

OFFICIAL JOURNAL

FIRST GENERAL ASSEMBLY

STATE OF LOUISIANA

SENATE

Thirty-first Day's Proceedings.

SENATE CHAMBER, New Orleans, Thursday, February 19, 1880.

The Senate was called to order at 12 o'clock by the Hon. S. D. McEnery, Lieutenant Governor and President of the Senate.

On a call of the roll the following named Senators were present:

Messrs. Ahy, Augustin, Brian, Buffington, Cahon, Campbell, Cunningham, Davy, Estopinal, Fontenot, Foster, Harris, Kidd, Leake, Lucas, Luckett, Marston, Newton, Nutt, Parlange, Pollock, Riard, Robertson, Rogers, Stewart, Settoon, Story, Vance, Walton, Watkins.

Absent Messrs. Davidson, Demas, Hagan, Nunez, Steele and Simmons.

On motion of Mr. Marston the reading of the journal in detail was dispensed with.

SPECIAL ORDER.

Being the report of the Committee on Elections in the matter of contest of D. C. Montan vs. Hon. J. S. Davidson, Fourteenth Senatorial District.

Was taken up.

Mr. Cahon moved that in the case of D. C. Montan vs. J. S. Davidson the contestant and contestee be allowed to be heard on the floor of this Senate in person or by counsel.

Mr. Marston moved to amend by limiting the time for counsel to be heard to half an hour.

The amendment was adopted.

Mr. Demas moved to postpone the special order until 1 o'clock.

On motion of Mr. Cunningham the motion to postpone was laid on the table.

MESSAGE FROM THE HOUSE.

The following message, received from the House of Representatives, was read:

House of Representatives, New Orleans, February 19, 1880.

To the Senate of the State of Louisiana: I am directed to inform your honorable body that the House has favorably passed, and ask your concurrence in, the following House bill, to-wit:

House bill No. 27. An act making it a misdemeanor to engage in horse or mule racing on public roads and thoroughfares, etc.

House bill No. 28. An act to provide for the payment of the salaries of the register of conveyances and recorder of mortgages of the parish of Orleans and their deputies and employees.

House bill No. 29. An act to regulate the duties of the minute clerks of the court of appeals and of the civil and criminal courts of the parish of Orleans.

House bill No. 30. An act to provide for the payment of the salaries of the deputy and minute clerk, shorthand reporter and other employees of the Civil and Criminal District Courts and the Court of Appeals of the parish of Orleans.

House bill No. 31. An act to organize the city courts of the city of New Orleans, to regulate the territorial jurisdiction thereof and the proceedings therein, and to fix the salaries of the judges.

Also, House bill No. 32. Joint Resolution authorizing the Governor to institute proceedings for the recovery of swamp lands, etc.

To inform you that the House adheres to its amendments to

Senate bill No. 10.

An act to amend and re-enact act No. 18 of the General Assembly of 1877, approved March 23, 1877.

The motion was agreed to without objection.

The President of the Senate appointed as the committee on the part of the Senate Messrs. Rogers and Vance.

The Senate resumed consideration of the special order, the report of the Committee on Elections in the matter of the contest of D. C. Montan against J. S. Davidson.

The question recurring on the motion of Mr. Cahon, allowing counsel to be heard, by a rising vote of 15 yeas to 13 nays the motion was agreed to.

On motion of Mr. Demas, at 12 o'clock and 30 minutes, the special order was postponed for half an hour.

REPORTS OF COMMITTEES.

Mr. Kidd, chairman of the Committee on Enrollment and Engrossment, submitted the following report:

To the President and Members of the Senate: The Committee on Enrollment respectfully report

Senate bill No. 47. Relieving the Attorney General of the prosecution of criminal cases in the parish of Orleans before the courts thereof.

As properly enrolled.

E. E. KIDD, Chairman.

And the bill was read by its title, being Senate bill No. 47.

An act relieving the Attorney General of the prosecution of criminal cases in the parish of Orleans before the courts thereof.

And the Lieutenant Governor and President of the Senate affixed his signature thereto in open session and without delay.

REPORT OF COMMITTEE.

Mr. Watkins, chairman of the Committee on the Judiciary, submitted the following report:

To the President and Members of the Senate: I am instructed by the Committee on the Judiciary to report favorably, and as enacting into law the following entitled bill:

Senate bill No. 85. An act authorizing the Attorney General to employ associate counsel to prosecute the claims of the State against the North Louisiana and Texas Railroad Company, and fixing the compensation of said associate counsel.

Which was read the first time.

Senate bill No. 86. An act authorizing and requesting the police juries of the several parishes of the State, the parish of Orleans excepted, to pass such

ordinances as such police juries may deem necessary for the protection and preservation of game animals and birds destructive of insect life.

Which was read the first time.

Mr. Watkins obtained unanimous consent to take up Senate bill No. 84, reported by the Committee on the Judiciary this morning.

Senate bill No. 84. An act relative to clerks of district courts, ex officio parish recorders of conveyances, mortgages and other acts, and ex officio notaries public, and to the official bonds to be furnished by them, the parish of Orleans excepted.

Was read the first time.

INTRODUCTION OF RESOLUTION.

By Mr. Marston.

Resolved, That the Secretary of State be requested to deliver the papers, books and records of the Committee on Contingent Expenses of the Constitutional Convention to Mr. Marston of the Finance Committee, for use of said committee and himself in investigating the same.

On motion of Mr. Marston the rules were suspended to consider the resolution at this time, and on motion of the same Senator the resolution was adopted.

REPORTS OF COMMITTEES LIVING OVER.

The report of the Committee on Elections in the matter of contest of Hon. R. S. Perry vs. Hon. A. F. Riard, Eleventh Senatorial District, was taken up with the accompanying resolution.

Mr. Cunningham moved the adoption of the report of the committee.

On motion of Mr. Stewart further consideration of the report at this time was postponed, and it was made the special order for Monday, the twenty-third instant, at 7:30 o'clock p. m.

SECOND READING OF SENATE BILLS.

By the Committee on the Judiciary Senate bill No. 82.

An act to carry into effect article 133 of the constitution, and to impose a penalty on the officers failing to comply with the same.

Was read the second time and in full.

On motion of Mr. Fontenot the bill was ordered to be engrossed and passed to its third reading.

Senate bill No. 83.

An act defining the qualifications and duties of the constables of the city courts of the city of New Orleans, fixing their compensation, and assigning the constables elected under the provisions of the constitution of 1879 to their respective courts.

Was read the second time and in full.

On motion of Mr. Rogers the bill was ordered to be engrossed and passed to its third reading.

SENATE BILLS ON SECOND READING.

Senate bill No. 79.

An act relative to sheriffs, ex officio tax collectors, and to the bonds to be furnished by them, the parish of Orleans excepted.

Was read the second time and in full.

On motion of Mr. Fontenot, the bill was taken up section by section.

The first section was read.

The second section was read.

Mr. Fontenot offered the following amendment:

In section 2, line 5, strike out the word "six," and insert in lieu thereof the word "ten."

On motion of Mr. Kidd, the amendment was laid on the table.

Section 3 was read.

SPECIAL ORDER.

The hour of 1 o'clock having arrived, consideration of the report of the Committee on Elections, in the matter of contest of D. C. Montan vs. Hon. J. S. Davidson, Fourteenth Senatorial District, was resumed.

The question pending when the special order was postponed being, on the motion offered by Mr. Cunningham, to adopt the report of the committee, the contestee was heard here.

Mr. Stewart offered the following resolution as a substitute for the report of the Committee on Elections:

Whereas, the Hon. J. S. Davidson, the seated Senator from the Fourteenth Senatorial District, in the re-investigation ordered by the Senate did not receive lawful notice of the taking of new testimony, and was not notified to be present either in person or by counsel at the session of the Committee on Privileges and Elections, therefore, be it

Resolved, That the Hon. J. S. Davidson, Senator from the Fourteenth Senatorial District, be confirmed in his seat.

On motion of Mr. Marston the substitute was laid on the table.

Mr. Luckett moved the adoption of the report of the committee and the following accompanying resolution:

Resolved, That D. C. Montan be recognized and seated as the Senator from the Fourteenth District.

And demanded the previous question.

The main question being ordered, the roll was called, with the following result:

Yeas Messrs. Ahy, Augustin, Brian, Buffington, Campbell, Cunningham, Demas, Estopinal, Fontenot, Foster, Harris, Kidd, Leake, Lucas, Luckett, Marston, Newton, Nutt, Parlange, Pollock, Riard, Robertson, Rogers, Stewart, Settoon, Story, Vance, Walton, Watkins.

Nays Messrs. Cahon, Davy, Hagan, Kidd, Nunez, Pollock, Rogers, Steele, Simmons.

And the report of the Committee on Elections and the accompanying resolution was adopted.

MESSAGE FROM THE HOUSE.

The following message was received from the House of Representatives:

House of Representatives, New Orleans, February 19, 1880.

To the President and Members of the Senate: I am directed by the House of Representatives to inform your honorable body that the Speaker of the House has signed and enrolled

"An act to fix the first terms of the district courts under the constitution of 1879, and to regulate the fixing by the district judges of the subsequent terms."

And ask the signature of the Lieutenant Governor and President of the Senate to the same.

PETER J. TREZEYANT, Clerk of the House of Representatives.

SIGNING OF ENROLLED BILLS.

House bill No. 26.

An act to fix the first terms of the district courts under the constitution of 1879, and to regulate the fixing by the district judges of the subsequent terms.

Was read by its title.

And the Lieutenant Governor and President of the Senate affixed his signature thereto in open session and without delay.

CONTESTED ELECTION CASE.

Mr. Luckett moved to reconsider the vote by which the Senate adopted the report of the Committee on Elections and the accompanying resolution in the matter of the contest of D. C. Montan vs. J. S. Davidson, of the Fourteenth Senatorial District, and on his motion the motion to reconsider was laid on the table.

Mr. Demas asked for unanimous consent to introduce a resolution.

The resolution was then read for the information of the Senate.

Resolved, That the seat of the Senator of the Fourteenth Senatorial District be declared vacant, and the Governor be requested to issue his proclamation ordering a new election in that district for a Senator within ten days after the adoption of this resolution.

Mr. Demas moved to suspend the rules in order to consider the resolution at this time.

Mr. Cunningham objected and made the point of order that inasmuch as the Senator had failed to obtain the unanimous consent of the Senate to introduce the resolution, it could not be considered as being before the Senate.

The Chair decided the point well taken.

CONTESTED ELECTION CASE.

Mr. Luckett moved to reconsider the vote by which the report of the Committee on Elections, in the matter of the contest of Hon. R. S. Perry vs. Hon. A. F. Riard, Eleventh Senatorial District, was fixed as the special order for Monday, the twenty-third instant, at 7:30 o'clock.

On motion of Mr. Demas the motion to reconsider was laid on the table.

REPORT OF COMMITTEE.

Mr. Kidd, chairman of the Committee on Enrollment and Engrossment, submitted the following report:

To the President and Members of the Senate: Your Committee on Enrollment respectfully report

Senate bill No. 38. An act to amend and re-enact section 3221 of the Revised Statutes of Louisiana.

As correctly enrolled.

E. E. KIDD, Chairman.

SIGNING ENROLLED BILLS.

Senate bill No. 36.

Was read by its title, and the Lieutenant Governor and President of the Senate affixed his signature thereto in open session and without delay.

On motion of Mr. Cahon, the Senate went into executive session.

AFTER EXECUTIVE SESSION.

Upon the opening of the doors, the President of the Senate in the chair, the following named Senators were present:

Messrs. Ahy, Augustin, Brian, Buffington, Cahon, Campbell, Cunningham, Demas, Estopinal, Fontenot, Foster, Harris, Kidd, Leake, Lucas, Luckett, Marston, Newton, Nutt, Parlange, Pollock, Riard, Robertson, Rogers, Stewart, Settoon, Story, Vance, Walton, Watkins.

Absent Messrs. Davidson, Davy, Hagan, Nunez, Pollock, Rogers, Steele, Simmons.

Mr. D. C. Montan, Senator from the Fourteenth Senatorial District, appeared at the desk of the President of the Senate and took the constitutional oath of office.

On motion of Mr. Luckett, the reading of the journal in detail was dispensed with.

Mr. Marston obtained consent to have the explanation of his vote on the motion to adopt the report of the Committee on Elections in the matter of the contest of D. C. Montan vs. J. S. Davidson, of the Fourteenth Senatorial District, inserted in the journal:

In voting in the negative on the motion to adopt the report of the committee and the accompanying resolution, Mr. Marston said he expressed his vote against his friend on the committee in this case, first, because it came directly home to him, as in 1875 he had been refused a seat in the United States Legislature, and a citizen of Mississippi seated in his stead; and second, that there was a great prejudice against his friend, and he could not see how the Democratic party could follow such precedents. His friends on the committee had failed to show sufficient fraud in the parish of Iberville to vitiate the election, and he felt that in Iberville he had asserted their sovereignty at the polls, as they had a legal right to do, and held a separate election, the case would have been very different, but, on the contrary, they united with the Radicals and polled their votes with the Radical majority. In conclusion, Mr. Marston said he could never consent that the willful, legal or illegal, acts of a police jury could vitiate an election participated in by all parties. For these reasons he would vote no.

REPORTS OF COMMITTEES.

Mr. Watkins, chairman of the Committee on the Judiciary, submitted the following report:

To the President and Members of the Senate: I am instructed by the Committee on the Judiciary, to whom was referred

Motion in the case of the State of New Hampshire vs. the State of Louisiana, etc., to report that we made provision for the defense of the suit in the already reported form of the committee.

Respectfully,

J. D. WATKINS, Chairman.

The report was over under the rules.

Mr. Robertson, on behalf of the Committee on Finance, reported favorably on

House bill No. 30.

An act to provide for the payment of the salaries of the clerks of the city courts for the city of New Orleans, and their deputies and assistants.

The report was over under the rules.

Mr. Kidd, Chairman of the Committee on Enrollment, submitted the following report:

To the President and Members of the Senate: The Committee on Enrollment respectfully report

Senate bill No. 18. An act to fix the time and places for holding sessions of the Supreme Court of the State of Louisiana.

As properly enrolled.

E. E. KIDD, Chairman.

SIGNING OF ENROLLED BILLS.

Senate bill No. 19 was read by its title, and the Lieutenant Governor and President of the Senate affixed his signature thereto in open session and without delay.

Mr. Ahy, chairman of the Committee on Health and Quarantine, submitted the following report:

To the President and Members of the Senate: Your Committee on Health and Quarantine, etc., to whom was referred House bill No. 57, report favorably on the same, with the following amendments:

In the title of the bill, after the word "condition," strike out the words "and for other purposes," and insert the words "and to prevent the landing of diseased animals within certain prescribed limits."

In section 3, in line 25, after the word "food," add the words "and offer for sale."

In section 4, in line 12, strike out the word "and" and insert the word "and."

And on Senate bill No. 71, beg leave to report back, with the recommendation that it be referred to the Committee on the Judiciary. Respectfully submitted,

H. Y. ABY, Chairman.

INTRODUCTION OF BILLS.

The following named Senators obtained unanimous consent to introduce at this time, without previous notice, the following entitled bills, which were read the first time:

By Mr. Fontenot.

Senate bill No. 89.

An act to prohibit State tax collectors from receiving State warrants or other certificates of indebtedness in payment of State taxes and licenses due the State subsequent to January 1, 1879.

By Mr. Kidd.

Senate bill No. 90.

An act to repeal section 2 of act No. 29, approved February 25, 1877.

SECOND READING OF SENATE BILLS.

Senate bill No. 84.

An act relative to clerks of district courts, ex officio parish recorders of conveyances, mortgages and other acts, and ex officio notaries public, and to the official bonds to be furnished by them, the parish of Orleans excepted.

Was read the third time and in full.

On motion of Mr. Walton the vote by which this bill was ordered to be engrossed and passed to its third reading was reconsidered, and the bill was ordered to be printed.

APPROVAL OF THE JOURNAL.

On motion of Mr. Fontenot the journals of the twenty-eighth, twenty-ninth and thirtieth day's proceedings were adopted.

INTRODUCTION OF BILLS.

Mr. Vance obtained unanimous consent to introduce at this time, and without previous notice, the following entitled bill:

Senate bill No. 87.

An act to legalize hedges and other fences in this State when made of post, plank and barbed wire, or of barbed wire and post only.

Which was read the first time.

Mr. Kidd obtained unanimous consent to introduce without previous notice and at this time the following entitled bill:

Senate bill No. 88.

An act to extend civil as well as criminal jurisdiction over the parish to justices of the peace residing at the court-houses.

Which was read the first time.

FIRST READING OF HOUSE BILLS.

House bill No. 82.

An act to prescribe the amount and character of the bonds and qualification of the sureties to be furnished by the clerks of the civil and criminal district courts for the parish of Orleans.

Which was received from the House of Representatives on yesterday, was read the first time.

ORDER FOR READING OF BILLS.

On motion of Mr. Watkins, and by unanimous consent, it was

Ordered, That all bills reported by committees, in the various matters referred to them under the report of the Committee on Constitutional Legislation, shall, on the day and at the time reported, be numbered and read by title for the first reading, and unless otherwise ordered, shall go on the calendar for second reading without any further motion.

On motion of Mr. Augustin, the Senate adjourned until to-morrow, the nineteenth instant, at 12 o'clock m. JOHN CLEGG, Secretary of the Senate.

Thirty-second Day's Proceedings.

SENATE CHAMBER, New Orleans, Friday, February 19, 1880.

The Senate was called to order at 12 o'clock m. by the Hon. S. D. McEnery, Lieutenant Governor and President of the Senate.

On a call of the roll, the following named Senators were present:

Messrs. Ahy, Augustin, Brian, Buffington, Cahon, Campbell, Cunningham, Demas, Estopinal, Fontenot, Foster, Harris, Leake, Lucas, Luckett, Marston, Montan, Nutt, Parlange, Riard, Robertson, Rogers, Stewart, Settoon, Story, Vance, Walton, Watkins.

Absent Messrs. Davidson, Davy, Hagan, Nunez, Pollock, Rogers, Steele, Simmons.

Mr. D. C. Montan, Senator from the Fourteenth Senatorial District, appeared at the desk of the President of the Senate and took the constitutional oath of office.

On motion of Mr. Luckett, the reading of the journal in detail was dispensed with.

Mr. Marston obtained consent to have the explanation of his vote on the motion to adopt the report of the Committee on Elections in the matter of the contest of D. C. Montan vs. J. S. Davidson, of the Fourteenth Senatorial District, inserted in the journal:

In voting in the negative on the motion to adopt the report of the committee and the accompanying resolution, Mr. Marston said he expressed his vote against his friend on the committee in this case, first, because it came directly home to him, as in 1875 he had been refused a seat in the United States Legislature, and a citizen of Mississippi seated in his stead; and second, that there was a great prejudice against his friend, and he could not see how the Democratic party could follow such precedents. His friends on the committee had failed to show sufficient fraud in the parish of Iberville to vitiate the election, and he felt that in Iberville he had asserted their sovereignty at the polls, as they had a legal right to do, and held a separate election, the case would have been very different, but, on the contrary, they united with the Radicals and polled their votes with the Radical majority. In conclusion, Mr. Marston said he could never consent that the willful, legal or illegal, acts of a police jury could vitiate an election participated in by all parties. For these reasons he would vote no.

REPORTS OF COMMITTEES.

Mr. Watkins, chairman of the Committee on the Judiciary, submitted the following report:

To the President and Members of the Senate: I am instructed by the Committee on the Judiciary, to whom was referred

Motion in the case of the State of New Hampshire vs. the State of Louisiana, etc., to report that we made provision for the defense of the suit in the already reported form of the committee.

Respectfully,

J. D. WATKINS, Chairman.

The report was over under the rules.

Mr. Robertson, on behalf of the Committee on Finance, reported favorably on

House bill No. 30.

An act to provide for the payment of the salaries of the clerks of the city courts for the city of New Orleans, and their deputies and assistants.

The report was over under the rules.

Mr. Kidd, Chairman of the Committee on Enrollment