

The New Orleans Crescent

OFFICIAL JOURNAL OF THE CITY OF NEW ORLEANS.

SUNDAY MORNING, OCTOBER 18, 1908.

(OFFICIAL.)

STATE LEGISLATURE.

NINETY-FIFTH DAY.

Session.

SATURDAY, October 17, 1908.

The Senate was called to order by the president at 10 o'clock.

The roll was called, present the following members:

Anderson, Antoine, Bacon, Beares, Branch, Campbell, Compadre, Day, Fouch, Futch, Jenks, Jewell, Kelo, Lynch, Monette, O'Hara, Packard, Pinchback, Polard, Ray, Thompson, Todd, Whitely, Wilcox, Wittgenstein.

Prayer by the chaplain, Rev. Mr. Turner.

On motion of Mr. Ray, the reading of the minutes was dispensed with.

SPECIAL ORDER OF THE DAY.

House bill No. 8, an act relative to notaries public, was taken up and read in previous days, after its adoption as a whole, and read by title.

Mr. Campbell—I move that the bill be considered engrossed.

Mr. Bacon—I move that the bill be postponed until the next regular session.

Mr. Campbell—I move to lay the motion on the table.

The yeas and nays were ordered, resulting:

Yeas—Anderson, Campbell, Compadre, Francois, Kelo, Lewis, Monette, Packard, Poindexter, Polard, Whitely, Wilcox—12.

Nays—Anderson, Bacon, Beares, Day, Futch, Jenks, Jewell, Kelo, Lynch, Monette, O'Hara, Packard, Pinchback, Polard, Ray, Thompson, Todd, Whitely, Wilcox, Wittgenstein—11.

The motion to postpone was laid on the table.

The motion that the bill be considered engrossed was lost by a rising vote of 9 yeas, 11 nays.

STANDING COMMITTEES.

Mr. Ray, from the judiciary committee, made the following report:

The committee on judiciary have had under advisement the question submitted to them by resolution of the Senate, as to when the present session of the General Assembly would come to a close by constitutional limitation.

The first question that arises in this inquiry is when did the present session commence.

According to the provisions of articles 157 and 159 of the Constitution, the General Assembly is required to hold its session on the first Monday of each year after the official promulgation made by the chairman of the committee of seven, appointed by the convention, of the result of the election.

The 22d June was the third Monday after the promulgation of the result of the election, and the members of the General Assembly were notified to convene in the city of New Orleans on the 22d day of June, and most of the members were present in New Orleans on that day, ready to enter on the discharge of their duties, but were prevented from doing so on account of a military order issued by the military commander of this district.

Under the provisions of an act of Congress passed about that time, the governor was authorized to convene the General Assembly by proclamation, and in pursuance to this law the governor issued his proclamation convening the General Assembly on the 29th June, on which day the members of the General Assembly convened and commenced their organization, and have been in session ever since.

It is clear, the session of the General Assembly is to be counted from the one of those dates, either the 22d or 29th June. Under the provisions of the Constitution they should have convened on the 22d June. At least, if they did not organize on that day, but did organize on some subsequent day within the one hundred and twenty days, it appears to us the one hundred and twenty days should be counted from the date of the election, and the members of the General Assembly should have convened. But inasmuch as by the act of Congress, the State was under a military or provisional government until the organization of the State government under the Constitution, and that organization was not effected until the 29th June, which was the earliest day it was possible to convene without resistance to military order, we therefore come to the conclusion that the present session of the General Assembly commenced its session legally on the 29th June, and that the 120 days is authorized by the 39th article of the Constitution to sit are to be counted from that day.

The 39th article of the Constitution amongst other things provides that "no session of the General Assembly shall extend beyond the period of sixty days, to date from its commencement; and any legislative act passed during the period of said period of sixty days shall be null and void; but the first General Assembly that shall convene after the adoption of this Constitution may continue in session for one hundred and twenty days. It will be observed that the first clause of the above quotation speaks of a "period of sixty days to date from its commencement." The interpretation of similar provisions of previous Constitutions was that the sixty days were to be counted from the date of the commencement of the session, counting Sundays and holidays, as well as the days of actual session.

The latter part of the above quotation authorizing the present session to "continue one hundred and twenty days," seems to us as applying to the period of one hundred and twenty days from the commencement of the session, counting Sundays and holidays, as well as the days of actual session.

There arises another question which may be as well to discuss, that is, in the General Assembly take a recess during the period of the Constitution? That is when they have set thirty days can they take a recess for say seventy days and then meet and fill out the period they might have set in the first instance? We find no warrant in the Constitution to justify taking a recess. The article thirty-eight of the Constitution prohibits either house from adjourning for more than three days without the consent of the other house. It seems to us that the General Assembly has no constitutional right to take a recess during the period they may sit to beyond that period.

The committee recommend the following joint resolutions:

A JOINT RESOLUTION RELATIVE TO THE ADJOURNMENT OF THE GENERAL ASSEMBLY.

Resolved, That the General Assembly do adjourn on the 25th day of October, 1908, and that the session of the present General Assembly is to be counted as commencing on the 29th day of June, 1908, and that the period of sixty days which will expire on the 28th day of October, 1908, and that it is not competent for the General Assembly to take a recess that will enable them to sit after the period of sixty days, and that the period of sixty days shall be counted from the date of the commencement of the session, counting Sundays and holidays, as well as the days of actual session.

Sec. 2. Be it further resolved, etc., That the General Assembly do close its present session on Monday, the 26th day of October, A. D. 1908.

All of which is respectfully submitted.

JOHN RAY, Chairman Judiciary Committee.

Mr. Ray—I move that the rules be suspended in order that the report be received.

Rules suspended and the report received.

Mr. Ray—I ask for a suspension of the rules to put the annexed joint resolution on its first reading.

Rules suspended and the resolution read.

Mr. Wittgenstein—I move to take up the resolution section by section.

The first section was read.

Mr. Wittgenstein—I move that the last section be amended that the Senate adjourn on the 24th instead of the 26th.

Mr. Ray—I call for the yeas and nays.

The yeas and nays were ordered:

Yeas—Anderson, Campbell, Compadre, Francois, Kelo, Lewis, Monette, Packard, Poindexter, Polard, Whitely, Wilcox—15.

The amendment was lost.

Mr. Bacon—I move to amend by providing that the Senate adjourn on the 25th instead of the 26th.

Mr. Bacon—I move to lay the motion on the table.

The yeas and nays were ordered, resulting:

Yeas—Anderson, Campbell, Compadre, Francois, Kelo, Lewis, Monette, Packard, Poindexter, Polard, Whitely, Wilcox—12.

Nays—Anderson, Bacon, Beares, Day, Futch, Jenks, Jewell, Kelo, Lynch, Monette, O'Hara, Packard, Pinchback, Polard, Ray, Thompson, Todd, Whitely, Wilcox, Wittgenstein—11.

The Senate refused to lay the motion on the table.

On Mr. Pinchback's motion to amend by adjourning on the 26th, Mr. Bacon called for the yeas and nays.

The yeas and nays were ordered, resulting:

Yeas—Anderson, Campbell, Compadre, Francois, Kelo, Lewis, Monette, Packard, Poindexter, Polard, Whitely, Wilcox—15.

Nays—Anderson, Bacon, Day, Fouch, Futch, Jenks, Jewell, Kelo, Lynch, Monette, O'Hara, Packard, Pinchback, Polard, Ray, Thompson, Todd, Whitely, Wilcox, Wittgenstein—11.

Mr. Pinchback—I ask for a suspension of the rules to introduce a memorial from Eugene M. Carthy, justice of the peace, Orleans, parish back.

Mr. Kelo—I ask for a suspension of the rules to introduce a memorial from Eugene M. Carthy, justice of the peace, Orleans, parish back.

Mr. Pinchback—I move that the bill be referred to the special committee appointed to investigate the report of the Grand Jury in relation to Eugene M. Carthy.

Resolved, That in view of the great discount upon State warrants, the porters of this Senate be authorized to sign of fifty dollars each as extra compensation.

Rules suspended and the resolution lie over.

Mr. Lynch was called to the chair by the president.

Mr. Ray—I ask for a suspension of the rules to take up Senate bill No. 155, an act to exempt the Mutual Aid and Benevolent Life Insurance Association of Louisiana from taxation.

Mr. Campbell, from the committee of the city delegation, presented the following report:

SENATE CHAMBER, New Orleans, Oct. 17, 1908.

To the Honorable the President and Members of the Senate:

The undersigned senators from the parishes of Orleans and Jefferson, and to whom was referred the bill entitled "an act to aid in the construction of the New Orleans and Ship Island Canal, for the purpose of more effectively leveling, draining and reclaiming swamp land in the rear of the city of New Orleans," for leave to submit the following report thereon:

The proposed canal follows natural depression of the surface, to the Bayou Genitilly, and thence to the Bogalou, and it is the most comprehensive and practicable route whereby the drainage of the city can be efficiently and economically accomplished.

The present drainage system is unscientific, impracticable and expensive, and so promises nothing but an indefinite succession of enormous taxes with no benefits resulting therefrom. The proposed canal will drain the whole area from the river to the lake, and it can never be done otherwise, its greater expense to the city than its present useless system, while the aid thus given to it will be reimbursed by an expenditure of millions of foreign capital, and by large congressional appropriations which we have reasonable assurance will be given to an improvement of such great national importance.

The reclamation of the swamp lands of the city, the extension of this metropolis to the lake, the increased facilities for the shipment of Western produce, and the diminution of the present injurious charges upon sea-going vessels to be effected in the great enterprise, are arguments for the bill which are self-evident. The achievement of these great results, will constitute New Orleans for the first time, in fact, what she was desired by nature, to be the great commercial and distributing point for all that magnificent territory of European commerce.

When, to the foregoing consideration is added the fact that the bill is a measure which will be received by the people, and that the enterprise is an accomplished fact, and the canal, as to the purposes of drainage, entirely completed, the undersigned believes that no reasonable objection to the bill can be urged, and they, therefore, recommend its passage.

All of which is respectfully submitted.

HUGH J. CAMPBELL, J. B. BACON, T. V. COMPADRE, C. C. PACKARD, P. B. PINCHBACK, J. M. FOUCH, J. J. MONETTE, J. M. POLY, J. M. POLY, J. M. POLY, G. H. BRADY.

Mr. Wittgenstein—I ask for a suspension of the rules to take up Senate bill No. 251, an act to exempt from taxation the Workingmen's Mutual Life Insurance Society of Louisiana.

Mr. Bacon—I move that the bill be printed and the bill be referred to the committee on internal improvements and of the city delegation jointly.

Mr. Wilcox—I move that the bill be printed.

Resolved, That the bill be referred to the committee on internal improvements and of the city delegation jointly.

Mr. Wilcox—I move that the bill be printed.

Resolved, That the bill be referred to the committee on internal improvements and of the city delegation jointly.

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