

THURSDAY, January 7, 1841.

The Senate met pursuant to adjournment, and there being no quorum present, adjourned until to-morrow 12 o'clock.

FRIDAY, January 8, 1841.

The Senate met pursuant to adjournment, and there being a quorum present, the following members answered to their names and were qualified, by the Hon. William Marvin, viz :

Messrs. Brockenbrough,
 Duval,
 Dupont,
 English,
 Edwards,
 Livingston,
 McLean.
 Walker.

On motion, the Senate went into an election for President, when Wm. P. Duval was unanimously chosen.

Messrs. English and Brockenbrough were appointed to conduct the President elect to the chair.

The Senate then proceeded to elect its officers, when Jas. S. Robinson was elected Secretary, Alfred A. Fisher Sergeant-at-Arms, Jas. Barry Door Keeper, and Daniel G. Gunn, David Bathwile, and John Poindexter Enrolling and Edgrossing Clerks, who were severally sworn.

On motion of Mr. Dupont, a message was sent to the House of Representatives, informing that body that the Senate is now organized and ready to proceed to business.

On motion, the Senate adopted the Rules of the last session until otherwise ordered.

On motion, the Senate then adjourned until Monday 12 o'clock.

MONDAY, January 11th, 1841.

The Senate met pursuant to adjournment.

Mr. Cooper, from the Eastern District, appeared, was sworn, and took his seat.

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

The House of Representatives has been duly organised, by the appointment of P. W. Gautier, Jr. as Speaker, Jas. H. Gibson, Clerk, G. W. Parker, Assistant, H. T. Copeland, Sergeant-at-Arms, and M^r Ledwith, Door Keeper.

By order of the Speaker.

P. W. GAUTIER, Jr.
Speaker House Representatives.

JAS. H. GIBSON, Clerk.

Mr. Livingston offered the following resolution, which was adopted, viz:

Resolved, That a committee of two be appointed on the part of the Senate, to meet such committee as may be appointed by the House of Representatives, to wait on his Excellency the Governor, and inform him that the two houses of the Legislative Council are now organised and are ready to receive any communication he may desire to make. Messrs. Cooper and Livingston were appointed said committee.

The President appointed the following standing committees:

<i>Judiciary.</i>	<i>State of the Territory.</i>
Messrs. Brockenbrough, Walker, Dupont.	Messrs. Dupont, M'Lean, Edwards.
<i>Of Claims and Elections.</i>	<i>Finance and Banks.</i>
Messrs. Walker, Cooper, English.	Messrs. Brockenbrough, Livingston, M'Lean.
<i>Schools and Colleges.</i>	<i>On the Militia.</i>
Messrs. Livingston, Cooper, Dupont.	Messrs. Sanchez, Edwards, Pelot.
<i>On Enrolled Bills.</i>	
Messrs. Edwards, Pelot, Dupont.	

Mr. Dupont made the following motion, which was adopted, viz:—That the Secretary be authorised to have executed such miscellaneous printing as may be necessary, until a printer to the Senate shall have been elected.

Mr. Livingston moved that the Secretary of the Senate be authorised to subscribe for (10) ten copies each of the newspapers published in Tallahassee, to be furnished each member of the Senate, during the Session, which was adopted.

The Senate received from the House of Representatives the following message, viz :

HOUSE OF REPRESENTATIVES, }
January 11, 1841. }

Mr. President,

We propose to raise a joint select committee of three, on the part of each house, to draft Rules for the government of the two houses during the present session. By order

PETER W. GAUTIER, Jr.
Speaker House of Representatives.

JAS H. GIBSON, Clerk.

Which was concurred in.

Messrs. Brockenbrough, Dupont, and Walker were appointed said committee on the part of the Senate.

Mr. Dupont offered the following resolution: which was adopted, viz :

Be it Resolved by the Senate and House of Representatives, (if the House shall concur,) That the joint rules of the last Legislative Council, be adopted as the joint rules for the government of the present Legislative Council, until the same shall be altered by the joint action of both houses.

The Senate received from the House of Representatives the following message, viz :

We agree to your message informing us of your appointment of a committee of two on the part of the Senate in concurrence with a joint committee of this house to wait upon the Governor for any communication he may have to make. I have appointed as a committee on the part of the house, Messrs. Nunis and Bush. By order

PETER W. GAUTIER, Jr.
Speaker House of Representatives.

JAS. H. GIBSON, Clerk.

Also the following :

The House of Representatives agree to adopt the resolution of the Senate adopting the joint rules of the last session, until altered by the joint action of both houses. By order

PETER W. GAUTIER, Jr.
Speaker House of Representatives.

JAS. H. GIBSON, Clerk.

Mr. Livingston, from the joint committee of the Legislative Council, appointed by the Senate to wait on his Excellency the Governor, reported that the committee had performed the duty assigned them, and that his Excellency would forthwith send in his communication.

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

Fellow Citizens of the Legislative Council of Florida:

I congratulate you upon your occupation of the new Capitol. The Chambers appropriated for your use are unfinished—but when the progress made in the work, at the conclusion of the last session is remembered, and also the difficulty of procuring workmen during a very sickly season, it is even surprising, that the building should have advanced to its present condition. When the Legislature shall again convene in annual session, there is every reason to expect, that both the capitol and the public square, will exhibit a spectacle, very different from the incompleteness and disorder, by which they are now characterized.

The Indian war still continues—and it is a very unpleasant duty to add, there is no immediate prospect of its close. Rumors have, it is true, reached this city, of the surrender of a number of warriors and their families, at Tampa and other posts, to the General commanding the army of the U.S. in Florida, and hope gladly seizes upon the report, and looks anxiously for peace; but a massacre at the South, in which an amiable lady, the wife of Lieut. Montgomery, of the U.S. army, is said to have been killed, affords other and gloomy forebodings. The *Indian* is like the *Carthaginian* faith of old; and experience teaches us, when their promises are most fair, the Seminoles are most faithless. Still, negotiation should be resorted to, whenever practicable, as one of the probable modes of leading to a termination of hostilities; provided, it be not accompanied by a cessation of arms. My solemn conviction remains unchanged, that it is only by incessant and hot pursuit, that such a state of suspense, disquietude, and alarm, will be produced, as to bring the Indians to unconditional submission. The late exploit of the gallant Colonel Harney, is well calculated to intimidate, and incline them to abandon their barbarous resistance.

It is said to be the expectation of those of the enemy, who have lately held intercourse with our officers, that the General Government will allow them to occupy a portion of Territory far down in the Peninsula. It is hoped, no ground has been afforded for such a belief. The dark drama of perfidy and slaughter, presented, after a recent treaty, upon the Carloosahatchie, would most probably be repeated; but if the Indians remained quiet, our people would not be content. There is blood upon too many hearthstones—too many comfortable homes have been made desolate—the citizens of Florida cannot forget, if they would; and remembering, they will never tolerate the neighborhood of such fiends. Besides, a treaty upon such a basis, would be a mere truce. After the compacts they have made and violated, the Indians have no claim to favor or consideration from the United States Government, which is bound not only to chastise their misdeeds, but its honor is concerned in their speedy and entire removal to the West. Shall it

appear hereafter in our annals, that this great nation was foiled and forced from its purposes, by a few savages, who, after spreading terror through an extensive province, for several years, dictated their own terms, and constrained us to a humiliating acquiescence in them? The pride and dignity of the country would turn with disgust from such a record!

Upon coming into office I was struck with the defenceless situation of the country and the growing audacity of the enemy; and very soon perceived, the interposition of the Territorial authority was necessary for the protection of the settlements, along a line extending from St. Andrews Bay to St. Augustine. The means within my control were very limited—but the determination was formed to exert them to the utmost. Relying upon the Justice of the General Government to sustain what should be done to prevent the incursions of the enemy, and the horrors that ever accompany them—the Executive proceeded, under several Acts of the Legislative Council, to borrow money and raise such a force as was required, by the object in view. There was no difficulty in obtaining the service of volunteers—a patriotic and valorous spirit urged more men into the field, than could be accepted, and instead of Six hundred men to which the force on this side the Suwannee amounted, as many thousand might have been easily obtained. The volunteers brought into service and officered under existing Territorial Laws, were tendered to the U. States General then in command, under the hope they would be received by him, and the Territory released from the trouble and expence of retaining such a force. The General declined, however, to accept them, and it then became a question of deep solicitude with me—whether they should not be immediately discharged, and a sole reliance placed upon the military operations of the United States? Advice and counsel were resorted to, from those who better understood the geography of the country and were better acquainted with the exposed situation of the settlements than myself, and the conviction was forced upon me, that if the militia were discharged, the country would be at the mercy of the enemy. The war of posts then carrying on, had produced no good result, and it was obvious, under that system, more men were required to keep the Indians in check, than the Army of the United States and the Militia of the Territory could furnish. The six hundred men were retained therefore, on this side of the Suwannee—and though the Indians made their appearance sometimes on the frontier, and lives and property were lost, yet it is confidently believed there has been less of murder and devastation for the last 12 months, than has occurred during any one year, since the commencement of the war. This assertion is not made in an arrogant and self-sufficient spirit; the credit is due to Col. Bailey who commanded the forces; to Colonel Blackburn—the brave officers and men who served under them—and to the indefatigable and energetic Colonel Collins, who occupied the head of the Quartermasters Department. For nearly eight months, these Troops

were employed in guarding the persons and property of our citizens, or in pursuing the enemy, and the hardships they endured without murmuring, the Indians captured and slain, and the camps broken up and destroyed, stamp upon them a character for fidelity, valor and subordination, such as any volunteers, in any country, might be proud to bear. It soon became obvious that the Eastern District needed a protection, which owing to the expiration of enlistments and of the term of service of a Regiment of Volunteers, could not be afforded by the Regular Army. The Commanding General called upon the Executive for five companies of footmen—orders were issued to the proper officers to cause them to be levied—but it was impracticable; they could not be obtained by voluntary enlistment, and a draft would have been followed by inextricable embarrassments. Four companies of Horsemen were therefore ordered into the Territorial Service; two of them West of the St. Johns, and two East of that River. There was some difficulty in keeping up this force, from the want of funds—for the Loans to the Territory had, with the exception of a single draft upon the North, been in Union money, which is almost valueless in East Florida. These measures it affords me pleasure to say, have been approved by the Secretary at War, who at first ordered a Regiment of Volunteers into the Service of the United States, and subsequently a Brigade, receiving the Territorial Troops as a portion of the same, and giving me assurances, that these should receive pay from the time of entering the Territorial Service, and that the just claims of our citizens for forage and subsistence, would be allowed by the Department. At this moment, these pledges are in the course of fulfilment; Officers of the Army are in Middle and East Florida collecting the claims and putting them in a train for payment, and it is not considered questionable, that our troops will be paid for their services, and the debt contracted to support the war by the Executive, discharged, both principal and interest. It was with reluctance, a resort was had to the mode of raising money by Bonds, but there was no alternative—the statute prescribed the security to be given, and a stern necessity required the money. There is a wide difference between Bonds for the defence of the People, and Bonds in aid of Moneyed Corporations. I thought then, as I think now—the country must be defended, and forms and even Doctrines are but a “feather in the scale,” when weighed against imminent danger to the lives and property of our citizens. It is a source of gratification to know, that up to the moment when the Territorial Troops were transferred to the United States Service, every thing had been done, that could be done by the Executive, to defend and protect the people of Florida. And every thing is now doing—the Brigade under Brigadier-General Read, will it is supposed, soon be in a state of perfect organization, and the Army under General Armitstead, is reported to be engaged in an active warfare against the enemy. The scheme of posts is understood to be abandoned, except as Depots

and places of refuge for the sick and wounded, and *defensive* and *offensive* operations, are in a great degree wisely separated, and placed in different hands. It seems to me, however—that these services should be *altogether distinct*—to the militia of the country, its defence should be entrusted—while to a strong army, composed of Regulars and Volunteers, should be given in charge, the pursuit, capture and destruction of the Indians. Under the present plan, the service, so far as the volunteers are concerned, might be rendered more efficient, by providing it with a *Commissariat* and *Surgical Department* of its own; by extending the term of Service to 12 months or during the war, and by the multiplication of mustering officers, to be posted at convenient positions. The term of enlistment being only three months, a Regiment, or Brigade is scarcely in service, before it is discharged, and vexations and delays occur in mustering in, and out of service. Indeed, considering the nature of the struggle in which we are involved;—(one much more arduous, though the numbers we have to contend with are comparatively few, than if we were warring against hosts of civilized men;) the Federal Government would more certainly command success, by increasing the pay of the Army of Florida and by offering a bounty in Lands to both officers and men, at the conclusion of the war. It also appears to me, that some plan should be formed for the settlement of the country;—lands might be given to those who will occupy them, and associations for this purpose, furnished with arms and rations by the Government until their labors can obtain from the soil, a sufficient support, to enable them to dispense with the last. Money should not be an object, in comparison with the absolute necessity of subduing and removing the savages,—to effect which, the United States are bound by every obligation which their own Honor, and Justice to this unfortunate Territory, can impose.

With the view of making it useful in the present war, an attempt has been made to organize the Militia; the orders for that purpose accompanying this Message. I regret to say but little has been done, in compliance with them. Perhaps the distractions and embarrassments belonging to the times, have interfered to prevent the proper action, on the part of the officers commanding the Militia;—but my efforts shall not be relaxed—Florida it is evident, from her position upon the map of the United States, requires, more than any other portion of the Union, an effective Militia. In foreign Wars she will be easily assailed from *without*—and should the Abolitionists continue to entertain their vile visions and press their sacrilegious schemes—she will be most vulnerable *within*. Any amendment of the Militia Law by you, will be heartily concurred in by me;—it seems to me, that such Laws should be clear, explicit and practicable;—the perplexity of details, some times defeats the most salutary measures.

There is abundant authority in the existing Laws, to enable the Executive and even subordinate officers, to call out the Militia in cases of emergency, and this authority has been several times exer-

cised by me. Upon a late occasion in East Florida, when the volunteers were engaged in a distant scout, and *Coacoochee* and his banditti murdered several United States soldiers and sacked a plantation within two miles of the most ancient city of the Union—Brigadier-General Hernandez was ordered to bring the Militia into the field—before the order could be complied with, the Volunteers returned, the Indians departed and it was countermanded. Whenever the necessity exists, I shall not fail to call upon the people to protect themselves—with the full belief that the General Government will support me in every measure proper to be resorted to, for the purpose of averting a threatening or impending danger.

Our settlements are scattered—it is impossible to place an armed force at every man's door. Citizens who select remote and exposed situations, must endeavor to protect themselves. This can only be done by supplying themselves with arms and using them fearlessly, when a crisis arrives. It is known by experience, that one determined man can defend himself, from a house, against many Indians. There is another defence which is too often neglected. The Indians emboldened by their good fortune, not only attack houses in solitary places, but often appear in thickly settled neighborhoods; every Homestead should be in fact, a castle—and palisades or pickets be thrown around every dwelling. Carefulness and a cautious preparation would prevent many a massacre by the enemy.

Injustice would be done to my own feelings, and to the truth of the case, were I not to say, that since I have been in office, the President of the United States, and the Secretary of War, have manifested every disposition to promote and advance the interests of this Territory;—especially has the war with the Indians been a subject of deep concern with them. It is very easy to complain of those in authority, and to heap obloquy and reproach upon the army of the United States; but, fault finding is often erroneous, and the accusations of malice and invective any thing but truth. If the administration has at any time erred, it is because its agents upon the spot, have been wanting in soundness of judgment, and conveyed to it injudicious speculations; if the army has been at any time remiss, it is because opportunities have not been afforded of proving how deeply it is imbued with patriotism and the love of glory. Of both regulars and volunteers, now in the field, it is but justice to say, they appear to be most anxious to perform their duty, and to do good service to this country in her "bitter day."

My own accounts of money borrowed and disbursed, are in a state of forwardness, and will soon be submitted to you; it is believed they will be found entirely *correct*. The Executive is proudly conscious of a steadfast zeal to perform its duty to the U. S. and to the people of Florida—it may not have possessed the ability to carry out its wishes; but public calamity, and domestic affliction, have not been permitted to interfere with incessant efforts to shield the country from a ruthless foe, and to advance its prosperity.

It is to be regretted that the currency of the Territory remains in

in an unsound state. The bills of the three banks now in operation, are much depreciated; serious doubts are entertained of the solvency of two of them, while the Union Bank is embarrassed, and unable to resume specie payments. Every portion of the country is suffering, and the Middle District, perhaps, more than all. It is true, this District is wealthy, but of what avail are houses, plantations and slaves, when debt hangs like a cloud over them; when specie has disappeared, and exchange gone up to a high rate; when the Court dockets are thronged with suits, and if brought under the hammer, property must be sacrificed, and a constitutional currency cannot be procured to purchase it; when the necessaries, to say nothing of the luxuries of life, are vending at enormous prices, and the appreciation of the principal staple of the country, is, of necessity, added by the merchant to the price of his goods, and bears with a heavy weight upon the planting interest? Who would not prefer "the hand full in quietness," to both hands full, with such "sorrow and vexation of spirit?" If this young and blooming Territory had never chartered a Bank, the evils under which she at present labors, had probably been avoided. Such are the attractions of Florida, capital would have found its way hither—the march to wealth might have been slow—but it would have been sure, and the object when attained not glittering and hollow, but sound and substantial. But the policy of the Territory has been otherwise; there seems to have existed a passion for corporations; Banks were sown broadcast thro' the Land; repeated failures served but to whet the appetite for other Institutions; and mismanagement, extensive and imprudent issues, and a sole reliance upon credit have brought us to the condition in which we now are, and which all must deplore. The Banks however are *here*—the Legislation of the Territory although imprudent, has created them—and whatever may have been their errors, they are entitled to their legal privileges and to that justice which belongs alike to natural and artificial persons. As to the authority by which these charters are created—it is not deemed important to enter into that question; it has already been brought to the notice of the General Government, which unquestionably, has a deep interest in it—but the liability of the Territory for the Banks, in the shape of Bonds amounting to near four millions of Dollars, should never cease so long as it endures, to occupy the attention of the Representatives of the People: It is to be desired that the Territory could be separated entirely from the Banks; that by some negotiation with the Bondholders, her securities may be taken up and cancelled, and the Bonds and Mortgages of the Stockholders substituted for them; and with such substitution, the Bondholders might be placed in the relative position the Territory now occupies towards the Banks—appointing Directors and receiving such benefits as the charters provide for the Territory. So far from there being *bad faith* or a want of *honor* or *honesty* in repudiating these bonds,—it is entirely consistent with *good faith* thus to deal with them. They were obtained through a Legislation partial

and unjust. What right had a few hundred Stockholders to make the whole people tributary to *their* schemes of moneyed aggrandizement? In the whole East, there are but few shares, of stock owned in the Union Bank, and the Bills of that Institution have never been available there. Why should the people of the East then, be liable for the Debt of a Bank, in which they have no part and which has not benefitted them, nor is likely to benefit them, in any respect? The Bills of the Pensacola Bank have perhaps never been seen in East Florida--and is it *honor* and *justice* and *good faith* that the people of that District should be bound in half a million for that Bank? The Bills of the Southern Life Insurance and Trust Company have been more generally useful as a circulating medium; but its favors have been partially bestowed; the promises with which it sat out, disregarded; its affairs it is firmly believed, mismanaged, and its concerns conducted, like those of most Institutions of like kind, for the profit of the few to the injury of the many. Why should the people and their posterity be required to groan under a load of Debt for these Institutions? Is it *good faith* and *justice* to Florida, to bind her hand and foot to corporations, which have done nothing for her, and require her to do every thing for them? Where is the money, these Banks have, in the form of *bonus* or any other form, brought into the Treasury; and what have they produced but appearances of prosperity, sometimes so unreal as to remind us of those fruits that are said to grow upon the shores of the Dead Sea;—they are beautiful to the eye but dust and ashes in the core, and bitter to the taste? Again, is it according to the principles of good faith and honor to hold out the belief, that the people are responsible for obligations, they never intend to discharge? It will not do to say "they never will be called on to pay!" No man can speak with certainty of the future. The charters may ultimately work *well*, but so far, they have worked *ill*;—and the fallacy resting at the base of these transactions, is sufficient to induce us, to get rid of these Bonds, as speedily as possible. They purport to bind the Territory, and when pay day comes, if the Banks cannot redeem them, their holders will look to the people, *who never will consent* to bear the burthen of taxes, required to discharge them. Why should the holders of these Instruments be longer deceived? They possess bonds *which they never can collect* from the Territory. It is proper, they should distinctly understand this truth. It is to their interest, to take the Security which the Bonds and Mortgages of Individuals afford, and relinquish "the moonshine" in the shape of Territorial faith, which when they attempt to touch, will elude the grasp. I ought not to omit to mention, that during the past year an exertion was made to disinter and reanimate at St. Joseph, the long departed but never to be forgotten "Magnolia Bank." This attempt to quicken a "Heart under the very ribs of death"—proved abortive, and will not probably, be again repeated.

Annual message, scrutiny was recommended; that

recommendation is repeated. The Legislature should possess itself of a thorough knowledge of the condition of the Banks. If they can be sustained and made useful to the public, they should be; if not, the sooner their affairs are wound up—always having in view the interests of those who are indebted to them—the better. At all events, the evils of a depreciated currency, with which the country is afflicted, should be brought to an end. Let a period be fixed for specie payments and in coming to a determination upon this delicate subject;—let the chartered rights of the Banks, the pressure upon the community; the present short crop of cotton—and the difficulty of relapsing from a state of distension and plethora to a sound and healthy condition, be all fairly weighed and considered. I would not if I could, pull down these Institutions and scatter their fragments to the winds; such disorganization neither comports with my principles or feelings;—but I deem it the duty of the Legislature to set apart a day for the resumption of Specie payments—regarding in so doing, as far as possible, the convenience of the Banks, and the convenience of their debtors—but regarding still more the general convenience and the public good. If the Banks will pay Specie, our ills are at an end,—nor is it considered an impracticable operation to return to a *metallic* currency, within a reasonable time. In the East and the South, where the people have willed it—Gold and Silver have appeared at their bidding. Gold and silver pieces are as common beyond as a paper currency of all sorts and sizes is on this side the Swance, and it is remarkable, to the West of that River, the precious metals are only to be seen in trinkets and ornaments. In Key West a supply of specie has been usually in circulation. The Will of the People can be made to act with the potency of a spell upon this subject, and Treasures will flow in abundantly whenever it requires them. With a strictness of dealing on the part of the Legislature and the exercise of prudence and forecast on the part of the Banks—it is not denied that the latter may be made eminently useful to any country; but whenever it shall so happen, that Bank paper is permitted to expand beyond the means of redemption—and there is a general indebtedness to these Institutions; above all, whenever they shall attempt to influence Elections, and seizing upon political power, to rule the Land—Liberty itself is in danger—unless the People—a vigilant and determined People—come promptly to the rescue.

It is supposed by some, that an alleviation to our troubles is to be found in Stop or Stay Laws. Those who entertain such opinions are deluded. Such laws have not succeeded in those States where resort has been had to them, but have produced a disregard of contracts, and a want of credit, which have but increased embarrassments, impaired the moral sense, and deepened wretchedness. Besides, it is believed such laws cannot be adopted, without infracting the Organic Law, and violating the Constitution of the United States. The remedy is to be found in a rigid economy, both of banks and

people—let the first retrench their loans, and both their expenses—let the creditor exercise forbearance to the debtor, and the debtor exert himself to pay his creditors—let property be taken in payment of debts, at liberal prices; and specie be demanded as seldom as possible. It is understood that the Union Bank has set an example, which deserves to be followed—no new loans are made, and partial payments only are required from her debtors. A determination carried out of contracting no new debts, accompanied by frugality and plainness of living—mercy on the part of the creditor, and justice on that of the debtor—will do more for the relief of our People, than the most cunningly devised *Relief Laws*, that could be framed by human ingenuity.

By the law of the land, it is not permitted to any person or company, to issue change bills below the denomination of one dollar. Is not this law every day violated—and does not the common use of such small-change banish coin from circulation, which, if the paper, were withdrawn, would soon supply its place?

There are many acts of Incorporation, which should long since have been swept from your statute books, either by the action of the Legislature, or of the Courts. Among them are, the acts incorporating the Jockey Clubs of Tallahassee and Quincy, and the Dado Institute. The sports of the Turf might be enjoyed, by those who affect them, without corporate privileges; and the act establishing the Institute just mentioned, is one of the wildest productions of incorporating fury. It is not intended to deny good intentions and good feelings to its founder, and those who support him—but no one can read the statute, without perceiving how extravagant, and utterly impracticable are its provisions.

The condition of the bank of Pensacola has been adverted to. I deem it my duty to say, if after a due investigation of the affairs of that Institution, it shall appear, that the bank can be placed in a state of entire solvency, by the completion of the Rail Road, with which it has connected itself, a petition should be preferred to Congress, for a grant of land to enable the Company to complete that work. If the Rail Road, in full operation, would revive the sickly fortunes of the bank, it would also be conducive to the prosperity of Pensacola.

Our people have sustained severe losses during the present Indian war, and the question whether they shall remain unrequited and undemnified, is one of great interest to the Territory. The United States were the guardians, and so to speak, the keepers of the Seminole Indians; without consultation with the people of the Territory, they made treaties with them, and attempted their removal when unprepared to effect it. The soldiery, at the breaking out of the war, was withdrawn, to a man, from the East of the St. Johns, and then followed—the utter ruin and destruction of the valuable sugar and cotton estates below St. Augustine—other devastations ensued; lives were lost, and feelings lacerated, for which no Treasury is competent to afford compensation; but if,

from a sense of justice, the United States have consented to pay for losses of property in 1812 and 13; because they stimulated the rebellion against the Spanish authorities, and sanctioned the injury to Spanish subjects, much more are they bound to pay their own citizens, for losses sustained through the negligence and want of preparation of the Government. The rules which apply to civilized warfare, do not attach to this. The United States should not have attempted the removal of the Indians, unless in a condition to accomplish it. Every one knows, if a large force had been provided at the time, the removal had been effected, without war and bloodshed. As it was, the Indians took advantage of our weakness, and correctly calculated, and made the most of their own strength. The Government is responsible for *its own laches*. If he who has the custody of a beast of prey, in carrying him from one place to another, through negligence, suffers him to escape, and destroy life and property, on the plainest principles of right and wrong, he is responsible for the damage done. It is understood that nice distinctions are drawn by the Congress of the United States—plantations occupied by United States troops, and destroyed by the enemy, are to be paid for, and none else. The distinction is without a difference; the United States, from want of due caution, permitted the Indians under their care, to inflict suffering and wrong upon our innocent and unoffending people, and every consideration of right and justice, demands that these same United States should make the proper reparation. It is recommended to you to take special action upon this important subject.

Heretofore it has been my practice to nominate for Territorial offices, to each branch of the Legislature, and to receive the confirmation upon them, of both Houses. This course is believed to be erroneous; I submit whether the *confirmation* or *rejection* should not be made by joint ballot. According to the organic laws, the *Legislative Council* is required to act upon the nominations of the Governor. Now, if the old practice be pursued, a majority of the Council may assent to the nomination, and yet it may be defeated by a minority of the same body. Suppose, for instance, the House of Representatives unanimously assents, and the Senate dissents in like manner—the majority is in favor of the nominee, and yet he is rejected!! It is respectfully recommended to you, to adopt a joint rule, by which the Senate may convene with the Representatives, in the Representative Hall, and ballot upon the nominations; from time to time made by the Executive. My convictions on this head are strengthened by the first section of an act passed on the 21st of January, 1829, entitled an "act to authorize the citizens of the Territories of Arkansas and Florida, to elect their officers, and for other purposes." The provision is—"That the citizens of the Territory of Arkansas, qualified to vote, shall and may, at such time and place, and under such rules and regulations as the Legislature of the Territory may prescribe, elect their officers, civil and military, except such as by the laws of Congress are to be appointed by the President of the United States,

and except also, Justices of the Peace, Auditor and Treasurer of said Territory, who shall be chosen by joint vote of both houses of the Legislature, at such time, and for such term of service as the said Legislature may prescribe ;" and again, by the fourth section, it is declared, "that it shall be lawful for the qualified voters of the Territory of Florida, to elect their officers, civil and military, in such manner, and under such rules, regulations, restrictions and conditions, as are prescribed in the two first sections of this act." Does it not seem, as the Legislative Council of Florida now consists of two Chambers, the Auditor and Treasurer, and Justices of the Peace, should be chosen by joint ballot, and if the principle be just as to these officers, why not so, in regard to others, who are required by the law to be nominated by the Governor? I wish it was the practice to require the Legislature to nominate, and the Governor to approve; but as it is otherwise, the Executive must be expected in all cases, to exercise the discretion vested in that department, by the laws of Congress.

Your Treasury is without funds to meet the current expenses—it has not yielded money enough to pay the salaries of the Territorial officers dependent upon it during the last year. That policy which would drain the purses of the people to provide for public wants, is ruinous and oppressive—but there are expenses which, even under a Territorial government, must be incurred, and can only be defrayed by taxation. Among the objects for which expenditures are necessary, are the apprehension and prosecution of criminals, and Jailers, Sheriffs, and Marshals fees, for the arrest and safe keeping of prisoners. You cannot enforce your criminal laws without providing for these—but I am inclined to think, a very limited list of subjects, with a proper rate of taxation upon them, would furnish the Territory with sufficient revenue for every legitimate purpose, and from those, too, who are best able to bear the burden. I suggest therefore, for the purpose of supplying the wants of the Treasury, that a tax be levied upon billiard tables, circusses and shows, pleasure carriages, race horses, taverns, licenses to retail spirituous liquors, banks unless their charters contain some inhibitory provision, auction sales—and I would add, though it is confessed with hesitation, upon every device of professional gaming. Heavy taxes, and heavy penalties to enforce their payment, would probably check at least, the progress of this ruinous vice. Your laws against gaming are severe enough to extinguish the offence, and banish the offenders from the Territory—if the severity of human laws could effect any thing. But the evil has gone on, increasing year after year, to the detriment of public morality, and the encouragement of a passion fatal in the disastrous excesses to which it leads! Should you deem a more extended range of taxation necessary—it is recommended that no taxes be levied upon the lands, negroes and other property of those who have been driven from their homes, or kept from the cultivation of their lands by the existing Indian war. Might it not be proper to appoint

your Collectors and Assessors for the several Districts in the Territory; rather than for the Counties?

There are certain claims against the Territory in East Florida, for services rendered and provisions furnished during the present War—which were existing when I came into office, and the evidences of which, I regret, cannot, through adverse circumstances, be presented to you. Of the Claims of the first Class mentioned, are those of Colonel Robert Brown of Columbia County in behalf of his Regiment, and of Major Isaac Garrison of Alachua for his Battalion for services in the field as they insist, under the orders of the Governor. After the adjournment of the last Session of the Council, I deputed a Commission consisting of the Adjutant and Inspector General and the Quartermaster General to Newnansville in Alachua, to examine these and other claims—but owing to the shortness of the sojourn of these Officers, and to some misapprehension between them and the claimants—no thorough examination was had. It was then determined by me, to examine them in person, during a visit to the East, which had been fixed for the month of May, but did not from the pressure of public duty, take place until August. Circumstances beyond my control did not allow me to carry my intention into effect, and these claims are yet outstanding and unliquidated. I commend them to your serious and favorable consideration, and if upon ascertaining the amount due, the Territorial Treasury is inadequate to their payment, I recommend a strong appeal to Congress in the form of Resolution or Memorial. All just Claims should be settled by the Government—and speedily.

The opinions heretofore expressed to you, upon the subject of entering the Union as a State, are unchanged. To divide the Territory at this moment would be productive of numerous disadvantages both to the East and the West. Hereafter should it be desirable and considered beneficial to both Sections, an arrangement may be entered into, under the State Government, for Division. Now, when Land and other Speculators are looking down from a distance, upon the peninsula, and anxiously and greedily expecting the termination of the War; when its population has almost forsaken the country, and is only to be found in towns, villages and posts; when the Blacks from the British West India Islands are, as I am credibly informed, holding intercourse with the Main, and Abolitionism is preparing itself for a vigorous onset—*now* is not the time for East Florida to rend asunder the ties that bind her to the West. To her—the policy is suicidal; to the West it is scarcely less so.

John P. Duval Esq. has informed me he has prepared a Second Volume of Laws, containing private Acts—Acts of Incorporation and Resolutions of the Council, Acts of Congress respecting Florida and the Treaty of Cession, with a copious Index. I have not had time to examine the work, but suggest to you—should it be approved by you—the propriety of soliciting from the General Government, such an appropriation as will procure its publication and distribution throughout the Territory.

I am aware the juncture is not favorable for obtaining appropriations for Internal Improvements from the General Government. If obtained for our Roads and our Rivers, they could not always be applied, while the Indians are unsubdued; but, the improvements and defences of our Bays and Harbours should be constantly urged upon the attention of Congress. Such improvements would be not only for Florida but for the Union. The Sea Wall at St. Augustine is in an unfinished state—and the Fort St. Marks [Marion] rapidly dilapidating—the completion of the one and the thorough repair of the other should be immediately asked for; the first is necessary to the health, comfort and security of the city—the last for its defence and as an asylum for women and children in the day of trouble, which I trust may never come—but for which a prudential caution should provide. It is surprising, that Fernandina has so long escaped the attention of the General Government, since its position is most eligible for a Naval Depot. The Bars at the Mouth of the St. Johns and the Harbour of St. Augustine, might with a due exercise of skill, be improved. Defences are wanting at Indian Key and Key West. It occurs to me, that an Inspectorship of Customs attached to the Collection District of St. Marks might be established, with advantage, at Cedar Keys, near the Mouth of the Suwannee.

The Code for the punishment of offences by Slaves and Free People of Color is very defective. I ask for it your revision and correction;—it will be found that, among other defects, it does not sufficiently provide for the punishment of those who may aid and consort with the Indian Enemy. In relation to these classes of persons, punishment should follow quickly upon the footsteps of crime, and it is recommended, that an application be made to Congress so to amend the Organic Law, that all offences by them committed, be brought to a speedy trial, before Tribunals to be established by the Legislative Council for that purpose. Free Negroes should be placed under the guardianship of respectable white persons, and under such superintendance, they may be made useful to the community and themselves.

It has long been my opinion, that the Jurisdiction over Wills and Administrations—estates and Orphans—should be separated from the County Court Judiciary, and confined to a single individual in each county, learned in the Law, with ample power; with suitable fees to compensate for his labors, and with appeal from his decisions to the Superior Courts.

As the Law at present stands the United States District Attorneys are permitted to appoint Deputies—it is questioned whether the Territory possessed power to authorize such a delegation of authority—or, if so—whether it is prudent to confer it. In the absence of the District Attorney, the appointment of the prosecuting officers, should it seem to me, be vested in the Court.

Should not the election for Delegate be fixed at an earlier Period, than the first Monday in May? If there is ever a called Session,

before that time and after the expiration of a Congress, Florida would not be represented and her interests might suffer in consequence.

I advise that measures be taken to cause the Laws to be published in every Judicial District in the Territory;—they would have been so published, during the past year, by my order, had not the Secretary of State determined they could be published in three newspapers only. Should not the Decisions of the Court of Appeals be published in the journals printing the Laws, for the information of the Bar and of the People? In this connection, I take leave to express my regrets, that the Laws of the late Session of the Legislature, have not been distributed, as promptly as they should have been. There has not been a dollar in the contingent fund of the Territory, for the last year, and the Executive has been compelled to transmit the Laws, as opportunity offered—by private conveyance, to various parts of the country.

The Resolutions instructing the Delegate, in relation to several important matters, were duly transmitted to him. I am not aware that any action has been had upon them, at Washington.

I submit to you if it might not be proper to endeavor to obtain for the Judges of the Territory, better Salaries, and a per diem allowance, while they are sitting as a Court of Appeals—and also, an appropriation for a Library for the Court of Appeals.

In proclaiming the Adoption of the Constitution of St. Joseph, I but performed a duty required at my hands by the Convention, and for which I am responsible to the People. None but the People have a right to question and command me upon this subject—but, as there is no mystery about it and nothing to conceal, should the Legislative Council consider it important, a statement of the vote upon the Constitution, will be communicated, upon your request.

Your Criminal Code needs reform—its barbarous punishments should be abolished, and some grave offences, to which light punishments are annexed should be visited with heavy penalties. Look at the punishments of manslaughter—assault with intent to murder—Duelling, and Libel—are they such as to prevent these crimes, or do they not rather encourage offenders to stalk abroad at noon-day, defying the Laws and scorning their judgments?

Erroneous notions seem to have taken root—respecting *Bail*; and it has been held, that the English Rule, which is the Rule adopted by most of the States, does not apply with us; that is to say, a man charged with a capital offence, is less guilty here than elsewhere—and is entitled to lenity and respect from the Laws. Such a position is monstrous, and if there be any doubt as to offences that areailable, and those which are not, it is high time it should be settled by legislative enactment.

The want of Jails retards the enforcement of the Criminal Law. There should be at least one jail in every District; and I recommend you to ask as much, from Congress. Fortunate would it be for this Territory, if that body would aid you, by a Grant of Lands, to establish a Penitentiary; the Fort at St. Augustine might, with re-

pairs, be used for that purpose, and the introduction of imprisonment and labor into your penal code—would not fail, as it has done elsewhere, to reform the guilty and promote the cause of humanity.

To prevent frivolous prosecutions, there should be a prosecutor in every case, responsible for costs, in the event of a verdict of "Not Guilty"; and where the proceeding is upon Presentment, it should be the duty of the Grand Jury to furnish the Prosecutor.

It often happens, that a fine is imposed, which the Defendant is wholly unable to pay and then an application is made for Executive Interposition, which, from the necessity of the case, succeeds; thus, he who is without money, is independent of the Law and escapes punishment. Might not the provision be a salutary one, if where the Defendant is unable to pay a fine, imprisonment or some other punishment be inflicted upon him?

To make the laws equal in their operation, the punishing power should in all cases be taken from the Juries, where it is now vested, and deposited with the Courts. In some parts of the country, certain offences, from their common occurrence, or other cause, may be thought lightly of; and the Juries will visit them lightly; while, elsewhere, the same offences may be deemed of some enormity, and the Juries will punish them with severity. There should be a *maximum* and *minimum* annexed to all penalties, and within those points, the Judicial discretion may safely be left to operate. The Judge will hold the balance even, and distribute equal justice throughout his District.

Appeals in criminal cases ought to be abolished, they but embarrass criminal justice. The Pardoning power stands, in our Organic Laws, in place of the Appeal, and when properly exercised, is as efficacious to the accused.

The Law against carrying Secret Arms does not, it is believed, prevent the practice; indeed, I am constrained to say, of the Criminal Justice, there is not generally that respect for it and wholesome apprehension of consequences from its infraction, which belong always to the Law abiding and the lovers of peace and good order. There is extant, a spirit above the Laws, which seeks to make a law for itself and relies upon violence for the execution of its purposes; a Spirit which while it triumphs over the Laws of the Land, elevates the Code of *False Honor* and exults in what it miscalls *CHIVALRY*; a Spirit which if permitted to spread itself, will introduce confusion and bloodshed and death into Society; for there is a point at which the most peaceful and forbearing will resist, and if the laws cannot protect them, Men will defend themselves. The Laws, in this happy country, are but the will and voice of the People, and if the People themselves, do not enforce obedience to their own mandates, they are no longer the Sovereigns of the Land, but the refractory and disobedient lord it over them.

Fellow Citizens, it is a prime and sworn duty pertaining to the official character I hold, "to take care that the Laws be faithfully executed." I have endeavored to acquit myself of this solemn obligation.

tion, to the best of my ability—and without feelings of prejudice or partiality to, or against any man. I shall continue to make the same effort, relying upon the wisdom and patriotism of THE PEOPLE of FLORIDA to support me in sustaining THE SUPREMACY OF THE LAWS.

Allow me to remind you, in conclusion, that we have just passed through the excitements of very strongly contested elections;—these agitations, I am sure, you will agrée with me, should be subdued and put at rest; they should not be suffered to impede and warp the progress of legislation. It is only by the exercise of a charitable feeling and conciliatory spirit, that we can make our labors profitable to the Territory—and I assure you, while the Executive adheres to its own political principles, and must be governed by them, it desires to exercise respect, forbearance and tolerance towards the differing opinions of others; but most of all, is it anxious to unite cordially with you, in rendering substantial and acceptable service to our unfortunate and bleeding country.

ROBERT RAYMOND REID.

Executive Office, Tallahassee, Fla. }

January 11, 1841. }

Which was read, and 100 copies ordered to be printed.

Mr. Brockenbrough offered the following Resolution, which was adopted:

Resolved, That the Secretary of the Territory be requested to furnish a copy of Duval's Compilation, and the acts of the last Legislative Council, for the use of each member of the Senate.

The Senate then adjourned until to-morrow 12 o'clock.

TUESDAY, January 12, 1841.

The Senate met pursuant to adjournment and yesterday's proceedings were read.

Mr. Dupont offered the following resolutions, viz:

1. *Be it Resolved by the Senate and House of Representatives of the Territory of Florida*, That this Legislative Council do, in the name of the people of Florida, tender to Lieut. Col. Harney, of the United States Army, now operating in Florida, their cordial thanks for zeal and energy displayed by him as an officer, in the prosecution of the heretofore humiliating, and yet harassing Indian war, which has so effectually desolated the fairest portion of our afflicted Territory.