APPENDIX

TO THE

JOURNAL

OF THE

SENATE.

To be inserted No. 6.

Mr. Marvin, from a select committee to whom was referred the petition of the inhabitants of Monroe county, Key Vacas in Dade county, the depositions of William H. Eldridge and of John Sicker, respectfully report,

That they have had the same for sometime under careful consideration, and are forced to the conclusion that the petitioners are entitled to relief. The petitioners of Monroe county state "that some three years since by a law of the Legislative Council, the county of Monroe was divided, and a new county called Dade was set off from it," and that, at the time of such division, "the inhabitants of Monroe, with one or two exceptions, had no knowledge that such a division was in contemplation." They also state that before the division of the counties, it was with great difficulty that offences could be punished on account of the paucity of jurors, and that since such division, Monroe county is in as bad a condition as before, and that in the county of Dade it is utterly impossible to obtain a legal grand and petit jury. The administration of justice, so desirable to every good and quiet citizen, is therefore rendered impossible in the county of Dade, and very much embarrassed in the county of Monroe.

The consequence necessarily is that the laws of the Territory do not extend over the county of Dade, and that no person who visits that county or resides in it, is protected by law, for by our organic law, no person can be punished for the violation of the law, but by the intervention of a grand and petit jury, which grand and petit jury must come from, and the offence be punished in the county where it is committed, unless otherwise expressly provided by law. Dade county has, according to the best information in possession of your committee, about sixteen legal jurors, Monroe has about forty, the whole put together will hardly enable the court to punish offences where the whole extent of peremptory challenge is allowed, but are sufficient to secure the punishment of offences where the whole extent of these peremptory challenges are not allowed.

The petition of the inhabitants of Key Vacas is signed by sixty-five persons, constituting a majority of the male adults residing in the county of Dade. This fact unexplained might go to show that there were sufficient jurors in the county of Dade to secure the administration of justice; but there are but very few of the petitioners competent jurors. By our organic and Territorial laws jurors must be *householders* and *citizens*. But few of the petitioners are *householders* and *citizens*; some are young men not householders, and some, though resident at Key Vacas, are not yet citizens of the United States. The latter therefore cannot vote or sit on juries; but it is believed that while they are residing among us, occupied in the peaceful pursuit of peaceful industry, and are adding wealth to the country, they possess at least the right of petition,

and are entitled to the protection of the laws of the country. The great number of names to this petition in proportion to the population of the county, only shows the almost universal desire of the inhabitants of Dade county that the Council should extend to them the protection and equal administration of the law.

The petition of the inhabitants of Monroe county further states that on account of the want of jurors in Dade county, and of the consequent perfect irresponsibility of its officers, and on account of the superior power which wealth and position always gives, all power both Executive and Judicial is exercised by one man, the proprietor of Indian Key. The petition states that the clerks of the court of that county lately refused to give a copy of the poll book of the late election held at that Island, or allow a copy to be taken after his fees had been tendered him. This charge is verified by the oaths of two creditable witnesses. This clerk is in the employ of the proprietor of the Island, Jacob Housman. There can be no prosecutions against the officers, for there are not enough jurors in the county to indict and try them.

The affidavit of George Eldridge states "that while at Indian Key, in the month of August last, he saw in the warehouse of Jacob Housman, two white men, of the sloop Brilliant, confined in stocks, by order of Capt. Housman, and that in the month of October he also saw two other white men, belonging to the schooner Sylph, in like manner, and by the orders of the said Housman, confined in stocks; and that it is a general report that such practices are common with the said Housman at that place." Mr. Eldridge is known to one of your committee as a man incapable of falsehood. Mr. Sicker states in his affidavit "that in July or August last, he saw two white men named Charles Schanks and Charles Thompson, confined in said Housman's warehouse in the stocks. They had been in that situation three days and were only allowed biscuit and water and no bedding, or musquito bars, and were obliged to sleep in that situation, and that they were placed in that situation by order of Jacob Housman, the reputed owner of Indian Key."

Mr. Housman holds no office. It is in vain for these men to appeal to the laws for redress. The suit must be tried in the county of Dade, and there, there is no jury. Their only redress is in their own strong arm and stout hearts. Whether it be wise for the Legislature to encourage this state of things is respectfully submitted: It is certainly unjust that that portion of the citizens of South Florida, who are endeavoring to support the laws, and to lead a quiet and an honest life, should be made to suffer in their character and reputations, by the wanton outrages of others. If a community do not possess the power of restraining and punishing offences, it ought not to be held responsible in its character or reputation for any outrage committed within its borders.

The petitions pray 1st for the repeal of the law establishing Dade county, and 2nd, if this is not done, [illegible] of the laws establishing a Superior and county court in Dade [illegible]nty.

The recent act of Congress having recognized the existence of Dade county, and assigned to it one Representative in the Council, it is not deemed by your committee advisable to repeal the law establishing that county. But it is evident to your committee that the existence of courts in Dade county, with their clerks and other officers to issue and execute attachments, writs of replevin, and other process by which a man's property or person may be seized and detained, without any possibility of bringing the matter to a trial, for want of jurors, may be used to the very great oppression and injury of the petitioners. Your committee therefore recommend that the jurisdiction of the county court in Dade county be taken away, and transferred to the county court of Monroe county, and the jurisdiction of the Superior court in Dade, be also transferred to the Superior court of Monroe, until the increase of the jurors in Dade county justify the re-establishment of the courts in that county, and they respectfully report a bill for that purpose.

WILLIAM MARVIN,
Chairman.

To be inserted No. 10.

Your committee in obedience to the order of the Senate have had under consideration the bill for the relief of W. Davis, Jailor of St. Johns county, with the vouchers, and beg leave to report that the Auditor has properly rejected the said vouchers as uncertain and vague; nor do your committee deem it just or proper that the Senate should pass the bill for his relief, for the following reasons: the Jailor should have proven his account at court before the Judge as the law requires him to do; in this there can be no difficulty, as the magistrate, sheriff, marshal, or court who committed a prisoner to the custody of the jailor, can always show the date of such commitment by his record or precept, or order of said court. And the time of a prisoner's discharge can certainly be ascertained in the same manner. The oath of the party should not be received as evidence of the justice of his accounts. This practice is unusual, and never allowed in the settlement made at the Treasury; it would at once place the public money within the reach of any unprincipled and reckless individual.

The vouchers, so called, as exhibited with the bill, are in fact without form, matter, or certainty. The Judge could not have had any evidence before him, and must have taken the statements of the jailor as true, with the slight knowledge which he seems to have that certain prisoners, which he names, was in the custody of the jailor some time. He does not specify the time of commitment or the day of their discharge.

Most of the charges rendered by the said Davis are for services performed from the year 1836 to late in 1837. The charge for im-

prisoning and releasing a prisoner is twenty-five cents, not twenty-five cents for imprisoning and twenty-five cents for releasing; see the act of 1832, page 99, two accounts against Luke Daily and James Carrot for their imprisonment is contrary to law; because they were witnesses in a case pending in court, and for fear they might get intoxicated, they were sent to jail to keep them sober.—If this course should be pursued throughout the Territory with every witness, that the district attorney apprehended, might drink too much liquor, the committee fear and justly believe the whole revenue of the Territory would not more than cover annually this expense; particularly if the county courts and the magistrates should resort to the same Spanish plan of confining witnesses in jail. Mr. Davis states he had no commitment for Ned and Stephen Hernandez, two prisoners, but says they were put in his charge while the court was in session. The amount of the account for one of the persons is $88 75, and an account of the other is $89 62 1-2. Davis should have shown by the order of the court when these prisoners were committed and when discharged.

The Senate would soon become an accountant's office, and be compelled, if they acted on such claims as now presented, either to do great injustice to the Territory, or the individual applicants, as it must be obvious to this body that it could not properly investigate accounts so numerous and various, and discharge the high duties which demand their time and attention. Your committee deem it bad policy to interfere with the duties of the officers appointed under the law to settle the accounts against the Territory where the applicant has not performed his duty in arranging and having his accounts and vouchers properly certified or proven, and it would be wise and just never to pass any relief law, for any person, except where it appears that the applicant has conformed to the requisitions of the law, and the officer has evidently erred in deciding against his claim.

Your committee can see nothing in this case that requires the action of the Senate, nor is it at all distinguished from a thousand other claims which the Auditor is more competent to investigate with care and accuracy than is to be expected in a Legislative body crowded with important business.

Your committee therefore report it inexpedient to pass the said bill and recommend that the bill and vouchers be returned to the House of Representatives to be delivered to the said Davis, that the same may be proven before the Judge of the Superior court, and certified as the law directs.

WM. P. DUVAL,
Chairman.

To be inserted No. 12.

The committee on schools and colleges, to whom were referred the bill entitled "an act to raise a fund by taxation for the education of poor children," have the honor to report that they have examined the provisions contained in said bill with care and deliberation, and believe that the bill is perfect in all its parts, with two exceptions only. Your committee is well aware of the importance of education, and particularly the education of poor children in the Territory. But while they feel every disposition to aid and further this most laudable object; they cannot but take into consideration the present impoverished state of our finances, and the debts which will naturally accrue from the passage at this session of several important bills, in order to protect our bleeding frontier from the indiscriminate and ruthless attacks of the Seminole Indians. Were we living in a state of peace, your committee would have no objection that one half instead of 20 per cent. of the Territorial tax should be paid to the county Treasurer, for a limited time for the attainment of this most laudable of all objects; but as we are at present situated, your committee are of the opinion that the figures "20" in the bill be stricken out and "10" inserted.

Your committee is of the opinion also that the following section should be substituted in lieu of the original of said bill:

Sec. 3. Be it further enacted that it shall be the duty of the assessor of taxes in each of the counties of this Territory, to take annually, while assessing the taxes, a list of all poor orphan children, residing within the county, together with the name, age, and sex, respectively; and whether the father and mother both be dead, or only one, if that one be the mother, then to file in the county court, a list for the information of the court.

JAMES A. BERTHELOT,
Chairman.

REPORTS

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AND

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