

JOURNAL OF THE SENATE

OF THE

GENERAL ASSEMBLY OF THE STATE OF FLORIDA:

Begun and held at the Capitol, in the city of Tallahassee, in the State of Florida, on Monday, the twenty-third day of November, eighteen hundred and forty-six, being the first session of the second General Assembly held under the Constitution of the State of Florida.

On which day the Senate was called to order by Hugh Archer, Secretary pro tem. of the Senate.

A certificate of the Secretary of State, showing the names of those, who according to the election returns had been elected, was read.

The Roll was called and the following Members answered to their names, viz:

1st District,	W. W. J. Kelly,	✓
2d	Neil McMillan,	
3d	D. G. McLean,	
4th	Thomas M. White,	
5th	Washington Tabor,	
7th	Joseph Austin,	✓
8th	J. H. T. Lorimer,	
18th	R. D. Bradley,	✓

There not being a quorum present, the senate, on motion of Mr. Kelly, adjourned until to-morrow, 10 o'clock.

TUESDAY, 24th November, 1846.

The Senate met according to adjournment.

On calling the Roll the following Senators answered to their names:—

1st District	W. W. J. Kelly,	✓
2d do.	Neil McMillan,	
3d do.	D. G. McLean,	✓
4th do.	Thomas M. White,	✓
5th do.	Washington Tabor,	✓
7th do.	Joseph Austin,	

6th - R. J. Floyd

9th District, H. H. Walker,
 10th do. Daniel Bird,
 12th do. Allen G. Johnson,
 13th do. Jesse Carter,
 14th do. John Broward,
 15th do. Gabriel Priest,
 17th do. G. R. Fairbanks,
 18th do. R. D. Bradley,

A quorum being present, on motion, Mr. Carter was called to the Chair.

On motion of Mr. Broward the Senators were severally sworn according to the Constitution of the State, by E. M. West, Esq., a Justice of the Peace.

After which, on motion of Col. Broward, the session was opened with prayer by the Rev. Mr. Foster.

The Senate proceeded to the election of President.

Messrs. Fairbanks and Kelly were put in nomination.

On the First balloting the vote was as follows:

Fairbanks, 7; Kelly, 6; Bird, 1; Mays, 1.

There being no election the senate proceeded to a second balloting; the vote was

Fairbanks, 7; Kelly, 6; Bird, 1; Mays, 1.

There being no election the senate proceeded to a third balloting; the vote was as follows:

Fairbanks, 7; Kelly, 6; Bird, 1; Mays, 1.

There being no election the senate proceeded to a fourth balloting; the votes were as follows:

Fairbanks, 7; Kelly, 6; Bird, 1; Mays, 1.

There being no election the senate proceeded to the fifth balloting. On counting the ballots the votes were for,

Fairbanks, 7; Kelly, 6; Bird, 1; Mays, 1.

There being no election, the senate, on motion of Mr. Bird, took a recess until 3 o'clock.

3 o'clock, P.M.

The Senate proceeded to ballot the sixth time. On counting the ballots the result was as follows:

Fairbanks, 8; Kelly, 6; Bird, 1; Mays, 1.

There being no election, the name of Mr. Fairbanks was withdrawn, and Mr. Kelly having declined, that of Mr. Mays being placed in nomination, the senate proceeded to ballot the seventh time, which resulted as follows:

D. H. Mays, 15.

The Chair announced that Mr. Mays was unanimously elected. Messrs. Tabor, Walker and Bird were appointed to conduct the

President elect to the chair; which duty was performed, and the President, in a short and appropriate address, returned his acknowledgments.

The Senate proceeded to the election of Secretary, and on counting the ballots, Hugh Archer received fifteen votes, and was declared duly elected Secretary of the Senate.

On motion, the Senate proceeded to the election of a Messenger and Doorkeeper.

The names of A.G. McLean and Charles F. Fitchett, were placed in nomination.

Messrs. Kelly, Carter, and Broward, were appointed Tellers.

On the 1st balloting,

A.G. McLean received 8 votes.

Charles F. Fitchett received 8 votes.

On the 2nd balloting, the votes were –

For A.G. McLean 8 votes.

For Charles F. Fitchett 8 “

On the 3rd balloting, the vote was –

A.G. McLean 8 votes.

Charles F. Fitchett 8 “

On the 4th balloting, the vote stood –

McLean 8 votes.

Fitchett 8 “

Mr. Broward moved to reconsider the motion to go into an election for Messenger and Doorkeeper, which motion was negatived.

Mr. Kelly moved that the election for the present be postponed; which motion prevailed.

On motion of Mr. Kelly, a Committee of three were appointed to inform the House that the Senate had organized, by the election of a President and Secretary, and was ready to proceed to business.

Messrs. Kelly, Broward and Fairbanks, were appointed that Committee.

On motion of Mr. Kelly, the Rules of the last session were adopted for the government of the Senate, until such time as other rules were adopted.

A message was received from the House, informing the Senate that that body had organized, and was prepared for business.

The Committee appointed to wait on the House, and inform them of the organization of the Senate, reported that they had performed that duty.

The House transmitted to the Senate the following Message:

House of Representatives, November 24, 1846.

Hon. President of the Senate – Sir:

The following resolution has been adopted by the House, viz:

“Resolved, That a Committee be appointed on the part of this

House, to join such Committee as may be appointed on the part of the Senate, to wait on the Governor, and inform him that a quorum of the two houses is assembled, and that the General Assembly is now ready to receive any communication he may be pleased to make;" and Messrs. Westcott, Gould, and Towle, have been appointed said Committee on the part of the House.

Your obedient servant,

M. D. PAPPY,

Clerk of the House of Representatives.

Which was read, and Messrs. Kelly, Broward, and Fairbanks, were appointed a Committee on the part of the Senate, to inform the Governor of the organization of the Senate and House of Representatives.

His Excellency the Governor transmitted to the Senate, by his private Secretary, O. H. Myers, his second Annual Message.

Gentlemen of the Senate,

and House of Representatives :

In the discharge of the high and imperative duty imposed upon the Executive at the commencement of the annual sessions of the General Assembly, your attention is invited to a brief statement of the condition of the Government for the current year; and to the consideration of such matters recommended, as will in the judgment of the Executive, if adopted, promote the interest, prosperity and happiness of our beloved commonwealth.

In commencing, however, the labors devolving upon us, as public functionaries, and feeling, (as we doubtless do,) the sacredness of our obligations for their faithful discharge, we should not be unmindful of a still higher and more solemn obligation to the "Giver of all good and perfect gifts," in "whose keeping is the destiny of nations and of men," for the rich bounties of His providence, in the multiplied blessings which we have enjoyed; and to invoke, with becoming humility, that aid in the discharge of our high responsibilities, without which all our efforts for the common good, however well intended, will be wholly ineffectual.

As regards the product of our soil, it is a source of no ordinary satisfaction that, notwithstanding a partial failure in the annual supply of the great agricultural staple of the South, other products have richly rewarded the labors of the husbandman.

Good health has generally prevailed, and the general prosperity of the people in their varied industrial pursuits, has at no time presented more flattering prospects for the encouragement of skill, enterprise and industry. Our great social interests have been steadily promoted; crimes have gradually diminished, and morality improved.

Such a state of things may well inspire us with devout thankfulness,—with increasing attachment to our civil and religious institutions,—and with renewed zeal in our efforts at self-government.

Among the most interesting subjects which will probably engage your deliberations at the existing session, and one therefore to which your attention is earnestly but respectfully invited, is the judicious disposition of the public lands granted by the General Government to this State, in trust, for the purpose of promoting "common schools and universities," and for the development of the resources of the State by "Internal Improvement."

Primary Schools, as a means of diffusing elementary instruction among the great mass of the people, even in governments where ignorance has heretofore been used as the handmaid of tyranny and oppression are now fostered by libe-

ral endowments; and patronized with a zeal indicating the solicitude which is felt for their successful establishment.

In a government then like ours, based as it is on equality of rights and privileges, and whose greatest security for perpetuity depends upon the virtue and intelligence of the people, the liberal support and patronage of such institutions, should be a subject of the deepest concern to all, and especially deserving the attention of the Representatives of the people.

In a matter then of such vital importance, not only to the youth of the state, but to our respectability as a sovereign and independent government, as well as to the perpetuity of our beloved institutions, it is deeply to be regretted that such ample means for the accomplishment of ends so desirable, should have been thus long, not only wholly useless, but, what is much more humiliating, shamefully neglected, or criminally squandered.

The apathy heretofore manifested by all, (those alone excepted who were in the actual possession of these charitable funds, and that too for nominal considerations,) readily accounts for the inefficiency of the legislation already had in regard to them.

It is true that many efforts, by as many Legislatures, for consecutive years, were made to protect this property from the destruction which manifestly awaited it, yet so feebly have they been enforced, that the trespasser has enjoyed (without even reproach,) his ill-gotten gains. The lands in many instances have been exhausted.

In the year 1843 the Legislature organized a Board of Trustees of the Seminary Lands, under whose superintendence they were placed. It affords me pleasure to assure you, that by the vigilance, zeal and industry of that Board, many of the abuses theretofore successfully practiced by lessees and trespassers, have been promptly corrected. The Board, nevertheless, renders its services to the public without pecuniary compensation, and of course cannot be presumed to discharge the trust with that active zeal which a compensation would ensure. Few of us are so fortunately situated as to be enabled to render valuable services to the public, without indemnity for the loss which our private interests would thereby sustain.

It is, therefore, a matter submitted to your patient and deliberate consideration to devise a more perfect system, by which a fund, susceptible of such vast importance to the state, and more especially to those who are to succeed us, may be made to answer the purposes for which, it was intended.

Experience has fully tested the inefficiency of all former legislation. Leases have resulted in the waste of the land, without any valuable addition to the fund. Without intending to dictate to the Legislature the particular course which it ought to adopt, I may be permitted to remark, that, from a careful examination of the whole matter, and after having given it that deliberation and reflection to which it is so eminently entitled, the convictions of my judgment are, that, as to all grants where it is necessary to obtain the assent of Congress for power to sell, such application should be made; and that such and all others belonging to the State, should be offered for sale, at such times and on such terms, or with such limitations and restrictions as to the quantity offered, and the time and mode of payment, as a proper regard for the safety of the fund may suggest; and that the proceeds of such sales shall be inviolably applied, at some future period, to the purposes for which they were originally intended.

For more valuable and detailed information upon this entire subject your attention is respectfully invited to the interesting and lucid report of the Trustees of the Seminary Lands, which will be laid before you at an early day.

It will be observed, by referring to an act of Congress, passed on the 4th of September, 1841, that this State is entitled to 500,000 acres of land, to be selected and located within its limits, for purposes of "Internal Improvement." It will also be seen, by referring to a report herewith submitted to you, that a portion of the lands, recently located under the authority of an act of the last

General Assembly, "Providing for the appointment of a Register of Public Lands," have been reserved from the school fund, with a view of setting them apart for Internal Improvements. Whatever may be the determination of the General Assembly, with regard to the ultimate disposition of these lands, it is recommended that no portion of them, *at present*, be applied to purposes of Internal Improvement. With the latter as with the school lands, it is recommended that they be sold, and the proceeds invested *temporarily* in such securities as will yield a certain annual income to the fund.

To those who are familiar with the history and progress of Internal Improvements in many of the States possessing advantages in wealth and population vastly superior to Florida, no argument need be advanced in support of the position here assumed, that any attempt, at present, to engage extensively in works of this description, with the funds now under our sole control and management, will result in their expenditure without commensurate advantages to the State.

The subject, however, is submitted with the conviction that it will receive the attention to which it is entitled.

At the last Session of the General Assembly, an Act was passed to establish the Office of Register of Public Lands for this State, with an amendatory act of the same session, vesting in the Executive the appointment of a Register upon the failure of the Legislature to make such appointment. The Legislature adjourned without having made such selection. It is very evident, from the deep interest that was manifested by that body in its frequent and fruitless attempts to fill the office, that no ordinary importance was by it attached to its responsibility. When this high responsibility was thus thrown upon another Department of the Government, it is but reasonable to suppose that this new depository of the trust was not insensible to its magnitude. It was from this, and other considerations that no appointment has been made. The duties of that office were undertaken by the Executive, and have thus far received that share of attention to which, it is believed, they were so eminently entitled. How far they may have been performed to the satisfaction of the Legislature, can only be determined by a careful examination of what has been done.

To secure as much valuable land as was practicable, it became necessary to enter upon the discharge of the trust immediately after the adjournment of the Legislature. With this view, two agents, of the highest respectability, and of acknowledged worth as practical surveyors, were selected and appointed, with limited contracts, for the Eastern and Southern, two for the Middle, and two for the Western Districts of the State. Thus far these agents have discharged their duty to the satisfaction of the appointing power; and it is believed, within the spirit and letter of their written contracts. For a detailed statement of the contracts entered into, with the quantity and valuation of the lands located, you are respectfully referred to a report which will be submitted for your examination at an early day of the session.

As this matter will be incorporated in the report of the President of the Board of Trustees of the Seminary Lands, I shall dismiss it for the present with the remark, that, upon full and practical experiment of the late law establishing that office, I feel it to be a duty to recommend its repeal, or such a modification or amendment as will provide for the sale of at least a portion of the lands, and for the investment of the proceeds of such sale in some safe and productive stock. Whatever the Legislature may do in this respect, a sale of so much at least, should be made as will meet the expenses of locating. At present, that expense is met by drafts upon the public Treasury, and the five per cent. and school land funds, and by the Treasury *exclusively* for land for Internal Improvement.

In the reports of the Financial officers of the Government, herewith transmitted, you have a clear, distinct and lucid statement of the condition of the Treasury, and of its receipts and expenditures of the last fiscal year. All of which, it is earnestly desired, may receive from you the strictest examination, to the end that any impolitic legislation heretofore had, (if any there be,) in regard to

demands upon the Treasury, or in extravagant or useless expenditures of the public money, may be amended. To any and every expenditure of the public funds, without a corresponding benefit to the people, from whose earnings such expenditure is withdrawn, it is the duty of their representatives, in the discharge of the trust confided to them, to apply a corrective.

Rarely do the mass of the people complain of taxation as a burthen, when they know that its proceeds will be judiciously and honestly disbursed. They are fully sensible of the necessity of government, as a security for their lives, liberty and property; and that it can only be sustained by their pecuniary contributions. When, therefore, so much only is demanded as is necessary for an economical administration of the Government—when they see those to whom it is entrusted actively engaged in the discharge of their various functions, and in the receipt only of a liberal compensation for their services—the contribution, (I repeat,) is ever made, not grudgingly, but with a promptness evincive of the patriotic spirit with which it is made.

In regard to the amount which the ordinary demands upon the Treasury for the last fiscal year may require, it affords me pleasure to assure you that the present rates upon the property taxed, if collected, will be amply sufficient. Nevertheless, it will be indispensably necessary, in order to estimate future demands with reasonable certainty, that important amendments should be made to the existing laws which provide for the contingent expenses and criminal prosecutions, within the jurisdiction of the Circuit Courts.

By referring to the Report of the Comptroller of Public Accounts, it will be seen that a large proportion of the demands upon the Treasury are such as could not possibly be anticipated by any human sagacity at the commencement of the year. Whether, therefore, the amount annually assessed shall be sufficient to liquidate all the demands that may be made upon it, must measurably depend upon the number and amount of such claims.

To this subject, therefore, your attention is earnestly invited, with the anxious desire that the laws now in force in relation to it, may be so amended as not only to diminish the expenses referred to, but to relieve, to some extent, the fiscal officers of the Government, as well as the Judges of the Circuit Courts, from the responsibility imposed upon them by the existing laws.

In connexion with this subject I take this occasion to recommend that a tax be laid of one dollar upon all suits at Common Law, and of two dollars on all Bills in Chancery; to be collected and accounted for by the Sheriffs of the Counties respectively, in which such suits may be instituted; to be applied exclusively to a fund provided for the payment of the contingent expenses of the Courts in which such suits shall originate.

A few additional remarks on this important subject, and I have done. I am not unaware of the fact that complaints to some extent have been made, "that the taxes are too high," and, "that the expenses of the Government are unnecessarily extravagant." In reply to such complaints, (and as an act of justice to those to whom the administration of the Government has been entrusted,) I would most respectfully remark, that on entering upon a State Government, many extraordinary expenses must necessarily be incurred before it can possibly be organized. In relation to the organization of this Government, it will be remembered that it was commenced without a dollar in the Treasury; that the General Assembly was convened, and actively engaged for nearly three months within the first six months after its admission into the Confederacy; and for this, as well as every other expense, taxes were to be assessed, and paid into the Treasury, before the first item in the account could be paid. In this state of things, it would not be strange if, in order to begin with good credit, the taxes should be sufficiently high to meet the necessary demands upon the Treasury. Nothing more was levied. All that could be collected has been applied to that purpose. From these extraordinary expenses the State must, at no distant day, be relieved; when it is believed, with proper economy as to the ordinary expenditures, the amount assessed may be, to some extent, diminished.

In connexion with the finances of the State, I will briefly refer to an Act of the last General Assembly, entitled "An Act for the protection of the Fisheries on the Coast of Florida." Pursuant to the second section of the act, Commissioners were appointed in the various districts bordering upon the coast, and furnished with the necessary licenses, to enable such as might wish to engage in this pursuit, an opportunity of doing so without incurring the penalties of the Act. By the 15th section of the same Act, it is made the duty of the Commissioners thus appointed to make quarterly returns to the Treasury of the State, of all licenses granted and all moneys received by such Commissioner, for the privileges, fines, penalties and forfeitures under it; and on the first Monday of October annually, to pay the same into the public Treasury. Thus far the Act has been literally a dead letter: no returns having been made, with the exception of two quarterly returns from the Commissioner of the county of Benton; without, however, any contribution to the Treasury, under its provisions. It is, therefore, recommended that the Act be repealed, or so amended as to enforce its prompt execution. It will scarcely be pretended that since the passage of the Act, these extensive and heretofore profitable fisheries have been abandoned; nor is it doubted that the right to tax foreigners engaged in them is as clear and unquestionable as the right to tax any other species of property within the State; and yet this source of revenue, profitable as it might be if rigidly collected, is at present utterly worthless.

For more satisfactory information, your attention is invited to a copy of the communication from the Commissioner before alluded to, in whose views on this subject I most heartily concur.

Agreeably to a requirement of an act of the last General Assembly, providing for a Digest of the Territorial and State Laws, approved 10th December, 1845, as also in compliance with an additional act of the same session, approved 27th December, 1845, which provides for the collecting and arranging the statutes of Great Britain now in force in this State," a commissioner was appointed for that purpose, previously to the adjournment of the Legislature, who entered, without delay, upon the discharge of his duties, and will be prepared to make a report in conformity to the acts referred to, at no distant day after the adjournment of the present session.

I certainly do not feel myself at liberty to decide upon the merits of a work which, when completed, it has been made my duty to approve or disapprove, as my judgment may direct. Nevertheless, I may be permitted to say, from the high reputation of the Commissioner, and the deep interest which he has manifested, that, when completed, it will doubtless be alike creditable to the Legislature that directed, and to the Commissioner who accomplished, this arduous and responsible task.

In fulfilment of a duty enjoined upon me by an act of the General Assembly, approved 25th July, 1845, a communication was addressed to the Hon. Secretary of the Treasury, on the 14th of October of that year, a copy of which will be found in the Appendix to the Journals of the General Assembly, page 12, Document No. 5.

On the 25th of April last, a communication was received from the Third Auditor, accompanying an account against the late Territorial Government, for an alleged balance due the United States of \$95,558 69. As the letter of the Auditor does not purport to be a reply to my communication of the 14th of October, in relation to the deposits of the public money, I am utterly at a loss to conjecture with what view it was communicated, or what connection there is between my demand for our proportion of the surplus revenue and the account furnished by the Auditor—which professes to show that the various officers of the Federal Government have misapplied the public moneys placed in their hands to defray the expenses of the late Indian war. If it be intended as a set-off to the claim of this State for its proportion of the surplus revenue, I solemnly protest against such a charge against the State, and respectfully request the Representatives of the people to co-operate with me in such protest.

The people of Florida will neither admit their liability for the expenses of that war, nor for any misapplication of the funds of the Federal Government through its agents or officers. ✕

From a subsequent communication from the Hon. R. J. Walker, Secretary of the Treasury, in relation to this subject, I have the satisfaction to inform you, that no allusion whatever is made to the above account, either as a charge against this State for the expenses of the Indian war, or as a set-off to our claim of our proportion of the surplus revenue. ✕ I have received no assurance, however, that this State will receive any moneys under the provisions of the act of Congress of the 23d of July, 1836, entitled "An Act to regulate the depositories of the public moneys," unless a sufficient proportion for that purpose shall be retailed from the States with which the depositories were made in conformity with said act.

The subject, however, was laid before Congress by Senator Yulee, at its late session, and will, I feel assured, receive the dispassionate consideration of that body.

The entire correspondence upon this subject, together with the account forwarded by the Third Auditor, is on file in the Executive Office, and will be transmitted to you whenever it may be desired.

✕ The five per cent. due the State on the nett proceeds of the sales of public lands within the State, to the 1st day of January, 1846, has, under the direction of the Executive, been received by the State Treasurer. ✕

At the last session of the General Assembly, a resolution was adopted, authorizing the Executive to appoint a fit and competent person to act and confer with persons to be appointed by the Executives of Georgia and Alabama, as commissioners to run and mark the boundary line between the States of Georgia, Alabama, and Florida, in conformity with the treaty of 1795, between Spain and the United States.

The Executive of Georgia was immediately informed of the passage of this resolution, and with a promptness evincive of the interest which was felt for the result of the negotiation, appointed Commissioners on the part of his State for that purpose. Without delay, a like number of Commissioners were appointed on the part of this State.

I regret to add, that, as yet, the Commissioners have failed to accomplish the purpose for which the commission was raised. Their report, together with the correspondence, is herewith transmitted, for such further action as you, in the discharge of your duty to the State, may deem expedient and proper.

At the request of the Executive of this State, all action between the States of Alabama and Florida, in relation to the boundary, was postponed till the controversy between the States of Georgia and Florida should be settled. I have now the pleasure to inform you that the correspondence has been resumed between the States of Alabama and Florida; and that I entertain no reasonable doubt that the final settlement of that boundary will be made at no distant day after your adjournment.

By the sixth section of the act to organize the Circuit Courts of this State, passed and approved at the last session of the General Assembly, the Judges are not permitted to preside oftener than once in two years in the same circuit. Although the provisions of the act, which adopt the alternating system, are in my judgment preferable to locating them permanently in the circuits in which they reside; yet, with due deference to the Legislature, it would seem to me that amendments might be made which would not only improve the system, but at the same time remove many objections which are now seriously urged against it. The Judges, by the act, are required to preside in the several circuits in regular succession. Let it be so amended as to give to the Judges themselves the allotment of the circuits, provided that no Judge shall be allotted to the same circuit twice in succession. Such an amendment, with such additional provisions as your wisdom may deem proper, would not only preserve the object which the Legislature had in view, but lessen to no inconsiderable

able extent the labors and expenses of the Judges—which they now necessarily incur, from having to travel from one extremity of the State to the other.—It is believed, also, that it would further diminish the labors of the Judges, without prejudicing the public good, to give them the privilege of exchanging with each other, for any court or courts within their circuits.

I am not unaware of the fact that there are those whose opinions, as distinguished and eminent jurists, are justly entitled to the respect and confidence, not only of the Legislature, but of the Executive, who entertain doubts of the right of a Judge of the Circuit Court to hold an extra term. Any doubt from such a source should prompt the Legislature to remove it by legislation, provided such terms are necessary to the speedy administration of justice. In truth, the Constitution of the State requires that “courts shall be opened to all, and right and justice be administered without delay.”

It is, then, respectfully recommended, (not only with the view of removing all doubts upon this subject, important as it is both to the State and to its citizens, but that justice may be speedily administered, and heavy expenses saved to the accused and to the State,) that the Executive be authorized, at his discretion, during the vacation of the Circuit Courts, upon application made by the Judge of Probates of any county within the State, or by the county commissioners, to issue a commission of Oyer and Terminer to any one of the Judges of the Circuit Courts, whose duty it shall be to hold said court forthwith, and who shall be clothed with all the powers necessary for the trial of all such persons as may be imprisoned under charges for the commission of crimes, the punishment for which are declared to be infamous.

Under the provisions of the fifth section of an act of the General Assembly, approved on the 23d of July, 1845, it is made the duty of the Attorney General to report to the Executive the effect and operation of the acts of the last previous session of the Legislature, with the decision of the courts thereon; and referring to the previous legislation on the subject, with such suggestions as in his opinion the public interest may demand. In conformity to another provision of the same act, this report is laid before you; and will, I feel assured, receive that attention to which it is so justly entitled.

Among the many suggestions which I have thought proper to submit to the Legislature as worthy of its consideration, there is none more eminently so, than the amendments to our State Constitution, embraced in the following enumeration, to wit:

1. Biennial, instead of annual, sessions of the General Assembly, and the term of service of the members so amended as to conform thereto.

2. A residence of six months, instead of two years, within the State, as a necessary qualification to suffrage.

3. So amend the 12th section of the 5th article, that the election of Judges of the Circuit Court be hereafter made by the *people by general ticket*, from the whole State; and that their term of service be limited to not less than five, nor more than ten years.

It may not be improper here to remark, that the amendments here recommended, had engaged my attention, as fit subjects for the consideration of the last General Assembly. That, however, being our first session under a State Government, and its organization being at that time incomplete, they were withheld, from an apprehension that their consideration might have a tendency to embarrass the Legislature in the adoption of such measures as were deemed indispensable to its speedy organization. That measure being now accomplished, I avail myself of the first opportunity to recommend their adoption, from a thorough conviction, after mature deliberation, that, if incorporated into the Constitution, they will have no inconsiderable influence in promoting the interests of the people, and the prosperity of the State.

Two of the Banking Institutions claiming privileges under the acts of the Legislative Council of the late Territorial Government, still continue in the exercise of many of their franchises without the ability (it is believed,) to dis-

charge their acknowledged liabilities. Whether they may rightfully exercise such powers, since the admission of the State into the confederacy, without the express assent of the Legislative Department of the Government, is a question seriously doubted by many, and, I may add, was not without its influence with the last General Assembly, in refusing to appoint Directors in behalf of the State. It will furthermore appear by referring to a Report of the Attorney General, made in conformity to an act of the First General Assembly, "that each of these Institutions has failed to redeem its solemn undertakings to the people of Florida, and has thereby violated both the letter and spirit of its Charter;" and for the "repeated and continued violation of them," (as therein set forth,) the opinion is unqualifiedly and frankly avowed; "That the State is absolved from all obligation to continue the franchises granted, and MAY RIGHTFULLY RESUME THEM."

Whether the public interest may not be benefitted by proceedings on the part of the State to rid herself of these Institutions, should it appear that either of the above objections are tenable, can scarcely admit of a reasonable doubt, if satisfactory provision shall be made for the collection and rightful application of the assets of each.

That these Institutions have heretofore been a fruitful source of bitter personal and political hostility, it is not pretended is of itself a sufficient cause for their removal, but if there be other solid objections to their exercising chartered privileges it certainly would not lessen the force of such, if, by being enforced, they removed these Institutions, and, at the same time, removed a perpetual source of discord, personal as well as political.

To this subject, (delicate and embarrassing as it is,) your attention is invited, from a sense of duty to the public on my part, with a most anxious desire that it may receive a calm and dispassionate consideration,—the object of which should be the advancement of the public good, at the least practicable sacrifice of individual interest.

The questions involved between the State and these Institutions, are (in the opinion of the Executive,) more properly within the jurisdiction of the Judicial Department of the Government. It is for the Legislature *exclusively* to determine whether the State will avail itself in the change of our Government or of the alleged forfeitures, to test the validity of the charters of these Institutions, and to enforce (if practicable,) a forfeiture; or whether it will acquiesce in the further exercise of their alleged franchises, and overlook their alleged acts of forfeiture.

At the last session of the General Assembly in my annual message to that body, I deemed it necessary to call their attention to that portion of our fellow-citizens who had sustained losses in the late Seminole war. I have not been advised that any action was had upon the subject. Whatever course that body may have felt it a duty to pursue in regard to this matter, I cannot permit this occasion to pass without a similar recommendation. And although the present may be an inauspicious time to memorialize Congress for remuneration for losses sustained in the service of the United States, I cannot permit myself to believe that their sense of justice and humanity, will allow them to disregard claims so eminently entitled to their consideration.

A vacancy occurring in the Judgeship of the Southern Judicial Circuit, as also in the Solicitorship of the same Circuit, since the adjournment of the last General Assembly, these appointments have been filled *temporarily* by the appointment of the Hon. George W. Macrae as Judge, and Thomas King, Esq., as Solicitor, whose terms of service will expire with the close of the present session of the General Assembly.

By the 12th section of the 3d article of the Constitution, it is made the duty of the Executive to procure a seal for the State, with such device as the Governor first elected may direct. Since the adjournment of the last General Assembly, this duty has been discharged; and upon application, will be submitted to the General Assembly for its approval.

If a flood of pleasure to assure you that the duties assigned the Executive, in the various resolutions adopted at the last session of the General Assembly, have been discharged. All such correspondence as became necessary, in the fulfilment of these several requirements, is now on file in the Executive Office.

After this review of the condition of the financial affairs of the State, and the recommendation of such measures as I have deemed it expedient to be adopted, I avail myself of the privilege of a few closing remarks, to congratulate you and my country upon the wise and patriotic policy that has thus far characterized the existing administration of the Federal Government. Without intending to detract from any of its measures, I may be permitted, in an especial manner, to allude to those already consummated, which not only affect our national interests, but are also intimately connected with the prosperity and happiness of the several members of the Confederacy.

Among these, (eminently conspicuous for its momentous consequences,) is the *voluntary annexation of an independent Republic*, of like customs, institutions, and language with our own—whose "lone star" thenceforth added another light to the proud banner of the stripes and stars, that now floats in triumph over this vast and still increasing confederacy of Independent Republics.

Not less important is the permanent settlement of the Northern boundary of Oregon; by which peace, with all its blessings, has been secured, and it is earnestly hoped, perpetuated, between the most powerful Republic and Monarchy of modern times; whose social intercourse, friendly relations, and hopes of lasting peace, had, (from this perpetual source of irritation,) for the last quarter of a century, been so seriously interrupted and alarmingly endangered.

Not is it with less satisfaction that I am permitted to congratulate the agricultural, commercial and mechanical industry of the country, upon the success of that great measure of relief, by which every other industrial pursuit, (heretofore subservient to manufacturing capital,) has been partially unshackled; and which, by its prospective influence, practically demonstrates the absurdity of the recently discovered theory in political economy, "that a tax upon foreign articles of consumption, reduces the price to the consumer."

The existing war between the Republic of Mexico and the United States, will necessarily direct your attention, as a matter of self-defence, to the adoption of such measures as will effect a prompt and thorough organization of the Militia of this State. The Act of the last Legislature upon this subject has been found to be in many of its provisions, wholly impracticable.

Many volunteer companies, (both of cavalry and infantry,) have been organized during the current year; and when armed, will, it is believed, be found to be an efficient force for the defence of the State.

The State's quota of Arms, under the Act of Congress of 1808, has been forwarded by the Department at Washington: and when received, will be disposed of as you may deem proper. I would respectfully recommend, that they be distributed among such volunteer companies as now are, and hereafter may be legally organized, and upon such security for their forthcoming, (on demand from proper authority,) as may ensure that object; and until such security be given, that they be under the care of the Quarter Master General.

That there should be conflicting opinions among the millions who compose the population of this Republic, as to the expediency of the present contest with Mexico, would only accord with the history of the past, under similar circumstances. The enthusiasm, however, which thus far seems to have animated all for its vigorous prosecution, warrants the conviction, that whatever diversity of sentiment there may be in that respect, all are alike impelled by that holy resolution which Patriotism ever prompts:—"Right or wrong, our Country first and last; and all for our Country."

That it may be speedily and successfully terminated, is doubtless desired by all. Its triumphs, however brilliant and however gratifying to the patriot, are, when graphically portrayed, but pictures of human misery, susceptible of no

colorings, upon which the *Philanthropist* can dwell, without emotions of the deepest sympathy, pain and regret.

Yet, while we are allowed to approve the feelings which Humanity may dictate, and to regret the existing war as a national calamity, (justified, however, as we believe it to be, by a proper regard for the rights of our fellow-citizens and the honor of the Republic,) nevertheless our duty is not less imperative, not only to adopt such measures as may be necessary and proper, to insure the safety and maintain the fair fame of our STATE, but heartily to co-operate with our *common country* in every effort to restore an *honorable and permanent peace*.

Deeply sensible of the duties imposed upon me by the Constitution, and animated with a becoming zeal and anxious solicitude, to discharge with fidelity the responsibility involved in them, no effort on my part shall be wanting that may contribute to the accomplishment of purposes so desirable.

That all your deliberations under the guidance of Providence, may be directed to the happiness of the people, the interests of the state, and the perpetuity of the Union, is the most anxious wish of my heart.

W. D. MOSELEY.

EXECUTIVE DEPARTMENT, November 24, 1846.

Which was read, and one thousand copies ordered to be printed.

On motion of Mr. Johnson, the oath of office was administered to the Secretary.

The Senate, on motion of Mr. McLean, adjourned until tomorrow 10 o'clock.

WEDNESDAY, November 25, 1846.

The Senate met pursuant to adjournment. A quorum being present, the Journal of yesterday's proceedings was read and approved.

On motion of Mr. Carter, a Committee of three were appointed to prepare Rules for the government of the Senate, during the present session.

Messrs. Carter, Kelly, and White, were appointed on that Committee.

Mr. Fairbanks moved that a Committee of three be appointed to examine into the subject of Legislative printing, whose duty it shall be to obtain the lowest terms upon which the printing can be done, and to report to the Senate the prices at which the same can be executed by contract, and by the session; and the price the entire State printing may be done by the year, (dispensing with daily slips,) and report as soon as practicable.

Which motion prevailed; and Messrs. Fairbanks, Lorimer, and Bird, were appointed that Committee.

Mr. Carter offered the following resolution, viz:

Resolved, That the Secretary of the Senate purchase twenty dollars worth of stationary, and distribute the same according to the wants of the Senators.

Which was read, the rules waived, read the second and third times, and adopted.

The election of Doorkeeper and Messenger, being the unfinished business of yesterday, was taken up, and the Senate proceed-