Which was read and one thousand copies ordered printed.

On motion, the message was referred to the Committee on the State of the Territory.

The Senate received from the House as passed, a bill entitled, an act to incorporate the Tampa Bay and St. Johns Rail Road and Steam Boat Company; which was read.

Also, a bill, entitled, an act to incorporate the St. Marks, Monticello, and Tallahassee Rail Road Company; which was read a first time.

Also an act in addition to the several attachment laws now in force in this Territory, on which the Senate went into committee of the whole, Mr. Hart in the Chair, after some time spent in its consideration, the committee rose and reported progress.

On motion, said bill was referred to the committee on the judiciary.

Also, an act to regulate the fees of Notaries Public in the Territory of Florida; which was twice read, the rule being waived, and referred to the Committee on the State of the Territory.

Also as passed, an act to incorporate the St. John's Silk Company in East Florida, before passed by the Senate.

Also a resolution as adopted, a resolution before adopted by the Senate, requesting our Delegate to urge the settlement of all equitable claims of this Territory, for monies expended in defence of the Frontier.

The Senate went into secret session on Executive business, on motion the doors were opened.

Mr. Berthlot from the Committee on Enrollments, reported as correctly enrolled, "an act to repeal the second section of the act approved 10th Feb., 1838, supplemental to the several acts incorporating the bank of Pensacola, and to revive the 8th section of an act to increase the capital of the bank of Pensacola, and to amend the laws incorporating said bank, and for other purposes, approved 14th February, 1835.

The Senate then took a recess until 4 o'clock, P. M.

4 O'CLOCK, P. M.

The Senate met pursuant to adjournment, and there being no business, adjourned until Monday 9 o'clock.

MONDAY, March 2, 1840.

The Senate met pursuant to adjournment, and the proceedings of Saturday last were read.

His Excellency, the Governor, transmitted to the Senate, the following message:

EXECUTIVE DEPARTMENT,
Tallahassee, March 2, 1840.

To the Honorable the Senate of the Legislative Council of Florida.

I forward to the Senate, a letter referred to in the message containing the Executive Veto, report a bill, entitled an act to amend the act, incorporating the city of St. Augustine.

ROBERT RAYMOND REID.

Mr. Berthelot, moved that the injunction of secrecy upon the confirmation of the nominations made by his Excellency the Governor, be now removed by the Senate; and that the votes upon the confirmation or rejection of each nomination, be published with the journals of the Senate, together with the yeas and nays thereon; which motion unanimously prevailed.

Mr. Mills, from the committee on the state of the Territory, to whom was referred the special message of his Excellency the Governor, on the subject of the Indian war, made the following report:

The committee on the state of the Territory, to whom was referred the special message of his Excellency the Governor, on the subject of the Indian war, make the following report: That the condition of the Territory call loudly for the adoption of immediate active measures by the Government of the United States, to repress the recurrence of further acts of hostility by those savage murderers.

The murder of the two mail carriers in the East, together with the murders in the West, so pathetically pourtrayed in the message referred, (although awful in their character,) scarcely place the condition of affairs in any worse light than they have been for the last two years. The Legislative Council have at previous sessions, strongly urged upon the authorities of the United States, the adoption of some vigorous measures in relation to this war, and the late Executive officer of the Territory, was incessant in his appeals to Washington on this subject, in which various plans were recommended, all of which, as well as the memorials of the Legislative Council, have been treated with silent contempt; and the people of Florida have been abandoned to their fate, in a stern and unrelenting manner by the head of the war Department.

During the present session of the Legislative Council, notwithstanding the members were satisfied that the situation of the country called loudly for relief, there was a disinclination on their part, generally, to say more to Congress, or the heads of Departments at Washington, than had been already so often and so ineffectually urged: and it was not intended by us to obtrude ourselves further on the notice of the Government. But

the message of the Governor has called on us to make one more appeal and which it is earnestly hoped will not share the fate of previous memorials and petitions on this subject.

The committee had indulged the hope that the bill passed by the Senate of the United States, (which bill was introduced by the Hon. Senator from Missouri) would have been so modified as to have required an organization of the settlers proposed to be introduced, in the manner suggested in the memorial of the Legislative Council of the last session—this measure adopted, would have rendered the more efficient, by encouraging emulation between the different Corps or commands, and would moreover have secured to us the services of a body of respectable and hardy citizens from the adjoining States, of Georgia, Alabama and South Carolina, who will never enter the service under the provisions of the bill as it has passed the Senate.

A copy of this memorial is sent herewith, with the hope that the suggestions contained in it may meet with the favorable notice of Congress, should this bill be still under consideration.

Should not this or other measures be devised by Congress your committee would respectfully urge the adoption of the measures proposed by his Excellency the Governor; the men proposed to be raised, can be immediately enlisted on those terms, and favors a judicious plan, of ridding the country of this murderous band with which it has been so long infested.

The committee ask to introduce the following resolution:

Resolved by the Senate of Florida, That copies of the message of his Excellency the Governor, together with a copy of this report, and a copy of the memorial of the Legislative Council to Congress adopted last session, be immediately forwarded to the Delegate in Congress to be laid before them.

W. J. MILLS, Chairman.

The same from the same committee, reported unfavorably on an act, to regulate the fees of Notaries Public in the Territory of Florida.

The same from the committee on militia, to whom was referred a bill, to be entitled an act to repeal an act, in addition to the military laws now in force.

Also a bill, to be entitled an act to repeal an act entitled an act, in addition to the military laws now in force, approved 4th March, 1839, report that the committee have had the said bills under consideration, and think it inexpedient to act on them during this session. From the disturbed state of the country and the frequent murders of the inhabitants, it is requisite that there should be some force under the control of the Executive—the committee therefore ask to be discharged from the further consideration of the subject.

Mr. Berthelot, from the committee on Enrolled bills, reported as correctly enrolled,

A resolution relating to the payment of P. A. Hayward, for binding the laws of Florida.

Also, an act to incorporate the St. Johns Silk Company in East Florida.

An engrossed bill, entitled an act, to incorporate the Tampa Bay and St. Johns Railroad and Steamboat Company, was read a second time.

The Senate went into committee of the whole, mr. Hart in the chair, on a bill entitled an act, to incorporate the St. Marks, Monticello and Tallahassee Railroad Company; after some time spent in its consideration, the committee rose and reported the bill as amended, which was concurred in.

The Senate received from the House as amended and passed, before passed by the Senate, an act to incorporate the Apalachicola mutual Insurance Company, which amendments were concurred in.

Also a resolution, asking our Delegate in Congress, to urge the passage of a law of Congress, organizing an armed force for the defence of the people, and prosecution of the war in Florida, which was read, the rule waived and adopted.

Also an act, before passed by the Senate, entitled an act, to suspend the operation of the revenue laws for the year 1840, and to provide for the settlement of all arrears due to and from the Territorial Treasury, as amended, which amendments were concurred in by the Senate.

Also an act, before passed by the Senate, entitled an act, to incorporate the city of Tallahassee, without amendment.

Also an act, to fix the county site of Washington county, which was read, the rule being waived and passed.

Also an act, further to amend the charter of the Southern Life Insurance and Trust Company, which was read a first time.

Also a bill, before pased by the Senate, entitled an act, to repeal the several acts, incorporating the town of Jacksonville, without amendment.

Also, as passed, an act to amend an act approved 20th Feb. 1837, giving a lien to mechanics in certain cases, which was read and laid on the table.

Also, a bill before passed by the Senate, entitled an act concerning the Seminole Indians, as indeffinitely postponed by the House.

Also, a bill as passed by the House, entitled an act to provide for auditing all accounts of executors, administrators and guardians, which was read a first time.

Also, an act to amend the several acts in force relating to executors, which was read.

On the question of the indeffinite postponement the yeas and nays were called by Messrs. Berthelot and Duval, and were,

Yeas—Messrs. Hart and Duval, 2.

Nays—Mr. President, messrs. Bailey, Berthelot, Dupont and Walker, 5.

So said bill was not indefinitely postponed.

Mr. Berthelot then moved that the rule be waived, and that the bill be read a second time, which motion was objected to.

Also, a resolution for the relief of R. H. Berry, which was read, the rule being waived, and referred to the committee on Finance.

Also, as adopted, a resolution before adopted by the Senate, in relation to claims for supplies and subsistence, forage and transportation, furnished by the citizens of the Territory for the Territorial troops.

Also, a preamble and resolution as passed by the House, instructing our Delegate in Congress to urge the payment of the claims of Levin Brown, deceased, either before Congress or at the proper Department, which was read, the rule waived, and adopted.

The Senate again went into committee of the whole, Mr. Hart in the chair, on a bill entitled an act in addition to the several attachment laws now in force in this Territory: after some time spent in its consideration, the committee rose and reported the bill as amended, which was concurred in. Said bill was read a third time and passed.

Mr. Depont, from the Finance committee, to whom was referred a resolution passed by the House of Representatives, allowing payment to R. H. Berry, for arms and accoutrements furnished for persons who voluntered to go in pursuit of Indians in February, 1839, reports that the committee have examined the account and vouchers accompanying it, and although the proof is not as full as might be required in a strictly legal point of view as regards four of the guns; still the committee, under the particular circumstances of the time when said arms were procured, report the resolution without amendent, and recommend its adoption, which was concurred in.

On motion, said resolution was again read and adopted.

An act to regulate the fees of Notaries Public in the Territory of Florida, was again read and indefinitely postponed.

An act to repeal an act entitled an act in addition to the military laws now in force, approved March 4th, 1839, was again read and indefinitely postponed.

The Senate received from the House as passed, a bill before passed by the Senate, entitled an act to amend an act entitled an act to provide for building a capitol, and for other purposes.

The Senate then went into secret session on Executive business.

On motion, the doors were opened.

The Senate then took a recess until 4 o'clock P. M.

4 o'clock, p. m. March 2, 1840.

Mr. Mills offered a resolution requesting the Gov. to direct the proper officers to collect all arms and other property purchased by Territorial officers, for the use of the militia of Florida, which was read, the rule being waived, and adopted.

Mr. Berthelot, from the committee on enrolled bills, reported as correctly enrolled, an act to repeal the several acts incorporating the town of Jacksonville.

Also, an act to suspend the operation of the revenue laws, for the year 1840, and to provide for the settlement of all arrears due to and from the Territorial Treasury.

The Senate took a recess for one hour.

The Senate again met and went into committee of the whole on a bill passed by the House of Representatives, entitled an act to provide for the compensation of the officers of the Legislative Council, and for other purposes. After some time spent in its consideration, the committee rose and reported the bill as amended.

The bill was again read and passed, ordered that the title be as above.

His Excellency the Governor transmitted to the Senate the following message:

Executive Department,
Tallahassee, March 2, 1840.

To the Honorable the Senate
of the Legislative Council of Florida.

I respectfully inform you that I have approved the following acts of the Legislative Council:

An act to repeal an act in addition to an act entitled an act to prevent any person in this Territory from carrying arms secretly, approved Feb. 10th, 1838.

An act to authorize Rebecca Charles to Keep a Ferry on Suwannee River.

An act to provide for issuing writs of Certiorari, and to repeal the act heretofore passed on that subject.

An act to change the time of holding the County Court of Walton county.

An act to authorize John M. McIntosh to establish a ferry on Suwanee river.

An act to incorporate the St. Johns Silk Company in East Florida.

A preamble and resolution relative to the payment of P. A. Hayward for Book Binding.

A preamble and resolution relative to the payment of C. H. Edwards for taking census.

A preamble and resolution instructing our Delegate in Congress to use his best endeavors to procure an appropriation of

money by Congress to improve the navigation of the river Choctawhatchie, as far as the mouth of Pee river.

A resolution instructing our Delegate in Congress to procure the passage of a law to alter the time of meeting of the Legislative Council of Florida.

Resolutions requesting our Denegate in Congress to endeavor to procure the passage of a law for the payment of horses mustered into the service of the United States, which have died while in service by disease or accident, or have been shot.

A preamble and resolution requesting the Delegate to procure the passage of a law giving to certain setlers the right of pre-emption.

A preamble and resolution relative to the payment of Col. Pittman and his staff.

An act to incorporate the Presbyterian Church of Jacksonville.

An act in relation to the Trustees of Leon Academy.

A resolution relative to the payment of Betton & Fisher, for arms, &c.

An act to authorize the Judge of the County Court of Alachua county to appoint a Commissioner to make sale of town lots in the town of Newnansville, and execute and deliver titles for the same to purchasers.

An act for the relief of Joseph Hall.

An act to legalize the election of county officers for Jackson county.

An act for the relief of the legal representatives of Francis A. Ross, late Sheriff of Calhoun county.

An act to alter the time of holding the County Court of Franklin county.

ROBERT RAYMOND REID.

Mr. Berthelot, from the committee on enrolled bills, reported as correctly enrolled, a resolution in relation to the transfer of claims for supplies of subsistance, forage and transportation to the Quarter Master's Department.

Also, an act to amend an act entitled an act to provide for building a capitol, and for other purposes.

Mr. Mills offered a preamble and resolution in relation to the disagreement of the two houses of the Legislative Council of Florida, upon the subject of appropriation, which were read.

The Senate then went into secret session on Executive business.

On motion, the doors were opened.

Mr. Dupont offered the following preamble and Declaration:

Whereas, it has been made known to this Senate, through the journal of the House of Representatives, that the said House of Representatives (being but a co-ordinate branch of the Legislative Council,) did, on the 29th day of February, Anno

Domini, 1840, concur in and adopt a certain report and resolutions, purporting to be the report and resolutions, of the Judiciary committee, which report and resolutions are in the words following, to wit:

The committee on the Judiciary, to whom was referred so much of the Governor's Message as relates to the *power of the Legislative Council of the Territory, to create and charter Banking Corporations, and to pledge the faith and credit of the people of Florida, for the aid and benefit of such corporations*, with instructions to report thereon, &c.—

REPORT:

The power of the Territorial Legislature to create banking corporations of a more permanent and indissoluble character than the Teritorial Government, has heretofore been questioned by those whose opinions are entitled to consideration, in and out of Florida. As early as the year 1829, the Executive of Florida rejected two such acts of incorporation passed by the Legislative Cosncil; and stated in his message, among other reasons, that "it is doubtful whether, from the character of the "Territorial Government, deriving its power solely from an act "of Congress, and dependent, for its very existence in its pres-"ent form, upon the legislation of the National Government; "being itself but an imperfect, qualified and dependant corpora-"tion, without any certain term of existence—it can properly "create other corporations, and make them of more indissoluble "character than itself." Messages of other Executive officers of this Territory, at different times, expressing similar doubts, might be referred to; and it appears by the records of the Executive Office, that in 1833, serious difficulties arose as to the organization of the first Bank, to which faith bonds were issued, in consequence of the opinion of the then acting Governor, as to the questionable character of this power, and the dangerous features of the charter.

The discussions in the National and State Legislatures, and in the public press, as to the power of the Federal Government to incorporate a National Bank, have at different epochs excited the attention of the people of the United States, as much, perhaps, as those on any other political topic. Our Territorial Government or Institute, deriving all its power and authority from Congress, those discussions have afforded us some light, as having a direct bearing upon the questions submitted to the Committee. The verdict of the nation, when the important subject was submitted to them in 1836, was that the states had conferred no such power on Congress.

The power of the Legislative Council was deemed so questionable, by those to whom it was first poposed to sell the Territorial bonds, issued in aid of the Union Bank of Florida, that the written opinions of several distinguished lawyers had to be

procured before such sale could be effected. Notwithstanding these opinions affirming such power, the fact that in the foreign markets our Territorial stocks are generally at a discount considerably greater than State stocks, is a remarkable proof of the distrusts that still exists on this point. The difference between State and Territorial stocks is preserved amidst all the fluctuations of trade, and must result from the apprehended insecurity of the latter. It is in the nature of a premium of insurance against the risk of lending money upon questionable guaranties; and if it shall be found that the Territorial Legislature had no power to bind the people of Florida, such a result will not have been wholly unapprehended or unprovided for by the capitalists who have advanced their funds to the banks on these stocks.

The committee believe that a question which affects vitally the interests and honor of the people of Florida, demands the most serious consideration; and should not be carelessly or wantonly put aside until the lapse of time may convert acquiescence into approval, and superadd the force of moral obligation to those now existing of a character so dubious and undefined. Fully aware of the solemn responsibility resting upon them, growing out of the danger of delay in proclaiming to the world the sense entertained by the people of Florida, of the validity of these heavy libilities imputed to them, your committee approach this momentous subject with a due sensibility to the interests of the country, so vitally involved in the discussion, and with an earnest wish to preserve unsullied the credit and honor of Florida. It is no light occasion that has prompted this enquiry. Banks incorporated by the Legisture of Florida, have already procured bonds, purporting to be guarantied by the Territory, to the amount of $3,900,000; and claim, upon the same authority, the right to others to the amount of $5,600,000 more—making, in the aggregate, $9,500,000. The people, who are said to have guaranted the payment of this enormous sum, do not exceed, in number, 50,000 souls; and a portion of them are houseless, and wandering fugitives from a savage foe. Before we have assumed the character of a sovereign State—while yet in a state of pupilage and infancy, with our resources undeveloped, and our ability even for the support of a government untried—we find that every man, woman and child, white or black, amongst us, is already burdened with an imputed debt of near $200—a debt as large as that of the people of Great Britain, which has heretofore been regarded as a warning to the civilized world. The amount paid for interest on the sums already borrowed is upwards of $230,000 per annum, and if the whole sum should be procured, will amount to upwards of $57,000 per annum, a tax upon the people of Florida vastly beyond their ability or endurance. Indeed, such sum could not be paid by taxation,

but only by an absolute surrender of the property of our citizens. This startling and painful exposition is not made with a view of affecting the final decision of the people on this subject. It shall be found that the obligation has been rightfully contracted, no apprehensions of ruin would be pressed on the people of Florida, to induce them to shrink from a compliance with it. In such event, it would be the counsel of your committee, as they doubt not it would be the ready and honest determination of the people to submit to any loss, rather than that of their honor. But this view has been presented to enforce the magnitude and importance of the question involved, and as the justification of your committee for the course they have adopted.

In the outset of this enquiry, your committee desire to be distinctly understood, as to the extent to which they are disposed to deny the powers heretofore assumed, and professed to be exercised in behalf of the people of Florida. The concession may be safely made, that regarding corporations not as contracts—not as private laws, but as public laws passed for the benefit of the people, and subject, like all other laws and all municipal corporations, to control, revision and repeal, as the exigencies or interests of the community may require—the Legislative Council, under its delegated authority over all rightful subjects of legislation, possesses the power to give to such corporations an existence like the power creating them, dependent on the will of the people.

But it is the power claimed for the Legislative Council to exercise the attributes of Sovereignty—to call institutions into an existence indefinite in extent, and protracted far beyond the term of its own duration, and to invest them with a claim upon the property and the honor of the people—that this committee must resist. This power your committee cannot admit, is either inherent in the Legislative Council, or has been delegated to them by the only authority competent to such delegation. They insist that it is an attribute of sovereignty; dormant it may be as yet, while we remain under the guardianship of the General government, but indissolubly connected with our rights as a free people, and cannot be taken from us without at the same time degrading us from our birthright as freemen, and making us slaves.

In pursuing this enquiry as to the power of the Legislative Council of Florida to incorporate banks with exclusive privileges and franchises, and to issue bonds on the faith and guaranty of the Territory, your committee propose to enquire—*first*, where this power originally resides; and *secondly*, whether it been derived by the Legislative Council from that only proper source.

The first branch of this enquiry rests upon very simple principles, and will not detain us long. We contend that the right

to create such corporations, and to bind the people, can only be exercised by the *sovereign authority*—by the politically omnipotent as to all purposes and objects, and not merely supreme in its action upon a limited number of description. The advocates of the constitutionality of the Bank of the United States were obliged to concede this position: "It is incident, (says Hamilton) to sovereign power to create corporations." The opponents of the Bank, (Mr. Jefferson and others) took the same ground; and contended that such sovereign power had not been delegated to, and did not belong to the Federal Government, but rested in the people of the several States. The advocates of the Bank were driven by the force of this argument, (not to question the true source of the power,) but to the assumption that this power had been impliedly delegated by the States as being necessary to carry into effect the other sovereign powers expressly delegated. All parties concurred in tracing the power in question to the same source, and the only contest was, as to the extent to which the power had been delegated by the States to the Congress.

It is an admitted truth, that in England it was the prerogative of the sovereign to create a corporation.

In a case decided in the Court of Errors in the State of New York, Chancellor Walworth says "that the power to create "corporations with frachises, which belongs only to the *sovereign* "of the Territory, does not appear strictly to belong to the law-"making power. Under the common law of England, it be-"longs to the king, as a branch of the royal prerogative. Al-"though parliament sometimes granted acts of incorporation, "it was generally in those cases where some extraordinary "powers and privileges were wanting, not within the reach of "the king's prerogative. Even then the rule held good, that "'*no corporation is good without the royal sanction*,' for the as-"sent of the king is necessary to every parliamentary act. In "this country, the people of the States, the only legitimate sove-"reigns, have succeeded to the prerogatives which formerly "belonged to the crown."

In a debate on the renewal of the charter of the U. States Bank, it is said by Mr. Crawford that "the right to create a corporation is a right inherent to every sovereignty;" and Mr. Clay, in the same debate, enquires, "What is the nature of "this Government? It is emphatically Federal, vested with an ag-"gregate of specified powers for general purposes, conceded by "existing sovereignties, who have themselves retained what is "not so conceded. The power to charter companies is not spe-"cified in the grant, and, I contend, is of a nature not transferra-"ble by mere implication: it is one of the most exalted acts of "sovereignty."

Authorities upon this point might be greatly extended; but we deem it unnecessary, as the principle itself is not denied, and has only been dwelt upon so long, because, in the constantly accumulating claims of legislative power, the fundamental principles of our government are sedulously kept out of sige, wickedly perverted or ignorantly misapprehended.

The right to issue bonds on the faith of the people of Florida, in aid of corporations, obviously cannot exist without the right to create those corporations, and as obviously cannot be exercised but by the people themselves, unless they have delegated the right to others.

Our government would cease to be a republic, if power of any kind was assumed by the representatives of the people, which was not derived from the people themselves.

The committee deem the bonds issued for the purpose of raising money for the defence of the country, stand upon a footing wholly different. It may be justly regarded as a rightful subject of legislation, to devise means to protect our families and our firesides, and the people of Florida can never be such recreants to the principles of justice and of honor as to disavow such liabilities. The imperative necessity of the occasion places those obligations above the reach of the principles by which our ordinary legislation should be regulated.

It remains then only to be enquired, whether the Legislative Council of Florida, is invested, by direct or implied delegation, with the right to exercise, in behalf of the people of Florida, the exalted attributes of sovereignty necessary to the creation of banks or other corporations, and bonds and guaranties pledging the faith of the people of Florida.

The Legislative Council of Florida is the creature of the Congress of the United States, deriving alike its existence and its authority from that source, and ever subject to its controlling and revising power. The Congress is the creature of the people of the several States, composing the confederation of which it is the Legislative organ; and it derives all the authority it can exercise or depute to others, from the people of those States, the Constitution of the United States being the charter of this authority. From this statement of the case, the correctness and fairness of which will not be questioned, we find, on the very threshhold of our enquiry, a defect in the credentials which the Legislative Council claim to have for the exercise of the powers they have assumed. The people of Florida have no agency in the formation of the Constitution of the United States. The attributes of sovereignty, among which are ranked the power of creating corporations, and making the people responsible for their liabilities, so far from having been yielded by them, have been hitherto unsusceptible of concession.—That sovereignty resting in the people of Florida until they

become a State, has not been given to Congress; it is not in the Legislative Council, nor yet in the people of the confederated States: it is for the time dormant—in obeyance, and can only be brought into existence, and exercised by the people themselves. What American is there who will deny the doctrine that all sovereignty originates and rests in the people; and that it cannot be exercised by any other power but the people, or those to whom they have expressly delegated it.

Waving however, for the present, this claim to a separate sovereignty for the people of Florida, as distinguished from the people of the confederated States, we will recur to the task of tracing the authority assumed by the Legislative Council, through the channels along which it flows, commencing with the authority delegated by the people of the States to Congress over the Territory belonging to them.

The whole power of Congress in relation to the Territories, is contained in the second section of the fourth article of the Constitution of the United States—"The Congress shall have power to dispose of, and make all needful rules and regulations respecting the Territory and other property belonging to the United States." At the time of the adoption of the Constitution, the only Territory belonging to the U. States was that acquired by cession from different States of the confederacy.—This clause then does not in terms, and could not have been intended to apply to the cases of Louisiaaa and Florida, the acquisition of which was not then contemplated, yet as there are no other rules for the exercise of the authority found in the Constitution, it may be conceded, that the power of Congress with respect to the latter Territories, is properly exercised under the delegated authority referred to.

But the position that the authority to "make all nedful rules and regu ations respecting the Territory and other property belonging to the United States," gives to Congress sovereign and unlimited power over the persons and property of the people of this territory, cannot be yielded. While the committee concede that with regard to the mere police government of the Territory, Congress may 'make all needful rules and regulations,' they deny its power as extending bey ond that limit. It is supreme and controlling within that limit only. It can make no other rules or regulations, the operation of which will divest or impair the rights of property of the citizens of the Territory, or which encroach upon their "rights, privileges and immunities," secured not only to all the citizens of the United States by other provisions of the Constitution, but expressly guarantied to the inhabitants of Florida by the Treaty of Cession.

The cautious and restricted terms, "needful rules and regulations" used in the Constitution, show that it was not intended

to invest Congress with the attributes of absolute sovereignty over the Territories. Investing it with supremacy as to certain specified objects, does not include investiture of sovereignty with regard to other objects. The committee are aware that others contend for a different construction, and claim for Congress under the delegation to "make all needful rules and regulations" for the government of the Territories, the right to exercise exclusive, uncontrolable and illimitable sovereignty over the persons and property—over all the political and natural rights of the inhabitants. This assumption originated with those political constructionists who have sought an aggregation in the Federal Government, by taking the Constitution in a "large and liberal sense" of all political power; and has been recently seized upon by the advocates of a fanatical and dangerous heresy, aiming at the destruction of the rights of property in the south. It becomes the south to repel the establishment of such doctrines.

The committee will now advert to the terms of the delegation of this power by Congress to the Legislative Council of the Territory. If it shall appear on the one hand that such delegation was more extensive than the authority of Congress itself, it must be confined within the limit of the original authority; or if, on the other hand, more restricted, in the enquiry as to the power of the Legislative Council, it must be still further limited to such restriction. By the Organic Law the power of the Legislative Council is confined to "all rightful subjects of legislation." This right of legislation cannot be extended beyond the original power vested in Congress by the Constitution.—This your committee have contended, is limited, but even though Congress were invested with absolute sovereignty, as some contend, yet the delegation of power over "all rightful subjects of legislation" merely, to the Legislative Council, is restricted. But the committee regard the delegation of the authority to the Council, as a Legislative construction by Congress of the article in the constitution with respect to its own power over Territories, and that it is confined to subjects of more municipal legislation only. Now to derive the authority of the Legislative Council to incoporate banks, and to pledge the faith of the people, from the powers delegated to Congress in the Constitution, and by that body to the Legislative Council, must be to assume that those acts, so far from being the exercise of sovereign authority, are but ordinary acts of "rightful legislation." This must be necessarily assumed; but mark the inconsistency of the advocates of this power, when once the charter is given, it is thenceforth elevated above the dignity of an act of mere legislation—it is not merely a law, but a grant, a contract, beyond the reach of any future legislative action. The charters of the banks are either acts of ordinary legislation mere

"rules and regulations," or they are not; if they are not, then the Legislative Council has transcended its authority in creating them, and they are null and void; if they are mere rules and regulations, they cannot claim exemption from the control which the Legislative body must, from the very nature of its Constitution, retain over all laws. The privilege of annual or periodical elections, instead of preserving to the people, the power to repair the mischiefs of unwise legislation, and to rebuke the assumptions of their faithless servants, as it has been the pride of Americans to believe, would be but a solemn mockery, if a single legislature, during its ephemeral existence, had the power to impose upon the people liabilities extending through an indefinite period, and vitally affecting their most cherished interests.

It is not a little remarkable that the distinguished individual at the head of the school of latitudinarian constructionists, in his celebrated argument to prove that Congress possessed the power to create corporations, classed the Territorial Governments as being "*but mere corporations*," and boldly claimed that power as derived from the article of the Constitution already quoted, which has relation to the territory belonging to the U. States. A consideration of the mode of the creation of the Territorial Institutes, called governments—the clause in the Constitution investing Congress with the power to organize them, and the objects and character of those institutes, have satisfied the committee, that they are not intended to be any thing more than mere municipal corporations for the police government of the inhabitants of the Territories, till they assume the rank of independent States, and be admitted into the national confederacy.

But yet it is contended that inasmuch as Congress has allowed the people of the Territory of Florida, under certain restrictions and regulations, to designate the members of the Legislative Council, that the acts of the Council are to be considered as the acts of the people, and bind them in their sovereign character.

If it be true that the people in their sovereign character have thus delegated their sovereign powers to the Legislative Council, the committee would yield the question in dispute, but such, they contend, is not the case. The Council is, in truth, but the mere agent of Congress in making the needful rules&regulations authorized by the Constitution, the members of which the people are *permitted* to designate, they having had no agency in the establishment of the body, nor any power to say it shall not exist. On the original organization of the Territory, and for some years, this permissive favour was not extended to the people of Florida; but the *members* of the Council were appointed by the President of the United States with the advice and con-

sent of the Senate. Can it be truly said that because the people have exercised the boon of designating the agents of the General Government, when they could not reject or qualify it, they invest those agents with all the powers of sovereignty belonging to the people? We think not. If nine tenths of the people of Florida had refused to give even this colour of authority to the agents of the General Government, the other tenth under the act of Congress might have exercised this privilege of selecting those agents and giving them all the authority they now possess.

Besides, by the terms of the act of Congress, organizing the Territorial Government of Florida, the Governor of the Territory is made a component and indeed controlling part of the Legislative authority. The people of the Territory have no part or voice in his selection or appointment; he is the mere officer and agent of the Federal Government, appointed by the President and Senate of the United States, and has not inappropriately been termed "an overseer of a federal plantation." He is invested with the power of veto of all the enactments of the Legislative Council against any vote of less than two thirds of the members of both Houses. He is invested with the power of suspending the execution of the criminal laws—he is commander in chief of the militia of the Territory, and has the nomination of most of the civil Territorial officers. The chief military officers of our Territory are also appointed by the General Government, as are the Judges and Executive officers of our Courts of justice; the qualifications of the members of the Legislative Council as well as of the electors, the place and period of its sessions and the pay of its members, have been prescribed and regulated by Congress, and yet on the sole pretence that the people under this Government are permitted to designate a small portion of the agents thus exercising the powers of the Federal Government, it is contended that they are in the exercise and enjoyment of their rights of sovereignty. It must not be overlooked also, that it is within the conceded power of Congress to take away even this privilege and so to change the Territorial Government at its pleasure, as to prevent the people from being in anywise heard or felt, in the conduct of its affairs; and above all, Congress has reserved to itself unconditional and supreme control over the whole legislation of this body, asserted to be the representatives of the people and invested with the authority to exercise their sovereign powers.

Partially represented as they now are in the Legislative Council, their voice can be stifled and their actions paralyzed in a moment by the exercise of this reserved controlling power of Congress, and yet this power so restricted, so dependent on the will of another, has been claimed at this enlightened day and in this land of freedom, as sovereignty! and this claim must be

conceded before we can acknowledge the binding obligation of the faith bonds and guaranties upon those of the inhabitants of Florida who have not by the individual act of pledging their property to corporations in the manner prescribed by their charter, made themselves directly responsible. Upon the whole people, as a people or as a political government, they are not binding, because they have not been created by any authority competent to create such obligation.

Another view of this question, it appears to the committee, presents the same conclusion in an equally strong point of view. It can scarcely be pretended that the voters of this Territory at the elections of the members of the council, believed they were investing them with power to hypothecate their individual property, to create capital for banking corporations for the benefit of third persons, and in two instances, of those who are not wholly citizens of the Territory. Can it be supposed, that if those who have obtained the faith bonds and guaranties had applied to the individual citizens to sign and seal such mortgages, or pledge of their lands and other property for their benefit, they would have obtained the assent of a single individual amongst them? It will not be pretended.

But it has been urged that the neglect by Congress to exercise the right of supervision and repeal of the acts of the Legislative council, even if the alleged power of the council was insufficient, rendered those acts valid. This argument is based upon the hypothesis that the sovereignty of the people of Florida, before we assume the rank of a state, is deposited in Congress. The committee conceive they have before shown such hypothesis to be incorrect, and that the people of Florida never did and never could have placed their sovereign power in their keeping, and that it is not there deposited by any provisions of the constitution. The omission on the part of Congress to exercise their reserved right of repeal would at most but leave with the legislative council such authority as it is competent to Congress to bestow, and give to the rightful acts of the council force and effect, until they were determined by the direct negation of Congress; but the committee cannot forbear the remark that the reservation of the power of repeal by Congress of all the laws of the Territory, appears to them inconsistent with the intentional delegation by Congress of the power to create corporations and pledge the faith of the people by solemn contract, which if executed, in part or in whole, before the exercise of the power of repeal, might, according to the opinions of the advocates of the banks, restrict or even wholly destroy the reserved power of annulment. Congress, in its delegation of authority to the Legislative council, reserved the right of repeal and annulment in unqualified and unrestricted terms; and could not have contemplated that this right should be fettered and re-

strained by the Legislative council, in so framing their acts, as that the doctrine of the obligation of contracts should intervene. The committee therefore conclude that to establish the position that the character of these laws and the acts, under them, prevent the exercise of the power of annulment involves those who so contend, in the dilemma that the establishment of their position would incontestibly prove that the power to pass such laws and authorize such act was never delegated.

In connection with these remarks on the extent of the agency which the people of Florida have in the enactment of these laws, and on the power of repeal reserved by Congress, the committee deem it appropriate to advert to a fact which forcibly illustrates many of the positions they have taken.

The law incorporating the Union Bank, when it first passed the Legislative council in 1833, contained the prudent provision '*that it should not go in force until approved by Congress*'—indicating the opinions of the then members of the council that the express sanction of Congress was necessary to give validity to the extraordinary provisions of the charter. The bill was returned without the approval of the Governor of the Territory, an officer in whose appointment the people had no voice, because it contained such a provision! The following extracts from his message present, it is conceived, the considerations which induced that course:

"A sense of duty demands that the bill should be returned to your body, with my objections to one of its provisions, which seems calculated to *defeat the objects of the bill* and the intentions of the Legislative council."

"Believing that the objects proposed in the establishment of the Union Bank of Florida, are of the greatest importance to the general welfare of the good people of the Territory, and especially to the planting portion of our citizens; and that if once in successful operation, all other banking institutions among us will yield to it. I trust that the Legislature will not retain the 35th section of the bill. *If it does not destroy it*, it must inevitably postpone the advantages so obvious and desirable, to an indefinite period."

On the return of the bill to the council, it was reconsidered; the clause referred to was discarded by a majority of *one*; the bill passed by a majority of *two*, and then being unencumbered with the obnoxious clause, was approved by the Governor.

The committee cannot yield to the force or propriety of the reasons urged in the Executive message, for striking out this provision; but on the contrary they regard the object of evading the right of supervision and annulment in Congress, by enabling the corporation to go into existence and form contracts which were supposed to be thus placed beyond the exercise of that power, as an unauthorized invasion of the powers of Con-

gress, and a violation of the right of the people of Florida to the guardian protection of the superior wisdom of that body. The National Government, too, is the owner of more than nineteen-twentieths of the land thus pledged to secure the debts of this institution; and its interests being consequently deeply involved, it had an unquestionable right to have been consulted.

But it has been urged by some, who cannot repel the force of the considerations which the committee have presented, that the question of the validity of these faith bonds and guaranties should remain untouched, till the obligations of the banks with respect to them are violated, and the government or people of Florida are called upon for payment. Great apparent alarm is expressed, lest the reputation and credit of the people of Florida should be impaired, their interests jeopardized, and their honor tarnished by a different course. Some have been impelled so far by their zeal and anxiety on this account, as to declare any attempt to establish their invalidity, *infamous*. The committee have not been deterred from what they conceive to be the performance of a solemn duty to the people of Florida, and to those who may have become the holders of these bonds and guaranties, and to the Government of the United States, by such denunciation. On the contrary, they hold that the same dictates of honorable feeling and true honesty, which would induce an individual in society to withhold his name and credit from the perpetration of an imposition, should constrain the people of Florida to announce to the world their true relation and position in regard to this subject, at the earliest period. At all hazards and at all sacrifices, they should not quietly lie by and tacitly permit obligations purporting to pledge their credit, to be sold or pawned in the public markets, and not avow their rights and intentions. No! if infamy there be, it will rest upon those who, fearful of the decision of the people upon this point, are sedulous to conceal from the purchasers of these bonds the doubts which rest upon the imputed liabilities of the people. It might even be contended with great force that continued silence would impose a moral obligation upon the people of Florida to redeem such contested responsibilities, even though they might be originally invalid. Further silence and delay may increase the evil, already grown to an alarming extent, till it becomes irreparable. It is believed that more than a million of the bonds already issued are yet unsold; and as before stated, above five and a half millions claimed by the banks, have not yet received the signature and the seal of the officers of the Territorial Government. Timely warning may afford to all parties opportunity to take such measures as will secure their respective rights and interests, which might otherwise become still further jeopardized.

It is contended by some, that Congress, having neglected its duty as guardian of the people of Florida in supervising the acts of the council, and having suffered the interests of third persons —foreigners, said to be unacquainted with our peculiar constitutions—to become involved, are justly responsible for such neglect, and bound to indemnify all who may suffer thereby.—Whether these premises and this conclusion are sound, and whether that body will accede to the force and justice of this argument, it is not necessary for the Legislative Council to express an opinion; but the committee will observe, that inasmuch as the purchasers of these bonds and guaranties were bound to look to the competency and authority of those who professed to be clothed with the power to create them, if they have been misled by the dicta and representations of those to whom they preferred to resort, rather than to the constitutional principles of our government, the fault is their own. The people of Florida are not bound by the acts of any who may profess to be their agents, who are not in fact legally constituted as such. Assumption of their name and authority without their consent, creates no obligation upon them, either legal or moral; and it is only by their silence, by their acquiescence in such usurped authority, so earnestly pressed upon them as dictated by expedience and policy, and by a morbid and mistaken notion of honor that such obligation can be incurred. This false honor may be purchased at the price of real degradation; and your committee do not think the legislature would be justified in withholding the expression of their opinion, when silence may involve our constituents and their posterity in irredeemable dishonor and ruin.

In entertaining and avowing these opinions, to prevent misapprehension of the effects of their approval and establishment, either by the legislation of Congress or that of the future State of Florida, we would observe, that if carried out by the most rigorous legislative action, they do not destroy or weaken the security of those who hold the bonds and guaranties created by the hypothecations or mortgages given in conformity to the acts incorporating the banks whose capital has been raised on the credit of the Territory. Nor will the legally vested rights of the creditors, other than the holders of the bonds and guaranties, or the responsibilities of the debtors of those institutions, be in anywise disturbed, or the "obligation of contracts" in regard to them impaired. Pretensions claimed as rights, illegally usurped, and which never have been vested, may be repudiated; and alleged contracts which create no obligation either legal or moral, may be placed upon their proper and true basis, without the commission of fraud or injustice.

The position has been assumed by the counsel whose opinions were sought by the Union Bank, that the State of Florida, when organized, will be responsible for those bonds and guaranties;

and though this question is not directly embraced in the reference to the committee, yet, as it is an important and interesting topic to the public, and is in some degree connected with the subjects expressly referred to them, they will bestow a few remarks upon its consideration.

It is apparent that the position is based entirely upon the assumption which we have already contested, that the Territorial corporation is a Government of the people of Florida. The exercise by this corporation of the prerogatives of the people of Florida—the infringement by it of the rights of the people of Florida—the attempt by it to act for and in the name of the people of Florida, are USURPATIONS; and according to the acknowledged principles of national law, they can be of no binding obligation.

The convention which formed the constitution for the State of Florida, lately adopted by the people, after full discussion solemnly decided this question. They possessed full and incontestible power to make such decision, and it is binding and valid. No action, either of this council, or any future legislature of Florida, or of Congress, can revoke or alter it. It was the sovereign will of the people, and to its mandate all must bow. A future convention, with the same sovereign authority, is alone competent to change it. The constitution formed at St. Joseph contains the following provisions:

"The general assembly shall, at its first session, have power to regulate, restrain, and control, all associations claiming to exercise corporate privileges in the State, so as to guard, protect and secure the interests of the people of the State—not violating vested rights, or impairing the obligation of contracts."—[*Article on Banks.*

"In order that no inconvenience may arise from the organization and establishment of the State Government, it is declared:

"That all laws and parts of laws, now in force, or which may be hereafter passed by the Governor and Legislative council of the Territory of Florida, not repugnant to the provisions of this constitution, shall continue in force, until by operation of their provisions or limitations, the same shall cease to be in force, or, until the General Assembly of this State shall alter or repeal the same; and all writs, actions, prosecutions, judgments, and contracts, shall be, and continue, unimpaired, and all process which has heretofore issued, or which may be issued, prior to the last day of the first session of the General Assembly of this State, shall be as valid as if issued in the name of the State; and nothing in this constitution shall impair the obligation of contracts, or violate vested rights, either of individuals, or of associations, claiming to exercise corporate privileges in this State,"—*Schedule.*

It also contains other general provisions in relation to banking

and other corporations, restricting the power of the legislature of the State on those subjects, and prescribing provisions to be inserted in bank charters, which are entirely inconsistent and irredeemable with provisions to be found in the acts incorporating the banks now existing in the Territory. The power delegated to the first legislature of the State, under the provisions above cited, is plenary, to require of those incorporations a conformity to all the constitutional requisitions in regard to banks, to be created by the State legislature, under penalty of a total divesture of the right to exercise corporate privileges and franchises. It may be sought to restrict or evade that power, but the general terms employed can leave no doubt on the subject. The qualification of not violating vested rights or impairing the obligation of contracts, can have no application to these institutions, unless the power of the Legislative Council to create them, and bind the people for their liabilities, was conceded; further than to restrict the legislature from disturbing the claims of the creditors and the liabilities of the debtors of the banks.

The convention also adopted resolutions, which were transmitted to Congress and laid before it at its last session, calling its attention to its duties and responsibilities growing out of the existence of these corporations, and the extraordinary privileges they claim the right to exercise.

That Congress will adopt such measures as will tend to the protection of the just rights and interests of all parties, your committee do not doubt. While the Territorial Government exists, Congress is the proper tribunal of appeal, the members of which are more disinterested and impartial than our local legislatures are likely to be. Even if our State Government was organized, affected as our State Legislatures might be by the influence of interests hostile to those of the people, a settlement by Congress of the important questions would be more desirable and satisfactory, and probably more consonant to justice. It is not to be doubted that the action of Congress, already commenced, will be full and complete; and save any necessity for action, either by the Legislative Council or by the General Assembly of the State of Florida.

It is not for your committee to suggest what that action should be, or to conjecture what it may be; but full confidence is entertained that it will be such as will secure the true honor of our people, and protect the just rights of all parties. In glancing then briefly at the situation of the holders of the bonds and guaranties, and at the mode by which their interests may be protected, the committee hope they will not be understood as thereby dictating to Congress; but only as being desirous to allay the anxieties of the people of Florida on this point, who, as becomes a free people, are solicitous that not a shadow of suspicion may cloud their integrity, or dim the splendor of the ris-

ing star about to take its place in the constellation of the Union.

In the two largest banking institutions, the stock is secured by the mortgage of the property of the stockholders, alleged to be ample security; while the Territory, in consideration of her character as guarantor, has retained the right of appointing a portion of the directors, and is entitled to a share of the surplus profits. Let this right and this interest, be abandoned to the bond-holders as an additional security to that arising from the mortgage of the property of the stockholders, and there cannot be a doubt that their interests will be better guarded than at present, with the shadowy interposition of the unauthorized Territorial guaranty. The bond-holders having a direct interest in the proper conduct of the banks while they remain in existence; their voice being heard in the management of them through the directors now allowed to the Territory, and themselves aroused from the delusive security in which they are reposing on the imaginary pledge of the people of Florida, their ultimate interests must be subserved by the proposed relinquishment. But let the people of Florida postpone the disavowal and repudiation of this pledge; let those distant bond-holders sleep under the false delusion of the liability of the people: let these securities, now said to be ample, remain under the undisturbed and exclusive control of the party whose interests it is to impair and destroy them, and who can doubt (without the imputation of fraud on the present stockholders) that in the long lapse of thirty years, either mismanagement, misfortune, vicissitude or fraud will greatly weaken, if not totally destroy them, leaving to the bond-holders no other security than illegal obligations and endorsements, and to the people of Florida the regret that their name was prostituted to purposes so unworthy!

The committee deem it an act of justice to present the opinions of those who entertain the converse of the propositions they have maintained; and have annexed to this report the opinions of the several legal gentlemen who were counsel to the Union Bank in the negotiation of their bonds.

WALKER ANDERSON, Ch'm.

The committee, in conclusion, recommend the adoption of the following resolutions:

1. *Resolved*, That the power of the Governor and Legislative Council of the Territory of Florida, delegated by Congress over "all rightful subjects of legislation," under that clause in the constitution which invests Congress with authority "to make all needful rules and regulations respecting the territory and other property belonging to the United States," does not extend to the creation of banks with exclusive privileges and franchises, nor to the issuing of bonds and guaranties, in aid of such institutions, pledging the faith and credit of the people of Florida:

2. *Resolved*, That such pledge of the faith and credit of the people of Florida is null and void.

And whereas, it is the deliberate opinion of this Senate, (being also a co-ordinate branch of the Legislative Council, and alike the representative of the wishes and opinions of the people of Florida) that the doctrines and views contained in the said report and resolutions, are wholly at variance with the doctrines and views, entertained by the people of Florida: Now therefore,

Be it Known, That this Senate, do, in the name of the people of Florida, *Solemnly Protest*, against the doctrines and views, set forth, in the aforesaid report and resolutions, as disorganizing in their character—subversive of the settled order of society—dangerous in their tendencies, and calculated, in the eye of the civilized world, to destroy all confidence in the honor, integrity and good faith of the people of Florida.

On the question of adopting said Preamble and Protest and spreading them on the Journals of the Senate, the yeas and nays were called by Messrs. Berthelot and Dupont, and were:

Yeas—Mr. President, Messrs. Bailey, Duval, Dupont and Mills, 5.

Nays—Messrs. Berthelot, Hart and Walker, 3.

Ordered, that the Secretary of the Senate cause the foregoing Preamble and Protest to be entered in full upon the journal of the Senate, and that he be directed forthwith to prepare and certify four copies of the said preamble and protest, together with the vote thereon, and to transmit without delay, to each of the following persons, one of the said certified copies, to wit: the President of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, and the Delegate in Congress from Florida.

Ordered further, that five hundred copies of the same, be printed under the supervision of the Secretary of the Senate.

Mr. Dupont asked and obtained leave to lay before the House the following preamble and declaration:

Whereas this Senate did, on the 23d day of January, A. D. 1840, in accordance with the suggestions contained in the annual message of the Executive, and moreover in obedience to the known wishes of the people of Florida, *unanimously* adopt the following joint resolutions, to wit:

RESOLUTIONS.

Resolved, by the Legislative Council of the Territory of Florida, That a joint committee of the Senate and House of Representatives be appointed in such manner as the respective houses may deem proper, which said committee shall consist of three members from each house to examine and inspect the books of the Union Bank of Florida, containing the rules, regulations,

ordinances and proceedings of said bank, and all the books containing the general accounts of said bank, so as to ascertain the names of the stockholders, the number of shares owned by each, and the amount lent to each on pledge of stock, the names of the Directors, and the amount due by each on pledge of stock, on mortgage of land and slaves, and on other securities—the amount of Territorial bonds actually sold, how sold, and for what funds—the total amount of bills and notes lying over and under protest—the total amount of bills in suit—what amount has the bank in its vaults, and what steps have been taken towards a resumption of specie payments at an early day, the amount of cash on hand, the amount of notes in circulation, the balance due to and from other banks, the amount of deposites, the amount of bills, notes, or bonds discounted, and all other affairs of said bank, so as to know its true situation, and be enabled to make a true report thereof to the Legislative Council, as far as may be, without examining the individual accounts of the customers of the said bank, and also that said committee have leave to employ one or two competent clerks, and that said committee be empowered to send for persons and papers, and to administer an oath to all persons whom they may see fit to examine in relation to the affairs of said bank.

Resolved, That the Governor of the Territory be, and he is hereby requested to appoint a commissioner, not a member of either House, to proceed to Pensacola, to examine fully into the management of the Bank of Pensacola, and to make report thereof, to the Governor, for the information of the Legislative Council.

Resolved, That a joint committee of one from the Senate and one from the House of Representatives, be appointed in such manner as the respective houses may deem proper, to proceed without delay to St. Augustine, there to inspect the books and minutes of proceedings of the board of Trustees of the Southern Life Insurance and Trust Company—to ascertain the amount of deposits therein—an exact list of balances due to and from said body politic and corporate, and all other affairs effecting the credit and solvency of the said body politic and corporate—and that said committee be instructed to make report as speedily as possible.

Resolved, That the Commissioner appointed by the Governor to examine into the affairs of the Bank of Pensacola, be allowed such compensation as may be deemed reasonable by the Governor, not exceeding 200 dollars—and that the members of the joint committee, appointed to examine into the affairs of the Southern Life Insurance and Trust Company, be allowed the same compensation which is allowed by act of Congress to members of the Legislative Council, for travelling to and from St. Augustine, to be paid out of the Territorial Treasury.

Said joint resolutions were, on the 24th day of the same month, transmitted by the Secretary to the House of Representatives of the Legislative Council of Florida, for their action thereon: and whereas this Senate have not, up to the present day, (being the last day of its present session) received from the said House of Representatives any response upon the subject of the said joint resolutions, therefore,

Be it known to the people of Florida, That this Senate holds itself absolved from any reproach which attaches to the Legislative Council for failing to cause to be made a free, full, thorough and impartial investigation into the state and condition of *all* the banking institutions of the Territory, and thereby setting at defiance the will of the people.

On the question of adopting said Preamble and declaration and spreading them on the Journals of the Senate, the yeas and nays were called for and appeared as follows:

Yeas—Mr. President, Messrs Bailey, Duval, Dupont and Mills, 5.

Nays—Messrs. Berthelot, Hart and Walker, 3.

Ordered that the Secretary of the Senate, cause the foregoing Preamble and Declaration to be entered in full upon the Journal of the Senate.

Ordered further, that five hundred copies of the said preamble and protest be printed under the supervision of the Secretary of the Senate.

His Excellency the Governor, transmitted to the Senate the following message.

EXECUTIVE DEPARTMENT,
Tallahassee, March 2, 1840.

To the Honorable the Senate
of the Legislative Council of Florida.

I return the bill, entitled an act, to enlarge the Jurisdiction of the county Court of Hillsborough county, with the following objections:

1st. The bill gives civil and criminal jurisdiction to the county Court of Hillsborough, which the Legislative Council have not the power to confer, to the extent contemplated. The court is to possess the same civil and criminal jurisdiction which the Superior Courts of the Territory never exercise. The act of Congress of 15th May, 1826, gives to the Superior Courts *exclusive* cognizance of all civil causes of admiralty and maritime jurisdiction, including all seizures under the laws of import, navigation or trade of the United States, whether made on land or water; also suits for penalties or forfeitures incurred under the laws of the United States, and also of all crimes and offences which are cognizable under the authority of the United States, committed within the Districts of Florida, or upon the High Seas. It is obvious that the words of the bill being gen-

eral, include the jurisdiction of these cases, which, already exclusively imparted to the Superior Courts, may not be bestowed elsewhere, by the Legislative Council, without a violation of the organic law.

2nd. Were the jurisdiction properly conferred, no provision is made for summoning Grand Juries, and for prefering and prosecuting Indictments. The District Attorney is not bound to attend the county Courts of Hillsborough—he is the only prosecuting officer known to the law, and without his aid and presence, even should provision be made for summoning Grand Juries, the bill if passed into a law would be inoperative.

There are other objections which occurred to me, but for want of time are not stated.

Regretting the condition to which the county of Hillsborough is made subject, as described in the Preamble, I am nevertheless constrained, for the reasons given, to disapprove of this bill.

An act, concerning Jurors in the Southern District, is approved; as also,

An act to amend an act entitled an act, relating to crimes and misdemeanors, committed by slaves, free negroes and mulattoes.

ROBERT RAYMOND REID.

Mr. Berthelot, from the committee on enrolled bills, reported as correctly enrolled, an act to incorporate the Apalachicola Mutual Insurance Company.

The Senate received from the House as adopted, certain resolutions requesting the Governor to prepare and present to the officers and privates of the defenders of the Outhlacoochee Block House, also, to the officers and privates by whom they were rescued, a suitable medal, commemorative of their services, which was read, the rule waived, and unanimously adopted.

Mr. Duval offered the following resolution:

Resolved, that the thanks of the Senate be tendered through the Secretary to the Hon. John Warren, for the dignified, able and impartial manner in which he presided over the Senate up to the period of his resignation.

Which was read, the rule waived, and unanimously adopted.

His Excellency the Governor thransmitted to the Senate the following Message:

EXECUTIVE DEPARTMENT,
Tallahassee, March 2, 1840.

To the Honorable the Senate of the Legislative Council of Florida:

I respectfully inform you that I have approved the following acts of the Legislative Council:

A resolution relative to the prosecution of the war in Florida.
A resolution relative to the late Col. Levin Brown.
An act to fix the County Site of Washington county.

ROBERT RAYMOND REID.

Also, the following.

EXECUTIVE DEPARTMENT,
Tallahassee, March 2, 1840.

To the Honorable the Senate of the Legislative Council of Florida.

I respectfully inform you that I have approved the following acts of the Legislative Council:

An act to repeal the several acts incorporating the town of Jacksonville.

An act to amend an act entitled an act to provide for building a Capitol, and for other purposes.

A resolution relative to the transfer of claims to the Quarter Master General.

A resolution relative to the petition of R. A. Shine.

An act to suspend the operation of the Revenue Laws for the year 1840, and for other purposes, and to provide for the settlement of all arrears due to and from the Territorial Treasury.

ROBERT RAYMOND REID.

The House sent back to the Senate an act to provide for the compensation of the officers of the Legislative Council and for other purposes, with their refusal to concur in the amendments of the Senate thereto.

On motion of *Mr.* Berthelot, the Senate appointed the following committee, to meet a similar committee of conference of the House, to take into consideration said bill, consisting of Messrs. Berthelot and Duval.

Mr. Berthelot, from the committee of conference on the part of the Senate, to whom was referred an act to provide for the compensation of the officers of the Legislative Council and for other purposes, reported the same as amended, which amendment was concurred in.

The bill was again read and passed, ordered that the title be as above.

Mr. Berthelot, from the committee on enrolled bills, reported as correctly enrolled, an act to incorporate the city of Tallahassee.

His Excellency the Governor transmitted to the Senate the following message:

EXECUTIVE DEPARTMENT,
Tallahassee, March 3, 1840.

To the Honorable the Senate of the Legislative Council of Florida.

I respectfully inform you that I have approved the following acts of the Legislative Council.

An act to repeal the second section of an act approved Feb. 10, 1838, supplemental to several acts incorporating the Bank of Pensacola, and to review the 8th section of an act to increase the capital of the Bank of Pensacola, and to amend the laws incorporating said bank, and for other purposes, approved 4th February, 1835.

An act to incorporate the Apalachicola Mutual Insurance Company.

ROBERT RAYMOND REID.

Also the following.

EXECUTIVE DEPARTMENT,
Tallahassee, March 2, 1840.

To the Honorable the Senate of the Legislative Council of Florida.

I respectfully inform you that I have approved the resolution relative to the Block House on the Withlacoochee; and

Also, the act to incorporate the city of Tallahassee.

ROBERT RAYMOND REID.

On motion, the Senate appointed Messrs. Hart and Mills, a committee to wait on the Governor and inform him that the Senate is now ready to receive any communication he may be pleased to make previous to adjournment *sine die.*

Mr. Mills offered the following resolution:

Resolved, That the thanks of this Senate be tendered to the Hon. Geo. S. Hawkins. for the dignified and impartial manner in which he has discharged the duties of President of the Senate since the resignation of the Hon. John Warren, which was read, the rule waived, and unanimously adopted

The Senate received from the House as passed, a resolution for the compensation of the Private Secretary of the Governor, which was read, the rule waived, and adopted.

His Excellency the Governor transmitted to the Senate the following message:

EXECUTIVE DEPARTMENT,
Tallahassee, March 2, 1840.

To the Honorable, the Senate of the Legislative Council of Florida.

I respectfully inform you that I have approved the resolution relative to the payment of R. H. Berry, for arms &c. and

Also, a resolution relative to the collection of arms, accoutrements, &c.

I approve of the act to provide for the compensation of the Legislative Council, and for other purposes, with the protestation, that until advised of the decision of the Secretary of the Treasury, upon the question of double pay *per diem*, to the President of the Senate and Speaker of the House of Representatives, which question I have already submitted to him—

the pay of the said officers shall be the same as of other members of the Legislative Council.

I have also approved of the resolution making certain appropriations.

ROBERT RAYMOND REID.

The Senate then adjourned *sine die*.