bonds, with reference to money collected for the purpose of paying interest or for sinking fund.

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

By Mr. Cooper—
Senate Bill No. 27:

A Bill to be entitled An Act providing for the creation of Trabue County, in the State of Florida, and for the organization and government thereof.

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

Mr. Wilson moved that the Senate do now adjourn until 10 o'clock tomorrow morning.

Which was agreed to.

Thereupon the Senate stood adjourned until 10 o'clock A. M. Friday, April 11th, 1913.

Friday, April 11, 1913

The Senate met pursuant to adjournment.

The President in the Chair.

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

Mr. President, Senators Adkins, Blitch, Brown, Calkins, Carney, Cone, Conrad, Cooper, Culpepper, Davis, Donegan, Finlayson, Himes, Hudson, Igou, Johnson,

L'Engle, Lindsey, Malone, McCreary, McGeachy, McLellan, McLeod, Stringer, Stokes, Wall, Watson, Wells, Wilson, Zim—30.

A quorum present.

Prayer by the Chaplain.

The reading of the Journal was dispensed with.

The Journal of April 10th was corrected.

The Journal of April 10th was approved as corrected.

INTRODUCTION OF RESOLUTIONS.

Mr. Calkins offered the following—

Senate Resolution No. 10:

Be it resolved by the Senate, That from and after the adoption of this resolution, there shall be printed only 600 copies of the Senate Journal daily, of which 10 copies each shall be allowed to each Senator for distribution as he may desire, by the Journal Clerk.

Which was read.

Mr. Calkins moved that the resolution be adopted.

Mr. Stringer offered the following amendment to the resolution:

Strike out the word or figures "ten (10)" and insert in lieu thereof "15."

Mr. Stringer moved to adopt the amendment.

Which was not agreed to.

The question then recurred upon the adoption of the resolution.

The resolution was not agreed to.

Mr. Adkins offered the following—

Senate Resolution No. 11:

Resolved, That the Secretary of State furnish to each member of the Senate a copy of the Journals of the Senate of the session of 1911, and that the Sergeant-at-Arms is hereby authorized to secure and place same upon the desk of each Senator.

Which was read.

Mr. Adkins moved that the resolution be adopted.

Which was agreed to.

Mr. McClellan offered the following—

Senate Resolution No. 12.

Resolved, That the Chairman of Engrossed Bills be

authorized to employ clerical aid whenever needed.

Which was read.

Mr. Davis moved that the resolution be referred to Committee on Legislative Expense.

Which was agreed to.

Mr. Adkins offered the following—

Senate Resolution No. 13.

Resolved that Judiciary Committee A be authorized to employ one clerk.

Which was read.

Mr. Adkins moved the Resolution be referred to Committee on Legislative Expense.

Which was agreed to.

Mr. Johnson offered the following—

Senate Resolution No. 14:

Resolved, That the Committee on Legislative Expense be authorized to purchase four tables suitable for typewriters, same to be the property of the State and to be cared for and preserved by the Secretary of State for the use of the Senate.

Which was read.

Mr. Johnson moved the adoption of the Resolution.

Which was agreed to.

Mr. Stringer offered the following—

Senate Resolution No. 15:

Resolved, That the following standing committees may employ one clerk to serve said committees: Organized Labor, Pensions, Corporations, Minerals and Mining, Immigration, Temperance.

Which was read the first time.

Mr. Stringer moved the Resolution be referred to Committee on Legislative Expense.

Which was agreed to.

Mr. Wells offered the following—

Senate Resolution No. 16:

Be it Resolved by the Senate, That the President be allowed to appoint a secretary for the use of the President.

Which was read the first time.

Mr. Wells moved that the Resolution be referred to Committee on Legislative Expense.

Which was agreed to.

Mr. Johnson offered the following—
Senate Resolution No. 17:

Resolved, That the Senate do employ T. J. Appleyard, Jr., to mail out all Senate Journals assigned for mailing at and for the agreed price, for the entire session, of \$500.00, this not to include postage.

Resolved further, That the mailing shall be done under the supervision of the Journal Clerk.

Which was read the first time.

Mr. Johnson moved that the resolution be adopted.

Which was agreed to.

INTRODUCTION OF BILLS.

By Mr. Himes—

Senate Bill No. 28:

A Bill to be entitled An Act to authorize suits for the recovery of damages for the Death of minors caused by the wrongful act, negligence, carelessness or default of individuals, private associations of persons or corporations.

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

By Mr. Himes—

Senate Bill No. 29:

A Bill to be entitled An Act for the protection of life and property against loss or damages from the operation of steam boilers in the State of Florida, and to provide for the inspection of steam boilers.

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

By Mr. Himes—

Senate Bill No. 30:

A Bill to be entitled An Act to preserve the purity of the underground waters of the State of Florida for the protection of the public health.

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

By Mr. McGeachy—

Senate Bill No. 31:

A Bill to be entitled An Act relating to the rates and charges by railroads engaged in the business of common carriers of freight and passengers in this State.

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

By Mr. Wall—

Senate Bill No. 32:

Senate Joint Resolution proposing an amendment to Section 9, of Article 9, of the Constitution of the State of Florida, relating to tax exemptions.

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

By Mr. Stokes—

Senate Bill No. 33:

A Bill to be entitled An Act relating to the City of Pensacola, to create a Commission form of Government, for said city; to provide for the election of Commissioners, their terms of office, and the selection of one Commissioner as Mayor; to fix the powers, duties and compensation of such Commissioners; to punish improper conduct in connection with elections and petitions hereunder; to abolish all existing offices and boards, including the Council of the City of Pensacola, and to enlarge and extend the powers and jurisdiction of said city, and provide for the support and maintenance of its government.

Which was read the first time by its title.

Mr. Stokes moved that the rules be waived and Senate Bill No. 33 be placed on Calendar of Bills on second reading without reference to committee.

Which was agreed to.

By Mr. Donegan—

Senate Bill No. 34:

A Bill to be entitled An Act relating to the granting of letters of administration upon the estates of persons, presumed to be dead, by reason of long absence from their former domicile; and providing for the probating of the wills of such absentees, and for the annexation of such wills to letters of administration granted in such cases.

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

By Mr. Donegan—

Senate Bill No. 35:

A Bill to be entitled An Act to amend Section 2 of

Chapter 5717, Laws of Florida, Acts of 1907, entitled: "An Act to prescribe the terms and conditions upon which foreign corporations for profit may transact business, or acquire, hold or dispose of property in this State."

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

By Mr. Donegan—
Senate Bill No. 36:

A Bill to be entitled An Act to permit and provide for the recording of certified copies of deeds, mortgages and other instruments in the public records of other counties and to prescribe the effect thereof.

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

By Mr. Stokes—
Senate Bill No. 37:

A Bill to be entitled An Act to fix the liability of persons, firms and corporations engaged in certain hazardous occupations in this State for injuries to and death of their agents and employes in certain cases, and exempting money due or likely to become due on account of liability growing out of this act from garnishment, execution and other processes, and to declare illegal and void contracts, contrivances and devices relieving or exempting such persons, firms and corporations from the liability prescribed by this Act.

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

By Mr. Finlayson—
Senate Bill No. 38:

A Bill to be entitled An Act to provide a custodian for the Supreme Court Building and Grounds.

Which was read the first time by its title and referred to the Committee on Capitol Buildings and Grounds.

By Mr. Wells—
Senate Bill No. 39:

A Bill to be entitled An Act to amend Sections one, two, four, five, nine, ten, eleven and fifteen of chapter 6122, Act of 1911, An Act entitled "An Act to prevent the adul-

teration, misbranding and imitation of food for man or beast, of beverages, candies, or condiments, of medicines, drugs and liquors, and the manufacture and sale thereof in the State of Florida, prescribing a penalty for the violation thereof, providing for the inspection and analysis of the articles described by the Florida State Department of Agriculture, charging the State's Attorney with the enforcement hereof, and providing means therefor, providing for the appointment of an additional State chemist or expert food analyst, two food and drug inspectors, to appropriate the necessary funds to enforce the provisions of this Act, and for the general expenses of the State Laboratory and Chemical Division of the Agricultural Department of the State of Florida, and to repeal all laws in conflict with this Act."

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

By Mr. L'Engle—
Senate Bill No. 40:

A Bill to be entitled An Act to amend chapter 6240 of the Laws of 1911 of the Laws of 1909 of the Laws of 1907 of the Laws of Florida, being An Act amending Section 775 of the General Statutes of the State of Florida in relation to the compensation of County Commissioners.

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

By Mr. Wall—
Senate Bill No. 41:

A Bill to be entitled An Act to amend Section 2807 of the General Statutes of the State of Florida, relating to right-of-way through State lands.

Which was read the first time by its title and referred to the Committee on Public Lands and Drainage.

By Mr. Wilson—
Senate Bill No. 42:

A Bill to be entitled An Act to enable Special Tax School Districts to issue bonds for the purpose of building, enlarging or otherwise improving school buildings and to provide for the levy, assessment and collection of a tax

to become a fund for the payment of the interest on and the redemption of such bonds.

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

By Mr. Cooper—

Senate Bill No. 43:

A Bill to be entitled an Act to provide for the creation of Broward County, in the State of Florida, and for the organization and government thereof.

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

The following communication from the Governor was read:

State of Florida,
Executive Chamber,
Tallahassee, April 11, 1913.

Hon. H. J. Drane,
President of the Senate.

Sir:

I have the honor to transmit herewith, in printed form, the report submitted by the Commission appointed by the Governor in pursuance of the provisions of House Concurrent Resolution No. 32, adopted by the Legislature of 1911.

Very respectfully,
PARK TRAMMELL,
Governor.

And the same was referred to the Committee on Finance and Taxation.

The following communication from the Governor was received and read:

State of Florida,
Executive Chamber,
Tallahassee, April 11, 1913.

Hon. H. J. Drane,
President of the Senate.

Sir:

I have the honor to transmit herewith the report of the Commissioners on Uniform State Laws, appointed by the

Governor under the provisions of the Acts of 1897, providing for such appointment.

Very respectfully,
PARK TRAMMELL,
Governor.

And the same was referred to the Committee on Judiciary B.

MESSAGES FROM THE GOVERNOR.

The following message from the Governor was received and read:

State of Florida,
Executive Chamber,
Tallahassee, April 11, 1913.

Hon. H. J. Drane,
President of the Senate.

Sir:

I have the honor to transmit herewith, the report submitted by the Commission appointed by the Governor under the provisions of House Concurrent Resolution No. 33, adopted by the Legislature of 1911.

Very respectfully,
PARK TRAMMELL,
Governor.

To His Excellency,
Albert W. Gilchrist,
Governor of Florida.

Dear Sir:

Pursuant to your appointment under the provisions of Concurrent Resolution No. 33, adopted by the Legislature of 1911, we have "examined into the laws and the system of pleading and practice embracing both common law and equity procedure, in this and other States," and have formulated a bill, presented herewith, entitled, "An Act Relating to Pleading, Practice and Procedure in the Courts of this State," which, if enacted into law, will make changes in the present law, which, in our judgment, will tend to simplify the system of pleading, practice and procedure in the Courts of this State, the details of which changes will be worked out under the present statutes and rules of Court, or such changes therein as may be found to be expedient, as the amended system is developed by practical operation.

The changes suggested will dispense with useless forms and pleadings, and will materially simplify legal procedure, and greatly expediate the maturing of litigated causes for final disposition on the merits, so that justice may be administered without undue delay and expense.

Very respectfully,

W. A. BLOUNT,
C. M. COOPER,
J. B. WHITFIELD,

A BILL

To be entitled AN ACT relating to Pleading, Practice and Procedure in the Courts of this State.

Be it enacted by the Legislature of the State of Florida:

Section 1. That the provisions thereof are intended to simplify pleading, practice and procedure in the courts of this State so as to dispense with immaterial forms and technicalities, to obviate unnecessary pleadings and procedure and undue delays in maturing causes for trials, and to facilitate the trial and final disposition of causes upon the merits, to the end that justice may be administered by the courts without needless delay and expense as contemplated by the Constitution.

Sec. 2. Unless otherwise provided by statute or by authorized rules of court, the pleadings used in the courts of this State may be framed without reference to technical forms of actions or statements, and the legal sufficiency of such pleadings shall be tested by a fair consideration of the facts that are in substance stated, together with applicable provisions and principles of law and procedure.

Sec. 3. The first and third Mondays of each month are designated as rule days for all trial courts. During business hours of every day except Sundays and legal holidays every court shall be deemed to be open and in session, at the clerk's office, or if the court have no clerk then at the judge's office, for the return of writs and process, for the entry of defaults and judgments by default, and also for the purpose of receiving, entertaining and disposing of all matters, rules, orders and other interlocutory proceedings which parties may make or apply for, and which, by the practice of the court, may be entered of course, or which are granted without the special order

of the judge. A judgment by default may be entered on any day except Sundays and legal holidays on or after the rule day on which a default in appearance or pleading has occurred.

Sec. 4. All writs of process, upon the institution of any suit, shall be made returnable to the next rule day thereafter, unless the day of issuing such process shall not be ten days before the next rule day, in which case the same shall be made returnable to the second rule day after the issuance of such process. All such process shall be served at least ten days before the rule day to which it is made returnable. In computing such ten days, the day of issuance or service of process shall be included and the rule day shall be excluded. The plaintiff shall file his declaration on or before the rule day to which the process is made returnable, unless further time be allowed by the court. The provisions of this and the foregoing section 3 shall not apply to writs of quo warranto, habeas corpus, mandamus or prohibition, which said writs shall be returnable at such time as the court may direct. Special provisions for issuance, service or return of process in special statutory proceedings are not repealed or affected hereby.

Sec. 5. A special appearance entered by the defendant shall not dispense with the requirement that he shall plead or demur at the time fixed by law, as if there had been no special appearance, but the filing of a plea or demurrer shall not be a waiver of a special appearance filed before or at the time of filing such plea or demurrer.

Sec. 6. When the defendant demurs to the plaintiff's declaration, or any count thereof, if he intends to defend against such declaration or count upon matter of fact, in case his demurrer should be overruled, he shall file at the same time that he files such demurrer his plea or pleas to such declaration or count, and, in case he does not do so, it shall be held that he rests his defense upon matter of law raised by such demurrer, and if his demurrer shall be overruled final judgment shall be rendered against him upon such declaration or such count.

Sec. 7. No special plea in bar shall hereafter be pleaded in any civil action at law; but all matters of defense to such action, including defenses on equitable grounds, may be given in evidence under the general issue. There shall be no special replication, nor shall

there be any rejoinder or pleading which would follow or succeed a special replication in any such action; but all matters tending to sustain the plaintiff's action or the defendant's defense may be given in evidence under the declaration, general issue and bills of particulars, where bills of particulars are required, notwithstanding it would have been required heretofore that such matters should be set forth or pleaded.

Sec. 8. Every plaintiff, desiring to avail himself of any matter of confession and avoidance of any plea, and bill of particulars, shall file, within fifteen days after the filing of the plea, or before the term of court, if a term shall occur before the expiration of said fifteen days, a notice that he will rely at the trial on such matter. Such notice shall state said matter as shortly as practicable, and shall not be subject to demurrer or motion to strike, but any question of insufficiency of law thereof, or of any part thereof, may be raised at the trial in the manner provided herein for questioning at the trial the insufficiency in law of any bill of particulars, or any part thereof, filed with a plea.

Sec. 9. The general issue in all civil actions at law shall be substantially as follows: "Defendant denies that plaintiff is entitled to have judgment against defendant as alleged and claimed in plaintiff's declaration." A like plea or pleas may be filed as to any count or counts of the declaration if the defendant does not defend against all the counts of the declaration. The defendant shall file with such plea a bill of particulars wherein shall be stated what allegations of the declaration or of any count thereof the defendant denies, and also what affirmative matters of defense, if any, the defendant alleges and expects to prove. The statements of such bill of particulars shall not be required to have the fullness or certainty that may have heretofore been requisite in pleadings, but it shall be sufficient that they give to the plaintiff and to the Court reasonable notice of the defenses of the defendant and of the facts that he expects to prove at the trial. All pleas and bills of particulars shall be sworn to either by the defendant or his agent or attorney. All allegations of the declaration not denied by defendant in his bill of particulars shall be taken and treated as admitted, and it shall not be necessary for plaintiff to prove them. No evidence shall be admitted or considered of any defense whereof defendant has not given

reasonable notice in his bill of particulars. It shall not be necessary for the plaintiff to file any joinder of issue on any such plea or pleas.

Sec. 10. The judge of the trial court may, upon motion of plaintiff, require a more definite or additional bill of particulars to be filed by the defendant under any such plea. Such judge may, upon motion of plaintiff, strike out from the bill of particulars of defendant any item or matter which it is manifest upon the face thereof cannot be a good ground or matter of defense in the premises. Plaintiff may move for judgment against the defendant upon plaintiff's declaration and defendant's plea thereto and bill of particulars accompanying such plea, or upon any count or counts of plaintiff's declaration and defendant's plea or pleas thereto and bill of particulars accompanying such plea or pleas, and, if it shall be manifest upon such plea or pleas and the bill or bills of particulars accompanying same that the matters therein stated or of which notice is given do not show or indicate any valid defense, the judge shall order that final judgment be entered for plaintiff in the action upon the declaration or upon such count or counts thereof provided, however, that the court may allow the defendant a reasonable time to be specified for the defendant to make a showing satisfactory to the judge that the defendant has apparently a valid and meritorious defense, and for tendering a bill of particulars of such defense, and if the defendant shall within the time allowed make such showing and tender such bill of particulars, then the judge, instead of ordering final judgment for plaintiff, may order the bill of particulars to which the motion is addressed to be stricken out and the bill of particulars tendered by defendant as aforesaid to be filed in the cause. If such motion for judgment shall be overruled, the cause shall proceed to trial in regular course. Upon motion of plaintiff it may be ordered that any portion, item or matter of any bill of particulars of the defendant which it is manifest does not show or indicate or constitute any valid defense or any part of a valid defense, shall be stricken out. Upon motion of plaintiff the court may order any bill of particulars or portion of any bill of particulars of defendant to be made more definite, or that defendant file an additional bill of particulars. The defendant may, by leave of court, amend his bill of partic-

ulars or any item thereof. Such motions or orders may be made either before or at the trial of the cause. Plaintiff shall not be required to make such objections or raise such questions concerning the bill of particulars by any such motion, but they may be made by objection to the admissibility of evidence under or in connection with the bill of particulars, or that evidence is immaterial or irrelevant or does not tend to prove any defense, or they may be raised under or in connection with charges of the court to the jury by charges requested by plaintiff or objections to charges asked by defendant or objections to charges given by the court. A bill of particulars shall not be considered a pleading and shall not be subject to demurrer.

Sec. 11. Special pleas may be filed to the jurisdiction, or in abatement, or of set-off or recoupment. The plaintiff may demur to any such special plea as is now or may be provided by law or rules of court. If the plaintiff shall intend to contest or controvert any such plea upon the facts, he shall file a joinder of issue on such plea, which shall be substantially as follows: "Plaintiff joins issue on defendant's plea to the jurisdiction." (Or in abatement, or of set-off or recoupment as the case may be). If plaintiff demurs to the plea, but intends to contest the same on the facts, such joinder of issue shall be filed with the demurrer. Under such joinder of issue the plaintiff may prove any matter which would defeat defendant's special plea, whether said matter could heretofore have been proven under general replication or joinder of issue or would have required a special replication.

Sec. 12. It shall be the duty of the judge of the trial court to hear, decide and dispose of, if practicable, all demurrers and motions concerning pleadings or bills of particulars in any such action before the first term of the court following the filing of the same, but if any such demurrers or motions are not disposed of before the beginning of the term of court it shall not delay the trial of the cause but the court shall proceed with the trial thereof in due course during such term unless the cause be continued.

Sec. 13. The last preceding ten sections of this act shall not apply to cases of mandamus, quo warranto, prohibition or habeas corpus; nor shall such sections be

construed to require any pleading or any written pleading in any case or statutory proceeding where none is now required by law.

Sec. 14. In actions of ejectment the form of declaration now provided by statute shall be used. The plea of the general issue herein provided for shall put in issue the title to the land in controversy, and such plea shall admit the possession or adverse claim of the defendant, unless such possession or adverse claim is denied by the defendant in the bill of particulars.

Sec. 15. In addition to the cases in which the defendant may now plead at law equitable defenses, he may plead equitable pleas seeking affirmative relief, provided that he shall not be allowed at law to procure to be stated an account now cognizable in a court of equity. All issues of fact, as well as of law, arising upon any equitable plea, shall be tried and determined by the Judge, who shall, if there be pleas at law on file with the equitable pleas, determine whether trial upon the equitable pleas shall be had at the same time as the trial before the jury of the pleas at law, or at another time and place. He shall have power to make all orders necessary to carry into effect his determination on equitable pleas.

Sec. 16. If in any cause at law the Judge of a Circuit Court or Court of Record shall determine, at any stage of proceeding, that the plaintiff has not a remedy at law, and may have a remedy in equity, or if the Supreme Court in an appellate proceeding shall so determine, it shall be the duty of the Judge of the Court in which the said cause is pending, upon motion of the plaintiff, to transfer the said cause to the Chancery Docket of said court, in the county in which said cause is pending; and the duty of the Chancery Court to permit and direct by order the reforming of the pleadings so as to conform to pleadings in that court, and to proceed in said cause in accordance with equity practice. If in any case in equity the Judge of a Circuit Court or Court of Record shall determine, at any stage of the proceedings, that the complainant has not a remedy in equity, but may have a remedy at law, or if the Supreme Court in an appellate proceeding, shall so determine, it shall be the duty of the Judge of the Court in which the cause is pending, upon motion of the complainant, to transfer the said cause

to the Law Docket of the said court, in the county in which the said cause is pending, and the duty of the Law court to permit and direct by order the reforming of the pleadings so as to become pleadings at law, and to proceed in said cause in accordance with practice at law.

Sec. 17. All trials of fact shall be had before the Judge of any trial court, without a jury, unless a jury be demanded by a writing filed in court by either party, within twenty days after any cause is at issue under the law, or before the term of court next after the cause is at issue, if such term shall occur before the expiration of said twenty days. The trial by the Judge may be had in term or vacation, as he may determine.

Sec. 18. All written instructions requested by either party upon the trial of any cause at law in a Circuit Court, or Court of Record, shall be submitted to the Judge and to the attorneys for the opposite party, before the argument of the cause begins, unless the Judge for good cause shown shall permit them to be submitted thereafter. The attorney for the opposite party shall write on each instruction submitted that he accept or object to it, and if the Judge requires any objection shall be argued by the attorneys for the parties. No party shall be allowed to object upon a motion for a new trial or upon appeal, to any written instruction requested by the opposite party, unless such instruction shall have been objected to by him on the trial.

Sec. 19. In any case tried before a jury in a Circuit Court or Court of Record, the Judge may instruct the jury peremptorily to find any fact or issue in a way directly by him, whenever under the evidence the jury could not lawfully find such fact or issue contrary to the way so directed.

Sec. 20. The Judge of any Circuit Court, or of a Court of Record, may at the request of either party during the trial of a law case, require the jury to find a special verdict or special verdicts, upon any or all of the issues in the cause. The Supreme Court shall by rule prescribe the effect of and regulate the procedure in respect to such verdicts.

Sec. 21. If, upon motion for a new trial, the Judge shall determine that the jury erred as to its finding of any issue or issues, and that such error requires the grant-

ing of a new trial, the Judge may, in his order granting the new trial, specify the error or errors upon which the order is based, and may order a new trial only as to such issue or issues. The Supreme Court may likewise, whenever it determines that a new trial should be granted because of the error of the jury in its finding as to one or more issues, direct that a new trial shall be had only as to such issue or issues. The Supreme Court shall by rule prescribe the procedure with respect to the granting of new trials as herein provided; to retrial, to exception to orders granting the same and to appeals therefrom.

Sec. 22. Whenever a new trial is ordered, either by the trial court or by the Supreme Court, because the damages awarded the plaintiff, (or defendant, in case of a set-off), are excessive or inadequate, and for no other reason, the order granting a new trial may restrict the trial to the question of damages, and the new trial shall then be had only in respect to damages.

Sec. 23. Whenever a party shall apply for a continuance of a cause, the person who shall make the affidavit upon which the application for continuance is based and any person making an affidavit in support of such application for continuance may be examined by the opposing party or his counsel and the Court concerning the allegations contained in any affidavit or application for continuance. If the Court shall hold that the party applying for continuance is entitled thereto, and the application for continuance is based upon absence of a material witness, the opposing party may file an admission that the witness if present would testify as alleged in the application for continuance, which admission may be presented and admitted in evidence as though the witness were present and testifying; but such opposing party shall not be required to admit the truth of such testimony, but may controvert the same, and upon such admission being filed the party applying for a continuance shall not be entitled thereto on account of the absence of the witness, and a new trial shall not be granted upon the ground of the absence of said witness.

Sec. 24. When the plaintiff, in an action at law, shall discontinue such action and shall thereafter bring suit upon the same cause of action and shall a second time discontinue the action he shall be barred from thereafter

bringing or maintaining any other action upon the same cause of action.

Sec. 25. Whenever plaintiff, in an action at law, shall take a non-suit or shall be non-suited, and shall thereafter bring another suit upon the same cause of action and shall again take a non-suit or be non-suited, he shall be barred from thereafter bringing or maintaining any other action upon the said cause of action.

Sec. 26. No judgment, order or decree shall be set aside, or reversed, or annulled, or new trial or rehearing be granted by any court or judicial officer or tribunal of this State in any cause or proceeding, civil or criminal, legal or equitable, on the ground of misdirection of the jury or the improper admission or rejection of evidence, or for error as to any matter of pleading or procedure, unless it shall appear probable from the record that the error complained of has injuriously affected a substantial right of the party complaining thereof.

Sec. 27. Appellate proceedings in all cases in all the courts of this State shall be by an entry of appeal to be filed in the cause in substantially the following form after stating the forum and the title of the cause: "The defendant (or plaintiff) takes an appeal from the judgment (decree or order) herein rendered, entered or filed on, A. D. 191.., to the, court, returnable, A. D. 191... The return day shall be a stated day, not less than 20 and not more than 60 days from the filing of the entry of appeal. In habeas corpus cases the entry of appeal may be made returnable instanter or to a stated day not more than 30 days from the entry of appeal. The appellate court may permit the transcript on appeal to be filed after the return day if for good cause shown it cannot be procured and filed on or before the return day stated in the entry of appeal. When an entry of appeal is duly filed in the office of the court where the judgment, decree or order appealed from has been rendered or filed, the clerk, or judge if there be no clerk, shall forthwith enter the substance of the entry of appeal, including the date of the filing of the entry of appeal and the return day on the margin of the record or entry of the judgment, decree or order appealed from, and the clerk or judge shall forthwith enter or endorse the substance of the entry of

appeal on the original judgment, decree or order if it has been signed by the court or judge and filed; and such entry on the margin of the record, or on the original judgment, decree or order if it has been signed and filed, shall give the Appellate Court jurisdiction of the person of the appellees without the service of a citation or other similar process. The entry of an appeal in actions at law shall take the place of and be treated as a writ of error, and the provisions of law applicable to writs of error in all respects not inconsistent herewith shall apply to entries of appeal in actions at law. The Appellate Court may require an appeal to be presented for determination before the return day named in the entry of appeal, when good cause therefor is shown or when the public welfare will thereby be best subserved. Bills of exceptions may be used on appeals taken, as is now, or may be provided by law or authorized rules of court. Causes adjudicated by referees may be appealed as are similar causes that are adjudicated by a court or judge.

Sec. 28. Unless otherwise specially provided by statute, until different rules of procedure upon the subject are adopted by the Supreme Court of Florida, the provisions hereof and the provisions and principles of existing statutes or authorized rules of court that are not inconsistent herewith, shall be applicable to judicial proceedings in the courts of this State; and where no method of procedure is afforded by statute or by authorized rules of court, the court, judge or other tribunal or officer having authority therein shall, in equity causes, make such order or take such action or proceedings as the circumstances and equity may require. When this act shall take effect the pleadings and procedure thereafter in causes then pending shall conform hereto as nearly as may be practicable and just, or as may be ordered by the judge of the trial court or provided by rules that may be prescribed by the Supreme Court.

Sec. 29. This act shall take effect October 1st, 1913.

REPORTS OF COMMITTEES.

By unanimous consent Mr. Davis, Chairman of Committee on Judiciary B, submitted the following report:

Senate Chamber,
Tallahassee, Fla., April 11, 1913.

Hon. H. J. Drane,
President of the Senate.

Sir:

Your Committee on Judiciary B, to whom was referred—

Senate Bill No. 17:

A Bill to be entitled An Act to amend Section 5 of Chapter 5399 of the Acts of the Legislature of 1905, said Chapter 5399 being An Act entitled "An Act Defining the Duties of the Several State Attorneys of this State and fixing their salaries."

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

Very respectfully,
C. E. DAVIS,
Chairman of Committee.

Senate Bill No. 17, contained in the above report, was placed on Calendar of Bills on Second Reading.

By unanimous consent—

Mr. Davis, Chairman of Committee on Judiciary B, submitted the following report:

Senate Chamber,
Tallahassee, Fla., April 11, 1913.

Hon. H. J. Drane,
President of the Senate.

Sir:

Your Committee on Judiciary B, to whom was referred—

Senate Bill No. 4:

A Bill to be entitled An Act to authorize the clerk of the Supreme Court to destroy imperfect and worthless Copies of the reports of the Supreme Court.

Senate Bill No. 7:

A Bill to be entitled An Act to declare illegal and void stipulations and provisions in contracts fixing the period of time in which suits may be instituted which shall be less than the period of time fixed for the statute of limitations of this State.

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

Very respectfully,
C. E. DAVIS,
Chairman of Committee.

Senate Bills Nos. 4 and 7, contained in the above report, were placed on Calendar of Bills on Second Reading.

MISCELLANEOUS BUSINESS.

Mr. Hudson moved that a committee of three be appointed to arrange the chairs in the Senate Chamber consecutively.

Mr. Hudson withdrew his motion.

Mr. Calkins moved that the Senate do now go into executive session.

Which was agreed to.

The doors were closed at 11:50 A. M.

The doors were opened at 12 M.

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

Mr. President, Senators Adkins, Blicht, Brown, Calkins, Carney, Cone, Conrad, Cooper, Culpepper, Davis, Donegan, Finlayson, Himes, Hudson, Igou, Johnson, L'Engle, Lindsey, Malone McCreary, McGeachy McLellan, McLeod, Roddenberry, Stringer, Stokes, Wall, Watson, Wells, Wilson, Zim.

A quorum present.

Mr. Stokes moved that the Senate do now adjourn until 10 o'clock tomorrow.

Mr. Davis moved that the Senate do now adjourn until 3 o'clock P. M. Monday next.

Upon which the yeas and nays were demanded.

The roll was called and following was the vote:

Yeas—Mr. President, Senators Adkins, Brown, Calkins, Conrad, Cooper, Culpepper, Davis, Finlayson, Igou, Johnson, Lindsey, Malone, McGeachy, McLellan, Stringer, Wells, Wilson—18.

Nays—Senators Blicht, Carney, Cone, Donegan, Himes, Hudson, L'Engle, McCreary, McLeod, Roddenberry, Stokes, Wall, Watson, Zim—11.

Mr. Stokes announced that he and Mr. Cone were paired. That if Mr. Cone were present, he (Cone) would vote aye, and he (Stokes) would vote nay.

So the motion to adjourn until 3 o'clock P. M. was lost. The question then recurred on the motion to adjourn until to-morrow morning at 10 o'clock.

Which was agreed to.

Thereupon the Senate stood adjourned until to-morrow (Saturday) morning at 10 o'clock.

CONFIRMATION.

George Couper Gibbs, of Jacksonville, Florida, to be Judge of the Fourth Judicial Circuit of the State of Florida for the remainder of the unexpired term of Rhydon M. Call, resigned.

Saturday, April 12, 1913

The Senate met pursuant to adjournment.

The President in the Chair.

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

Mr. President, Senators Adkins, Blich, Calkins, Carney, Cooper, Davis, Donegan, Finlayson, Himes, Hudson, Igou, L'Engle, Malone, McCreary, McGeachy, McLellan, McLeod, Roddenberry, Stringer, Stokes, Watson, Wells, Wilson, Zim—24.

Messrs. Brown, Cone, Conrad, Culpepper, Johnson, Lindsey and Wall were excused from attendance upon today's session.

A quorum present.

Prayer by the Chaplain.

The reading of the Journal was dispensed with.

The Journal of April 11th was corrected.

The Journal of April 11th was approved as corrected.

REPORTS OF COMMITTEES.

Mr. J. S. Blich, Chairman of Committee on Temperance submitted the following report:

Senate Chamber,
Tallahassee, Fla., April 11, 1913.

Hon. H. J. Drane,
President of the Senate.

Sir:
Your Committee on Temperance to whom was referred—

Senate Bill No. 10:

A Bill to be entitled An Act punishing owners or operators or their employes of pool rooms for permitting minors to play pool or billiards, or allowing minors to visit, play or loiter in any pool or billiard saloon, or where pool or billiards are publicly played.

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

Very respectfully,
J. S. BLITCH,
Chairman of Committee.

Senate Bill No. 10, contained in the above report, was placed on Calendar of Bills on Second Reading.

Mr. Finlayson, Chairman of the Committee on Rules and Procedure submitted the following report:

Senate Chamber,
Tallahassee, Fla., April 12, 1913.

Hon. H. J. Drane,
President of the Senate.

Sir:
Beg leave to report that your Committee on Rules and Procedure find it expedient that 200 copies of the General Calendar shall be printed for each day, including to-day, for the use of the Senate. We would, therefore, recommend that the Secretary be authorized to have said number of copies of the General Calendar printed.

D. A. FINLAYSON,
Chairman.