

The N. C. Legislature.

SENATE.

THIRTY-EIGHTH DAY. MONDAY, JAN. 27, 1873. Senate met at 11 o'clock. Lieut. Governor in the Chair. Journal of Saturday read and corrected.

Senator Respess stated that Senator King was absent on account of sickness. Senator Worth reported Senator Troy absent on account of sickness in his family.

Senator Price stated that the assistant Door Keeper was absent on account of sickness. Senator Gudger moved a reconsideration of the vote by which the Senate sustained the decision of the Chair on Saturday.

On motion of Senator Love the bill in consideration of the subject was postponed until Wednesday week.

PETITIONS.

Senator Cunningham presented a petition from the citizens of the town of Milton, Person county.

REPORTS OF STANDING COMMITTEES.

Reports from standing and select committees were presented by Senators Price, Love, Welch, Smith, and others.

BILLS.

Senator Morehead, of Guilford, a bill to incorporate the Old North State Insurance Company. Referred.

On motion of Senator Gudger, the rules were suspended and the bill in consideration of public guardians was recommitted to the Judiciary committee, and the bill to more definitely establish the State line was recommitted to the Committee on Propositions and Grievances.

On motion of Senator Harris, the rules were suspended and the bill declaring Neuse river a lawful fence from the Johnston county line to the Falls of the Neuse in Wake county passed its several readings.

Under a suspension of the rules, by Senator Powell, the bill incorporating the North Carolina State and Rail Company passed its several readings.

Senator Seymour, by leave, introduced a bill to repeal chapter 117, laws 1869-70. Referred.

SPECIAL ORDER.

The bill entitled "amnesty and pardon," being in second reading.

Senator Welch offered an amendment to the bill, striking out the words "murder and arson," and inserting the words "murder and arson."

Senator Welch said he never belonged to any of these organizations and had condemned the members of the Ku Klux and their organization as much as anybody. He said the murder of Stephens was an atrocious cold-blooded act, and thought the murderers should be punished. He referred to the murder of Weston and his family, and thought all acts of cold-blooded murder, rape and burglary, should be punished.

Senator Norwood made a lengthy speech in favor of the bill. He characterized the bill as one of great importance and magnitude to the people of this State, and it was simply whether the past was to be buried or the threat that "hell was to be applied to other portions of the State. He admitted that the Ku Klux had committed many crimes, and reviewed the circumstances that brought about these organizations. He took up Orange county and stated under what circumstances certain men were hung and said the entire people were glad to get rid of such men.

He took up Caswell county and said it was a proud county and in former days was represented by Messrs. Saunders, Bedford Brown, John Kerr, and asked who was put upon them in place of those honorable men—a man that had been convicted of petty larceny—one who had endeavored to hang to the gallows the tobacco barn of the county—and said that this was positive and gave the name of one John B. Donahoe, as his author. After the death of Stephens no more bars were burnt and asked if any society had been formed to honor his death but it never was unveiled. He said it was a clear case of amnesty. He said he thought it was proper to form a company of minute men for every other organization and called for the names of those who had joined. He had made every effort in his power to suppress such other organizations, and even went so far as to call on Gov. Holden and suggested to consider the disorder which was necessarily bound to follow the war, and said Gov. Holden told him to send him a good Confederate soldier and he would give him a captain for the purpose of going over the county and suppressing and repelling the Ku Klux organizations. He said Gov. Holden was not a man to be trifled with, and he could not see how he could carry on the Kirk war after that. Jones did great good. General war and reconstruction measures was the cause of all these crimes—but all was now happily over and peace and quiet reigns. It would be a great mistake to refuse to pass the bill, as no harm could possibly follow by pouring oil on the troubled waters.

Senator Seymour called the yeas and nays on the adoption of Senator Welch's amendment. And the amendment was adopted by a strict party vote—yeas 27—nays 16.

Senator Gudger offered an amendment as a substitute for the preamble. Senator Grandy delivered a lengthy speech in opposition to the bill. Said Senators should not suffer party feeling to arise. He thought the Ku Klux was a political

cal society formed for the purpose of defeating the reconstruction laws, and to prohibit a faithful execution of the laws if they had to resort to murder and other crimes to do it. He was willing to execute and exonerate the ignorant, misguided men who had been led into these societies, but thought the organizers should be punished. "Vengeance belongs to God and He will repay."

He said he would not vote for the bill even if his amendment was adopted, and gave his reasons that the bill was clogged with crimes, felonies, rapes, murders, &c. They should not be pardoned as long as the blood of Stephens and other victims from the earth. Who murdered them? If they were thought as charged, there was a law to punish them. He would never give his vote to pardon the murderers of Stephens and Outlaw—it would not be doing justice to their families. All the charges that could be brought against them would be that they belonged to the Republican party. Republicans were denounced as rascals, felons, &c., by persons who stood high in intelligence and society for the purpose of beating them down and defeating the reconstruction acts, and now were asked to say not let the law be executed. Probably he would sign a petition for their pardon for being so ignorant. He had no hesitancy in asking for the pardon of Shotwell—this was all he could do to well—to his feelings. He like to forgive and be forgiven. When this bill is passed it will be remembered as a bill to encourage crime in North Carolina rather than a bill to punish crime.

Senator Worth gave his reasons for supporting the bill. He said it had to go to a strict party question. The Republicans pretended that they were very merciful but showed their blood and thunder before they got through with their speeches. He recited an anecdote to illustrate his ideas. He favored the passage of the bill.

Senator Dunham also made a lengthy and able speech in favor of the bill and thought it better for the State to give amnesty to the criminals than to have them in the State as a source of interest to the whole State, which would be the best to grant amnesty or drive 40,000 of the best men from the State? He hoped the bill would pass.

Senator Grandy's amendment failed to pass.

The yeas and nays were ordered by Senator Seymour, and the bill passed its second reading.

Those who voted in the affirmative are: YEAS—Messrs. Averall, Allen, Barnhardt, Cunningham, Col. Davis, Ellis of Columbus, Flemming, Gudger, Horton, Love, Morehead, Merrimon, Miller, Morehead of Guilford, Morehead of Rockingham, Murphy, Murray, Nicholson, Norwood, Powell, Price, Scott, Todd, Waring, Welch, and Worth—32.

NAYS—Messrs. Creamer, Eppes, Grandy, Harris, Hill, Holloman, Hyman, Long, Mabson, McCabe, McCotter, Respess, Seymour, Smith, Stillely, and Walker—16.

The bill was then made a special order at 11 o'clock to-morrow.

On motion, Senator Powell was added to the committee on internal improvements.

The Chair read an invitation to the Senators to be present to hear a memorial on Monday, Feb. 11, at 11 o'clock, at Metropolitan Hall, to-night at 7 o'clock.

On motion of Senator Seymour the Senate adjourned until 11 o'clock to-morrow.

HOUSE OF REPRESENTATIVES.

THIRTY-EIGHTH DAY. MONDAY, JAN. 27, 1873.

By Mr. Waugh, a bill to enable the Commissioners of Surry county to consolidate the debt of that county and for other purposes.

The resolution was made special order by Mr. Shaw, a bill to lay off and construct a public road across Grandmother Gap.

By Mr. Shaw, a bill to authorize the Commissioners of Moore county to levy a special tax.

By Mr. Rhodes, a bill to relieve County Commissioners of Johnston county from liability for the sale of land.

House resolution instructing Prof. Kerr, State Geologist, to compile such State statistics and have them printed, as will tend to induce immigration into this State, being special order, was taken up.

Mr. Marter, author of the resolution, advocated its passage.

Mr. Waugh opposed the resolution.

Mr. McGehee said that the information sought by the resolution had been transmitted to the Senate.

The resolution was made special order for Thursday next at 12 m.

Senate resolution relative to an investigation of the affairs of the Western N. C. Railroad was taken up and adopted.

CALENDAR.

The following bills passed several readings: House bill to allow the owners of the toll bridge over the Catawba river to list the bridge for taxes in Catawba county.

Senate bill to amend an act incorporating the Wilmington Mutual Insurance Company.

Senate bill to amend the charter of the town of Mt. Olive, Wayne county.

Senate bill to incorporate the town of Farmville, Pitt county.

Senate bill relative to depositions.

Senate bill to prevent sale of spirituous liquors in town of Shelby, Wayne county.

Senate bill being asked was granted Mr. Richardson from to-morrow until Thursday next.

Senate bill to amend the act incorporating the town of Excelsior, Burke county.

Senate bill to amend chapter 135, laws 1868-69, concerning townships.

A message was received from the Senate transmitting amendments to a bill for relief of sheriffs and tax collectors, which were concurred in.

House bill to allow the Commissioners of Columbus to levy a special tax.

House bill to carry into effect the act of 1868-69, to lay off and establish a turnpike road from Marion to Asheville, was read. [This bill provides for the payment of warrants already issued out of the general fund of the treasury, and provides for the payment out of the same fund, the balance of the original appropriation of \$110,000, as made by the Legislature of 1868-69.]

Mr. Trivet made a statement relative to the work done on the road; he informed the House that in addition to the amount now due contractors, which is about \$30,000, and \$20,000 would be required to complete the road. He strenuously advocated the passage of the bill, upon the grounds that unless this bill is passed, all the money that has been expended on the road by the State, will be lost; and that the road, if not completed, will benefit the whole State by the increased value of the property along the line of the road.

Mr. Waugh offered an additional section to extend the road from Sparta to Winston via Thompson's road and to the portion in Surry to Bethesda in Forsythe, which was adopted.

Mr. Anderson of Clay, opposed the bill, because the original act was passed by the Legislature of 1868-69, and this bill proposes to revive the act of that act.

Mr. Badger advocated the passage of the bill as a matter of justice to the Western portion of the State. The counties through which this road passes, are rich in soil and minerals; if we can extend this road and open a market to these counties, it will greatly benefit the State. The increased tax will more than repay the State.

Mr. Jones, of Caldwell, urged the passage of the bill.

Mr. McGehee opposed the passage of the bill on the ground that the State is not able to make the appropriation of \$50,000, which is asked for.

Mr. Bennett offered an amendment that the appropriation provide for the land to be levied and collected of the counties through which this road runs.

Mr. Bowman urged the passage of the bill as a matter of justice to the Western portion of the State, and as a matter of dire necessity on the part of the people through whose counties this road passes.

He stated that hundreds of tons of freight now find an outlet to the markets over the East Tennessee & Virginia Railroad. When this road is completed it will bring all the produce of North Carolina to the markets.

The previous question was called and sustained. The amendment offered by Mr. Waugh, was adopted.

The yeas and nays were called on the amendment offered by Mr. Bennett, and yeas 36—nays 56.

Mr. McGehee offered an amendment that the question of appropriation be submitted to the people. The yeas and nays were called, and the amendment was lost—yeas 32—nays 32.

An amendment offered by Mr. Anderson, of Clay, was lost.

An amendment offered by Mr. Bryan, of Alleghany, to appoint three Commissioners to change a location of the road one mile and a half in Alleghany, was adopted.

Mr. Houston moved to adjourn. Ruled out of order.

Mr. Dula offered an amendment to construct a branch of the road from Sparta to Statesville, which was adopted.

The bill passed third reading—yeas 62—nays 46.

Mr. Badger moved to reconsider the vote whereby the bill passed third reading and moved to lay that motion on the table. The yeas and nays were called and the motion to lay on the table prevailed—yeas 46—nays 44.

Adjourned.

SENATE.

THIRTY-NINTH DAY. TUESDAY, JAN. 28, 1873. Senate met at 11 o'clock. Lieut. Governor in the Chair. Prayer by Rev. J. M. Atkinson of the city.

Journal of yesterday read and approved.

Senator Waring rose to a question of personal explanation in regard to the Sentinel newspaper and the public printing; and denied all charges which the Sentinel had alleged to him.

MESSAGES FROM HOUSE.

A message was received from the House transmitting a number of bills and resolutions which were referred or otherwise disposed of.

On motion of Senator Merrimon, the House resolution looking to the impeachment of Judge Henry was taken up and adopted.

REPORTS OF STANDING COMMITTEES.

Reports from standing committees were presented by Senators Murray, Seymour, Love, Murphy and Todd.

SPECIAL ORDER.

The hour having arrived for the consideration, on its third reading, the bill granting amnesty and pardon to the rebels, &c. It was read. Senator Respess offered to amend by inserting the following in section one: "Or any and all persons who may have committed any crime or crimes against or in violation of the laws of North Carolina."

der excuses for the enormous crimes which had been committed by the Ku Klux in Orange and Caswell counties. Nobody believed that the burns burnt were done so for political purposes, but from private revenge. He did not believe the bonds of Distillers and tobacco dealers, reduced, was laid on the table.

House bill to protect the agricultural interests of the State, was read. [The bill prohibits the buying of seed and lint cotton, and tobacco in the gross, between sunrise and sunset.]

The substitute recommended by the Judiciary Committee was read.

Mr. Brown, of Davidson, opposed the substitute.

Mr. Gorman advocated the passage of the bill.

Mr. Brown, of Davidson, moved that the whole matter be indefinitely postponed.

The hour of the special order having arrived, House resolution to relieve W. W. Holden of disabilities imposed by the Court of Impeachment, was taken up.

Mr. Houston moved that the resolution be indefinitely postponed.

Mr. Bennett took the position that the Legislature had no power to pass the resolution. If it had, he would most cheerfully vote for the resolution.

Mr. Dula referred to the fact that Mr. Badger had introduced a resolution requesting the Congress to relieve Gov. Graham and others of political disabilities; that he was not in favor of such a resolution had been introduced, and took the position that the Legislature had the power to remove the disabilities imposed.

Mr. McGehee opposed the passage of the resolution because the Legislature has no such power.

Mr. Morrison took the position that in justice to the people of North Carolina that the resolution should not be adopted.

Mr. Badger took the position that the power to relieve the disabilities of Gov. Graham and others, conferred by the Constitution of the State. He denied that Justice Story is standard authority on the proper interpretation of the U. S. Constitution. Except in so far as the Constitution of the State is limited by the Constitution of the United States, the power of the Legislature is absolute. The speaker read from Cooley on Constitutional Limitations, in support of the position that it was in the power of the Legislature to pass the resolution, and also the authorities cited by Cooley. These authorities have been frequently used and never questioned. It is a cheap way of attacking to say that there is no precedent to support my position.

Who knows what the records of the Legislature are? Who knows that any of the impeached Judges of Pennsylvania ever made application to have their disabilities removed?

Suppose a bill should be introduced into this General Assembly to pardon men for alleged crimes before conviction, whence does the power to do such a thing come? It is found in the inherent power of this Legislature, and remains with it unless forbidden by our written Constitution.

The three propositions: To call a Convention; To amend the Constitution by Legislative enactment; To recall the Court of Impeachment.

These three propositions are ridiculous. To adopt an amendment to the Constitution, that W. W. Holden be relieved of his disabilities, and further, that Conventions are called for the purpose of reforming the government, and not for such purpose as this. When a Court has adjudged sine die, it has no power over the matters decided by that Court, except by appeal.

Messrs. Bennett and McGehee combated the arguments presented by Mr. Badger as unsupported by any precedent in the history of the Union.

By Mr. Turner, a resolution denouncing the Internal Revenue system of the United States, and requesting the Representatives from North Carolina in Congress to use their influence to have the system abolished.

By Mr. Davis, a resolution in favor of Jesse Waters.

BILLS.

By Mr. Mitchell, a bill to incorporate Danbury Lodge.

By Mr. Morrison, a bill concerning Stanley Creek Camp Ground.

By Mr. Abbott, a bill to compel owners of stock to mark the same.

By Mr. Lloyd, a bill concerning inspection of Tar in New Hanover county.

By Mr. Dickey, a bill to carry out of chapter 181, laws 1870-71.

By Mr. Bryson of Jackson, a bill to amend the act relative to privy examination of married women.

By Mr. Shaw, a bill to prohibit the sale of liquor in Carthage.

By Mr. Dickey, a bill relative to survey of lands in Graham county.

By Mr. Gray, a bill to prevent sale of liquor in certain townships of Dare county.

By Mr. Dudley, a bill to amend charter of the city of Newbern.

CALENDAR.

House resolution authorizing the Judiciary Committee to send for

papers and papers relative to the impeachment of Robt. M. Henry, was adopted.

House resolution requesting the North Carolina Representatives in Congress to use their influence to have the tax on liquor and the bonds of Distillers and tobacco dealers, reduced, was laid on the table.

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By Mr. Dudley, a bill to amend charter of the city of Newbern.

CALENDAR.

House resolution authorizing the Judiciary Committee to send for

Waugh, Webb, Wiley, Whitmore, and Woodhouse.—37.

NAYS—Messrs. Abbott, Badger, Bean, Blythe, Bowe, Bowman, Brown of Davidson, Bryant of Pitt, Bryan of Wilkes, Brooks, Bunn, Carson, Copeland, Corson, Cox, Dixon, Davis, Dudley, Dula, Ellison, Fletcher, Foster, Godfrey, Gorman, Goodwyn, Gray, Guyther, Hampton, Heaton, Hughes, Jones of Camden, Jones of Northampton, Jordan, King, Lloyd, Luterloh, McLaurin, Miller, Michael, Patrick, Paschal, Perry of Bladen, Perry of Wake, Reid of Randolph, Rhodes, Scott, Sharp, Trivet, Winslow, Wheeler, and Whisnant.—51.

By Mr. Goodwyn, a resolution in favor of Mason L. Wiggins.

By Mr. McNeill, a bill to prohibit the sale of liquor within three miles of Lenoir Hill Church, Robeson county.

SPECIAL ORDER.

The school bill was taken up. A substitute offered by Mr. Johnston was adopted. Adjourned.

SENATE.

FOURTIETH DAY. WEDNESDAY, JAN. 29, 1873. Senate met at 11 o'clock. Lieut. Governor in the Chair. Prayer by Rev. Dr. Mason of the city.

Journal of yesterday read and approved.

REPORTS OF COMMITTEES.

Reports were submitted by Senators Murray, Todd, Allen, Love, Welch, Gudger, Flemming, and Averall.

PETITIONS, &c.

Senator Long, a memorial from the citizens of Richmond county praying the General Assembly to pass a law declaring the Yearly meeting of the Scotch Fair unlawful assemblies. Referred.

The hour having arrived for the special order, it was postponed until the morning business was disposed of on motion of Senator Love.

BILLS INTRODUCED.

Senator Powell, a bill to incorporate the Haw River and New Hope Transportation Company. Referred.

Senator Thompson, a bill to amend the people of the State in ascertaining titles to their lands. Referred.

Senator Gudger, a bill to investigate the affairs of the Western Division of the Western N. C. Railroad. Referred.

Senator Walker, a bill to change the time of the Superior Court of the 9th Judicial District. Referred.

Senator Nicholson, a bill to amend the Code of Civil Procedure. Referred.

Senator Dunham, a bill to amend the rules of pleading in Justice Court. Referred.

Senator Scott, a bill authorizing two additional terms of the Superior Courts of Granville county. Referred.

Senator Ellis, of Catawba, a bill to incorporate the Horse Ford Manufacturing Company. Referred.

Senator Allen, a bill amending an act incorporating the Wrightsville Turf Company. Referred.

By the same, a resolution for the relief of the Wilmington and Weldon Railroad Company. Referred.

Senator McCauley, a bill to incorporate the Mount Prospect Camp Ground in Union county. Referred.

Senator Seymour, a bill to change the time of holding the Superior Courts in Hyde and Beaufort counties. Referred.

Senator Gudger asked and obtained leave of absence for Senator Respess until Monday on account of sickness.

MESSAGE.

A message was received from the House transmitting a number of bills and resolutions which had passed that body, which were referred or otherwise disposed of.

SPECIAL ORDER.

The amnesty and pardon bill was taken up on its third reading, the