

On motion of Mr. Hopkins, the bill relating to the assessment of taxes was placed among the orders of the day and taken up,
Which was read the third time and put upon its passage.

The vote was :

Yeas—Mr. President, Messrs. Arnow, Carter, Cooper, Hopkins, Roper, Russel of 17th District, Scott, Smith and Taylor—10.

Nays—Messrs. Clary, Hogue, Holland, King, Norwood and Russell of Jefferson—6.

So the bill passed—title as stated.

Ordered that the same be certified to the House of Representatives.

House bill to be entitled an act for the relief of settlers under the act of Congress for the armed occupation of a part of Florida,

Was read the first time, rule waived, read the second and third times by its title and put upon its passage.

The vote was :

Yeas—Mr. Scott—1.

Nays—Mr. President, Messrs. Arnow, Carter, Clary, Cooper, Hogue, Holland, Hopkins, King, Norwood, Roper, Russell of Jefferson, Russell of 17th District, Smith and Taylor—15.

So the bill was lost.

Ordered that the same be certified to the House of Representatives.

House bill to be entitled an act to regulate trade and intercourse with the Indians,

Was read the first time and ordered for a second reading on to-morrow.

The orders of the day being through with, on motion of Mr. Norwood, the Senate adjourned until 10 o'clock to-morrow morning.

SATURDAY, December 6th, 1862.

Senate met pursuant to adjournment.

The President in the Chair.

A quorum present.

The Rev. Dr. DuBose officiated as Chaplain.

The Journal of yesterday was read, corrected and approved.

The President announced motions in order.

Mr. Arnow moved that a committee of three be appointed to request the House to return the bill for the relief of settlers under the acts of Congress for the armed occupation of a part of Florida,

Which was agreed to, and Messrs. Arnow, Scott and Norwood appointed said committee.

The committee retired and returned and reported they had performed their duty and were discharged.

Mr. Arnou, in pursuance of previous notice, introduced a bill to be entitled an act to protect the interests of stock owners in this State,

Which was placed among the orders of the day.

Mr. Arnou offered the following resolution concerning the expenditure of funds:

Whereas, it appears from the report of the Treasurer of this State, dated November 4th, 1862, the following amounts, to wit:

For equipment of forces,	\$126,078 60*
Payment of troops,	67,035 00
Military purposes,	324,165 47

Total,	\$517,279 13
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Be it therefore resolved by the Senate and House of Representatives of the State of Florida in General Assembly convened, That the Treasurer be required to report to the General Assembly, without unnecessary delay,

1st. Under and by what authority the money was paid out for the equipment of forces, for payment of troops and for military purposes.

2d. What forces were equipped and the nature of said equipment, and what troops were paid.

3d. For what military purposes, giving a detailed account, stating the manner in which each of the above items were expended,

Which was read and adopted.

Mr. Norwood, from the Committee on Confederate Relations, made the following report:

The Committee on Confederate Relations, to whom was referred joint resolution entitled resolution relating to salt, beg leave to report, that they have had the same under consideration and return the same, and recommend its passage.

JESSE NORWOOD, Chairman.

Which was read and said resolution placed among the orders of the day.

Mr. Taylor, from the Committee on Enrolled Bills, made the following report:

The Committee on Enrolled Bills report the following bills as correctly enrolled, viz:

An act to suspend the collection of taxes in counties held or controlled by the enemy;

An act in relation to the Courts of Escambia county, and for other purposes; also,

An act to aid the families of soldiers that require assistance.

J. M. TAYLOR, Chairman.

Which was read.

Mr. Norwood, from the Committee on Confederate Relations, made the following report:

The Committee on Confederate Relations, to whom was referred a bill entitled an act for the prevention of engrossment and extortion, beg leave to

REPORT :

That they have had the same under consideration, and recommend that the same should not pass, as a bill substantially containing the provisions of said bill has been passed by the present Senate.

JESSE NORWOOD, Chairman.

Which was received and the accompanying bill placed among the orders of the day.

ORDERS OF THE DAY.

A bill to be entitled an act fixing the salary of the State Treasurer,

Was read the second time and ordered to be engrossed for a third reading on Monday.

A bill to be entitled an act in relation to power,

Was read the second time and referred to the Committee on the Judiciary.

A bill to be entitled an act to protect the interests of stock owners in this State,

Was read a first time and ordered for a second reading on Monday.

A resolution relating to salt,

Was read the second time, rule waived, read the third time and put upon its passage.

The vote was :

Yeas—Mr. President, Messrs. Afnow, Carter, Clary, Cooper, Hopkins, King, Norwood, Roper, Russell of 17th District, Scott, Smith and Taylor—13.

Nays—Messrs. Hogue, Holland and Russell of Jefferson—3.

So the resolution passed—title as stated.

Ordered that the same be certified to the House of Representatives.

A bill to be entitled an act to prevent engrossment and extortion,

Was read the second time, and, on motion of Mr. Norwood, indefinitely postponed.

A resolution repealing Ordinance No. 60,

Was read the second time.

Mr. Hopkins offered the following as a substitute for the above resolution :

A bill to be entitled an act to repeal so much of Ordinance No. 60 as suspends the payment of warrants issued under an act herein mentioned,

Which was adopted.

The rule was waived and the substitute read the third time by its title and put upon its passage.

The vote was :

Yeas—Messrs. Hogue, Hopkins, Roper, Smith and Taylor—5.

Nays—Mr. President, Messrs. Arnow, Carter, Clary, Cooper, King, Norwood, Russell of Jefferson, Russell of 17th District, and Scott—10.

So the substitute was lost.

House bill to be entitled an act to regulate trade and intercourse with the Indians,

Was read the second time and referred to the Committee on the Judiciary.

The following communication was received from his Excellency the Governor :

EXECUTIVE DEPARTMENT,
Tallahassee, Dec. 6th, 1862. }

*Fellow-Citizens of the Senate
and House of Representatives :*

I enclose herewith copies of the correspondence between Hons. John Erskine and A. P. Wright, Commissioners on the part of Georgia, and Hons. James Banks and M. D. Papy, Commissioners on the part of Florida, in reference to the boundary between the two States ; also copies of a letter addressed to me by the Georgia Commissioners, and of a reply thereto from the Commissioners of Florida ; to all of which I most respectfully invite your attention.

Very respectfully,

JOHN MILTON.

TALLAHASSEE, Dec. 2nd, 1862.

HONS. JOHN ERSKINE AND A. P. WRIGHT,
Commissioners from Georgia :

Gents : We have the honor to advise you that we have been appointed Commissioners on the part of the State of Florida, to confer with you "in relation to the boundary line between the States of Georgia and Florida, and to make an adjustment and settlement of the matter in controversy between the two States relative to said boundary line." We are prepared to meet you for conference at any hour that may be convenient to you, or to receive in writing any proposition you may have to submit. We enclose a copy of the resolutions of the General Assembly of this State, under authority of which our appointment has been made.

We are, very respectfully, &c.,

JAMES BANKS,
M. D. PAPY,
Commissioners for Florida.

TALLAHASSEE, Dec. 2nd, 1862.

HONS. M. D. PAPPY AND JAMES BANKS,

Commissioners for Florida:

Gentlemen: The undersigned Commissioners on the part of Georgia, have the honor to acknowledge the receipt of your note to-day, informing the undersigned of your appointment as Commissioners on the part of Florida, to confer with the undersigned "in relation to the boundary line between the States of Georgia and Florida, and to make an adjustment and settlement of the matter in controversy between the two States relative to the said boundary line," and proposing to meet the Commissioners from Georgia for conference, or to receive in writing any proposition they may have to make. Accompanying your note is a copy of the resolutions of the General Assembly of Florida under which you act.

Herewith enclosed you will please find a copy of the recital, preamble and resolutions of the General Assembly of the State of Georgia, by authority of which the undersigned act; and as the powers with which the undersigned are clothed are limited and specific, they adopt the latter alternative of your proposal, and, at once, offer in writing, the following proposition as a basis of final settlement of the boundary line between Georgia and Florida, that is to say: The State of Georgia, to avoid further dispute, proposes to Florida that what is denominated the Watson line, or such other boundary line (as will leave within the limits of Georgia the fractional lots of land heretofore sold under an act or acts of her Legislature) shall be adopted as the boundary line:

Should the Commissioners on the part of Florida desire to have an interview with the Commissioners for Georgia, they will be happy to meet them at any hour indicated, and to exchange views on the subject in controversy. And if the Commissioners of Florida decline to entertain the propositions of Georgia, the Commissioners for Georgia will receive any proposal officially made to them, and transmit the same to the Government of Georgia.

Yours, respectfully; &c.,

ARTHUR P. WRIGHT,

JOHN ERSKINE,

Commissioners.

TALLAHASSEE, Dec. 2d, 1862.

HONS. JOHN ERSKINE AND A. P. WRIGHT,

Commissioners from Georgia:

GENTS:—We are in receipt of your note of this date, proposing that what is denominated the Watson line, or such other line as will leave within the limits of Georgia the fractional lots of land

heretofore sold under an act or acts of her Legislature, shall be adopted as the boundary line between the States of Georgia and Florida. We regret that, feeling it to be our duty to decline on the part of Florida the proposition you submit, you were not vested with more ample powers and a wider discretion.

In justification of the position assumed for our State, we do not deem it necessary to enter upon the whole history of this controversy from the date of the treaty of settlement, amity and limits between the United States and Spain, but will confine ourselves to the action of the two States since the date of the agreement between Governor Broome of Florida and Governor Johnson of Georgia, entered into in 1857.

In that year, Georgia adopted a preamble and resolution, which were approved on the 24th day of December, 1857, from which we quote as follows:

Resolved, 1st. That we do hereby ratify the action of the late Executive of this State in accepting the proposition of the Governor of Florida to adopt the terminal points of the present recognized line as the true terminal points of the boundary line, and will regard, adopt and act upon the present line as run and recognized between those points as the settled boundary of the two States, or will so recognize and adopt any other line between those points which may be ascertained and established on a resurvey and remarking of the boundary, provided said boundary correction is made by virtue of law and by the joint action of the States aforesaid.

2d. *Be it further resolved by the authority aforesaid*, That, should it be deemed essential or important by either State to have the boundary line between the terminal points of the present recognized boundary resurveyed and remarked, the Governor of this State is hereby authorized to appoint a competent Surveyor, to join any such Surveyor appointed on the part of Florida, to run out and mark distinctly such a line from one to the other terminal points herein indicated, to be known as the line and settled boundary between the two States, the Surveyor on the part of Georgia to be paid such compensation as may be determined on by the present or any future Legislature."

Florida, by a similar action and the adoption of similar resolutions, approved January 12th, 1859, ratified the agreement of the Governors of the two States, and provided for the appointment of a Surveyor to join the Surveyor on the part of Georgia to run out and mark distinctly the line between the terminal points indicated. Indeed, the resolutions adopted by Florida are the same in all respects as those previously adopted by Georgia, with the exception only of the necessary transposition of words to suit the case. When both States had thus acted through their Executive and Legislative authorities, Florida congratulated herself that in a spirit of conciliation and friendship this long pending controversy was happily

brought to an end. Nothing remained but the actual designation by distinct marks of the line thus agreed upon, and both States appointed surveyors for that purpose, who fully and harmoniously executed the work to which they were assigned.

If there was left any room for controversy as to what was understood to be the then present recognized line and the terminal points thereof, all difficulty was removed by the subsequent action of Georgia. Without commenting on the fact that the Surveyor, on the part of both States, did not disagree as to what was intended by the parties, and acted on the idea that Ellicott's mound was the designated Eastern terminus, we beg to refer to the act of the Legislature of Georgia, approved Dec. 16th, 1859, entitled "An act to recognize, under certain circumstances, the boundary line between the States of Georgia and Florida as the permanent boundary," &c., &c. By the first section it was enacted, "That if the State of Florida shall duly recognize, and by law declare the line now being run by the joint surveyors of Florida and Georgia, that is to say, the first line run by them from the Western to the Eastern designated terminus, as the permanent boundary line between the two States, that the said line is hereby recognized, adopted and declared on the part of Georgia as the true and permanent line of boundary; provided, nevertheless, on the Eastern terminus it does not depart exceeding one-fourth of a mile from Ellicott's mound." It is thus apparent that Georgia considered Ellicott's mound as one of the terminal points mentioned in the agreement between Governors Broome and Johnson, afterwards ratified by both States, and that the line between these points and the junction of the Flint and Chattahoochee rivers was the one intended and understood to be the permanent boundary.

It will be observed that, by the section last quoted, Georgia required, as a condition to the recognition and adopted therein declared of the line then being run, that Florida should "duly recognize and by law declare" the said line as "the permanent boundary between the two States." Acting on this suggestion, Florida, by an act approved December 22d, 1859, did enact "that the line now being run by B. F. Whitner, Jr., on the part of Florida, and G. J. Orr, on the part of Georgia, be and the same is hereby recognized and declared to be the permanent boundary line between the two States, so soon as the same shall be permanently marked by said surveyors; provided, the said line, at its Eastern terminus, does not depart from or miss Ellicott's mound more than one-fourth of a mile or twenty chains." It is believed that no suggestion has ever been made that the line, as run and marked by the surveyors, departed more than the distance specified in the proviso to this and to the act of the Georgia Legislature. Florida having thus complied promptly with the conditions required by the Georgia act of the 16th December, 1859, what more remained for her to do, or upon what

farther contingency depended the recognition and adoption by Georgia of the line then being run, so solemnly proclaimed in the act referred to? None, for none other was prescribed.

As further evidence, if any were needed, of the intent and purpose of Georgia, we desire to call your attention to the fourth section of the act of that State of December, 1859, which enacts "That if the State of Florida shall fail to recognize the line now being run by the surveyors as the true and permanent boundary line, it being then the duty of the surveyors to run and re-run the line until they shall strike a straight line from the mouth of Flint River to Ellicott's mound, that then this line thus designated and marked by them is hereby recognized and declared as the permanent boundary between the States of Georgia and Florida." Thus it will be seen that Ellicott's mound was the understood Eastern terminus, and that Georgia declared even if Florida should not recognize the line "then being run," that the line, which in consequence thereof it would be the duty of the surveyor to re-run from the mouth of the Flint River to Ellicott's mound should be the permanent boundary between the two States. Could any thing more have been required from either or both States to close forever this already long protracted controversy? Is Florida not fully justified in maintaining that the question of boundary is no longer an open one, and may she not hope for rest and repose in all future time?

It may not be amiss for us to refer to a preamble and resolutions adopted by the General Assembly of Florida, approved February 8th, 1861, and to explain what we understand to have been intended by their adoption. The preamble recites the previous recognition of the line "then being run" by Messrs. Whitner and Orr, upon the condition expressed in the proviso to the act of recognition, that the line did not depart at its Eastern terminus more than one-fourth of a mile, or twenty chains, from Ellicott's mound. It further recites "that the said line has been run and marked by said surveyors on the part of the two States, the Eastern terminus of which, as run and marked, is within the distance prescribed in the said proviso;" wherefore it was resolved, "that the line run and marked by B. F. Whitner, Jr., on the part of Florida, and G. J. Orr, on the part of Georgia, be and the same is hereby declared to be the permanent boundary line between the States of Georgia and Florida, and that the Governor be and he is hereby requested to issue his proclamation that the said line so run and marked has been and is declared to be the permanent boundary line between the two States; provided the State of Georgia shall have, on its part, declared the said line to be the boundary between that State and Florida." At the date of the act of recognition of Georgia, as well as that of Florida, in 1859, it was not known whether the line "then being run" would, at its Eastern terminus, depart from Ellicott's mound more than the distance specified in the proviso, or fall within it. When the resolu-

tions last above referred to were adopted, the fact was ascertained that the line was at the Eastern terminus within the given distance. Florida, by these resolutions, ratified the line as *run and marked*, and directed the Governor to issue his proclamation announcing it as the permanent boundary between the two States. The proviso was only intended to limit the action of the Governor, in other words, to make the issuing of his proclamation contingent upon the recognition by Georgia of the line as run and marked, and out of courtesy and respect for that State. It was not intended to operate upon so much of the resolution as declared the line then completed to be the permanent boundary.

The purpose was to harmonize the action of both States in the announcement to the people of each, that the specific line run and marked was the agreed permanent boundary.

Any other idea would place Florida in the attitude of considering that her previous recognition and ratification needed further action to make them binding on her honor.

For these reasons, we feel it to be our duty to decline in behalf of Florida the propositions you offer. As the Commissioners for Georgia are limited in their powers, and are not clothed with any discretion to accept any other terms than these proposed by them, and as the Legislature of Florida is now in session, and can itself act authoritatively upon the subject, the undersigned deem it more proper to refrain from submitting any proposition to the Commissioners of Georgia.

We are very respectfully, &c.,

M. D. PAPPY,
JAMES BANKS,
Commissioners for Florida.

TALLAHASSEE, Dec. 3d, 1862.

HIS EXCELLENCY JOHN MILTON,
Governor, &c.:

Sir: We enclose you copies of correspondence with the Commissioners of the State of Georgia, concerning the boundary between the two States. Your Excellency will observe by the letter addressed to us by the Commissioners of Georgia, that they propose to adopt what is denominated the Watson line, or such other line as will leave within Georgia the lots of land sold by that State under authority of its Legislature, as the boundary between Georgia and Florida. It is understood that any other line which would leave within Georgia the lots of land so sold by her would be equivalent to the Watson line.

We felt it to be our duty to decline the proposition made to us; and in our letter to the Georgia Commissioners conveyed to them

our reasons for considering the question was no longer an open one. As the Commissioners of Georgia had no authority to entertain or accept any other proposition than the one submitted to us, and as our General Assembly is now in session and can act according to its own views in proposing to Georgia any modification or alteration of the line which has been ratified, we concluded it to be more proper to decline the invitation to submit a counter proposition to be conveyed to the authorities of Georgia. Whilst your Commissioners have thus acted in the discharge of the important trust reposed in them, and whilst they are fully convinced that the faith of both States is pledged to the inviolable maintenance of the "line" surveyed and marked by Messrs. Whitner and Orr—a line so solemnly established that it can never be changed without the consent of both States—yet, if the Georgia Commissioners had been clothed with power to entertain any proposition to settle the controversy growing out of its establishment, your Commissioners would, in a spirit of amity and friendship, have recommended the adoption of the McNeill line, that being the one upon which it is understood all the surveys in Florida closed.

We are very respectfully, &c.,

JAMES BANKS,
M. D. PAPPY,

EXECUTIVE CHAMBER, }
TALLAHASSEE, Dec. 4th, 1862. }

HONS. M. D. PAPPY AND JAMES BANKS,

Commissioners for Florida:

Gentlemen: Your attention is respectfully invited to the accompanying copy of a letter addressed to me by the Hon. John Erskine and the Hon. Arthur P. Wright, Commissioners from Georgia on the boundary line, between the two States.

These gentlemen considered themselves precluded from addressing you after your reply to their proposition.

Very respectfully,

JOHN MILTON.

TALLAHASSEE, FLA., Dec. 4th, 1862.

TO HIS EXCELLENCY JOHN MILTON,

Governor of Florida, &c., &c., &c.:

SIR:—We, the undersigned Commissioners on the boundary line for the State of Georgia to the Government of Florida, being about

to return to Georgia, take this occasion to express to your Excellency our profound acknowledgments for the courteous manner in which we have been received by your Excellency and by the General Assembly of Florida in our official character.

To-day we received the reply of the Hons. M. D. Papy and James Banks, Commissioners on the part of Florida, appointed by your Excellency pursuant to resolutions of the General Assembly of Florida, approved December 1st, 1862, "to confer," &c., with the Commissioners for Georgia on the subject of the boundary line between said States, to our written proposition submitted to them on yesterday, copies of which, we presume, are already in possession of your Excellency. And, before taking our departure, we beg leave to present to your Excellency (the negotiations between the respective Commissioners having ended on the receipt of the reply referred to) as succinctly as is possible our views on the response of the honorable Commissioners of Florida.

We would not trouble you with any remarks whatever on this subject had the Commissioners confined their answer to a mere declination of our proposition; but we deem it pertinent to say that it is due to Georgia that we comment, in a respectful manner, upon some of the reasons advanced by the honorable Commissioners for declining the proposition of Georgia—a proposition made by Georgia in a spirit of neighborly friendships, comity and concession.

Although Georgia has been, and still is, well aware that the McNeill line and the Ellicott Mound are not the true boundary line and correct terminus between the States of Florida and Georgia, agreeably to the treaty of 1795, she, feeling satisfied that the Eastern terminus is properly far South of Ellicott's Mound, yet, for the sake of peace and harmony between her and her sister State of Florida, she has been willing to adopt the Watson line as a boundary, this line having generally been recognized as such by the people of both States, particularly by those who own lands on and reside near the borders. Both States surveyed and sold lands to that line, and Georgia, acting in consonance with this generally recognized boundary, passed resolutions on the 24th day of December, 1857, the true meaning and spirit of which being to remark and designate the Watson line, though the words "Watson line" are not mentioned in the resolutions. We refer you to the acts of the Legislature of Georgia of 1857; and on the 16th December, 1859, the General Assembly of Georgia passed an act, without any reservation, condition or proviso, enacting, that if any of the citizens of Florida should fall within the jurisdiction of Georgia upon the survey having been made, that she would affirm to *bona fide* holders the lands held by the citizens of Florida, thereby offering to quiet the titles and end all litigation and controversies which had so long disturbed and annoyed the inhabitants on both sides of the Watson line. See acts of 1859, p. 23. The Legislature of Florida, on the 22d of Decem-

ber, 1859, passed a statute similar in language and identical in meaning to the act passed by Georgia a few days anterior, but, unfortunately for the peace and quiet of both States, added a proviso in the following words: "Provided, nothing herein shall apply to lands which citizens of this State may claim title South of what is known as the McNeill line." Plainly showing that it could not have been the intention of our sister Florida to affirm the compact with Georgia, for this proviso negatives all the prior legislation of both States, leaving the whole controversy where it stood for years before. As to the Orr and Whitner line, we have not met one man in Florida who does not admit that it is erroneous in this, that, instead of its being run as a compass or plane line, it is and on the arc of a circle, a mode never contemplated by either State, and till then unused in the running of boundary lines between Georgia and Florida. The action of Florida, by a resolution of her General Assembly, approved February 8th, 1861, is patent that she did not deem the Orr and Whitner line conclusive, but awaited the action of Georgia thereon. See acts of Florida, 1860-'61, p. 238. Georgia never has, and never will, confirm and adopt the Orr and Whitner line.

But the honorable Commissioners on the part of Florida ask us, "Can anything more have been required from both States to close forever this already long protracted controversy? Is Florida not fully justified in maintaining that the question of boundary is no longer an open one, and may she not hope for rest and repose in all future time?" We might properly felicitate ourselves with a bare negative of the questions propounded by the honorable Commissioners on the part of Florida, but we feel confident that the records placed before your Excellency will show that the question is still an open one. Georgia, by the preamble and resolutions, assented to December 11th, 1861, offered to close the long pending controversy, but the honorable Commissioners on the part of Florida have refused to accept the olive branch presented by Georgia; and it is a well known rule, that when propositions are offered by one sovereign State and accepted and agreed to by another, they constitute a compact between them, and not till then.

Had the *proviso* above by us quoted not have been overlooked by the honorable Commissioners, they would not, we apprehend, for an instant, have deemed the question of the boundary line closed; and, we may add, that the honorable Commissioners, in the *reasons* given by them for declining our proposition, are not in success like those biographical restorers who, from the fragment of a foot or a hand, ventured to reproduce the entire figure.

With sentiments of respect, we remain

Your Excellency's obt' serv'ts,

JOHN ERSKINE,

ARTHUR P. WRIGHT,

Commissioners for Georgia.

(COPY.)

TALLAHASSEE, December 4th, 1862.

HIS EXCELLENCY JOHN MILTON,
Governor:

SIR: We have the honor to acknowledge the receipt of your note of this date, submitting to us a communication addressed to your Excellency by Hons. John Erskine and A. P. Wright, Commissioners on the part of Georgia. We are satisfied, from the character of those gentlemen, as well as from the assurances given by your Excellency, that, though somewhat irregular, no discourtesy was intended towards us.

It is pr per for us to say, that we did not intend to preclude the Commissioners of Georgia from making any response to the letter we addressed them. On the contrary, we called upon them in person to know whether they designed a reply, informing them that we would not report to you until the opportunity was afforded them. We observed, with no little surprise, that the Commissioners of Georgia assert that the Watson line had generally been recognized as the boundary between the two States, and that Georgia, acting in consonance with this generally recognized boundary, passed resolutions on the 24th day of December, 1857, the true meaning and spirit of which were to re-mark and designate the Watson line, though the words "Watson line" are not mentioned in the resolutions. This assumption on the part of the Commissioners of Georgia is surely not borne out either by the language of the resolutions referred to, by the agreement of Governors Johnson and Broome, which both States ratified, nor by the subsequent action of either. We have, we think, conclusively shewn that the "terminal points of the (then) present recognized line," which were proposed by Gov. Broome, adopted by Governor Johnson, and ratified by the resolutions referred to, were understood to be the mouth of Flint River on the West and Ellicott's mound on the East. We established it, first, by referring to the action of the surveyors appointed to run the line between "those points." Second, by the proviso to the first section of the act of Georgia of 1859, which provides that the line then being run should not, at the Eastern terminus depart exceeding one-fourth of a mile from *Ellicott's mound*. Third, by the 4th section of the same act of Georgia, which declared that on the failure of Florida to recognize the line then being run, the line then to be re-run from the mouth of Flint River to *Ellicott's mound* should be the recognized boundary.

It is difficult, in view of all this, to conceive how it was possible for the Georgia Commissioners to conclude that Georgia meant "to re-mark and designate the Watson line." If such was her purpose only, it never was expressed; but, on the contrary, every act of hers excludes the idea that any other line than the one between the mouth of Flint River and Ellicott's mound was intended. Referring

to the acts of both States respecting the confirmation of titles to land sold by the one and falling within the other by the new boundary, the Georgia Commissioners affirm that Georgia, without reservation, offered thereby to confirm and quiet titles, and "end the controversies which had so long disturbed and annoyed the inhabitants on both sides of the Watsern line," whilst Florida, by the proviso they quote, "plainly shewed that it could not have been her intention to affirm the compact with Georgia, for this proviso negatives all the prior legislation of both States, leaving the whole controversy where it stood for years before." We think we shall have little difficulty in disposing of the position thus taken by the Commissioners of Georgia.

The law of Georgia is as follows :

"SEC. 2. *And be it further enacted,* That if the State of Florida shall pass laws, or procure from the Congress of the United States the passage of laws, affirming and quieting in *bona fide* holders the titles to land held under patents from the United States, and which, when the boundary line shall be established and recognized by the two States, shall fall under the jurisdiction of Georgia, that the State of Georgia does hereby affirm to *bona fide* holders of all lands held under grants issuing from the State of Georgia their titles to the same: *Provided,* Any lands so held when the boundary line shall be established and recognized shall fall under the jurisdiction of Florida."

There will be seen this strange and remarkable proposition in the section of the Georgia act quoted. She asks Florida to pass laws or procure from the Congress of the United States the passage of laws affirming and quieting in *bona fide* holders the titles to land held under patents from the United States, which should fall under the jurisdiction of Georgia whereupon she thereby affirmed to holders of all lands held under grants from Georgia, their titles to the same, provided the lands so held should fall under the jurisdiction of Florida. It must be obvious that neither Florida nor the United States could confirm titles to land which should fall in Georgia, any more than Georgia could confirm titles to the land which should fall in Florida.

Florida and the United States were already bound by the patents they issued, and should the land sold by either of these Governments fall by the new line into Georgia, that State could then confirm the title to the land which thus became subject to her jurisdiction and *vice versa*. No effect could therefore possibly follow the enactment of the section of the Georgia act referred to. Florida, however, adopted very different language. In the section of the act referred to by the Georgia Commissioners, she enacted: "That the titles of *bona fide* holders of land under any grant from the State of Georgia, which land may fall within this State by the foregoing line are hereby confirmed and conveyed to said holders so far as any right may

accrue to this State; *Provided*, Nothing herein shall apply to lands to which citizens of this State may claim title South of what is known as the McNeill line." This section is plain, explicit and unambiguous. Its purpose is patent, its effect could not be a matter of doubt. By it all lands which Georgia may have granted, falling within the jurisdiction of Florida by the new line were confirmed to the holders so far as Florida had the power to do so, except such lands as should be South of the McNeill line, to which citizens of Florida should claim title. Let it be recollected that Florida was not the proprietor of the domain lying along the line, except such portions as she may have derived from the United States, and that therefore she could not do more than confirm the grants from Georgia "so far as any right might accrue" to her. As to the lands South of the McNeill line to which citizens of Florida claimed title, she chose not to disregard the rights of her own citizens, but left them as they were before, all other lands, whether North or South of McNeill's line, being subject to the operation of the section quoted. Having thus shown the difference between the Georgia and the Florida act, the one being operative and the other not, let us now enquire whether the proviso to the Florida act has the effect to "negative all prior legislation of both States, and leave the whole controversy where it stood for years before," as affirmed by the Georgia Commissioners.

The original agreement between Georgia and Florida simply was to adopt the terminal points of the then present recognized line as the true terminal points of the boundary to be re-surveyed, corrected and marked; on either party's showing the then present line to be incorrect. The Legislature of both States ratified this agreement in the terms quoted in our communication to the Georgia Commissioners, and provided for the appointment of a surveyor on the part of each, to run and mark the line between the points agreed upon. Here was a proposition made by one State, agreed to by the other, and ratified by the Legislatures of both, without condition or limitation, the whole containing every element which the Georgia Commissioners admit, constitute a compact between States. Georgia, by the act of 1859, ratified the line then being run by the surveyors previously appointed for that purpose, on the condition that Florida did so, subject however to the proviso, that the line did not depart exceeding one-fourth of a mile from Ellicott's mound. Florida, by her act of December, 1859, fulfilled the only condition thus required of her, by recognizing the line "then being run," upon the like proviso that it did not depart from Ellicott's mound more than one-fourth of a mile. It is afterwards ascertained that the line, as run and marked, did not depart from Ellicott's mound more than the required distance; and, therefore, according to the compact and agreement, and the resolutions and acts of both States, if language has any meaning, or words any force, the line, on its completion, became and was the permanent boundary.

There is nothing in the act of Georgia of 1859, in reference to the confirmation of titles, which makes the question of boundary dependent upon any agreement, on the part of Florida, to confirm titles to land which might fall within her jurisdiction. The one is wholly independent of the other.

The condition in the second section of the Georgia act is, "That if Florida shall pass laws affirming and quieting titles to land, &c., which shall fall within Georgia, then Georgia would, in like manner, affirm titles to holders of land which should fall within the jurisdiction of Florida." Suppose Florida should, in whole or in part, comply with this condition, or should altogether refuse to do either, can it be successfully maintained that she thereby waived the antecedent agreement and settlement of the boundary? Does it, indeed, follow that she would thereby negative all the previous legislation of both States, leaving the whole controversy where it stood years before? Surely not. The only effect would be to render inoperative the confirmation of the titles on the part of Georgia. To hold otherwise would be to give to Georgia the power, at all times, by proposing new, distinct and independent terms unknown in the original agreement, which may be unacceptable, to avoid the obligation of her own contracts. But, although, as has been shown, the section of the Georgia act was worth nothing to us, since she could not confirm titles to land in Florida, nor could we, nor the United States, confirm titles to land falling in Georgia.

Florida went as far as could reasonably have been expected, and unconditionally confirmed, as far as she had the power to do so, the titles to all lands derived from Georgia which by the new line should fall within her jurisdiction to the holders thereof, except where her own citizens claimed title South of the McNeill line. In view of all that has been said, with what show of reason can it be successfully maintained that by the reservation of the rights of her own citizens contained in the proviso above mentioned Florida showed any intention to "negative all the previous legislation of both States, leaving the whole controversy where it stood for years before" Our comments on the act of Florida of February, 1861, in our letter to the Georgia Commissioners, show what we understood was designed by the proviso attached to it, and need not here be repeated. Surely it cannot reasonably be supposed that Florida desired to re-open what had already been closed, or that there could have existed the smallest motive on her part to disturb, without a single compensating advantage, a settlement which she hoped would finally end all controversy. Little did she expect that what was intended as an act of courtesy to her elder sister would be sought to be turned against her.

The Commissioners of Georgia assert, in their letter to your Excellency, that the Commissioners of Florida have refused to accept the "olive branch" presented by Georgia. The "olive branch" ten-

dered to the undersigned was, that we should accept as the permanent boundary a line which, as we understand it, did not conform to the agreement between the two States, which required us to ignore our long asserted rights, and left us no alternative but to decline the proffered terms, or surrender to Georgia a portion of territory which, if the agreement referred to was not without meaning, was and is legitimately ours.

The undersigned are unable to appreciate the analogy suggested at the conclusion of the letter of the Commissioners of Georgia to your Excellency.

We are respectfully, &c.,

M. D. PAPY,
JAMES BANKS,
Commissioners for Florida.

Which was read, and the message and accompanying documents ordered to be spread upon the Journal.

House bill to be entitled an act to prohibit Sheriffs and Clerks of the Circuit Courts of this State from having deputies during the existence of the present war,

Was read the third time and put upon its passage.

The vote was :

Yeas—Mr. President, Messrs. Arnow, Carter, Clary, Cooper, Hogue, Hopkins, King, Roper, Russell of Jefferson, Russell of 17th District, Scott, Smith and Taylor—14.

Nays—Mr. Norwood—1.

So the bill passed—title as stated.

Ordered that the same be certified to the House of Representatives.

The following communication was received from the House of Representatives:

HOUSE OF REPRESENTATIVES, }
December 5th, 1862. }

HON. E. J. VANN,

President of the Senate:

SIR: The House has this day passed the following bills, viz:

House bill to be entitled an act to repeal an act to facilitate the construction of the St. Johns and Indian River Canal, approved January 1st, 1857, and for other purposes;

House bill to be entitled an act for the relief of John Kelly, and for other purposes;

House bill to be entitled an act for the relief of Gen. Wm. E. Anderson and others;

House bill to be entitled an act fixing the salary of Comptroller's Clerk;

House bill to be entitled an act to authorize the Commissioners of the several counties of this State to levy an extra tax for the purpose of purchasing clothing for the soldiers of this State;

Senate bill to be entitled an act to provide for the repayment of moneys withdrawn from the School and Seminary Funds.

The House has also refused to pass Senate bill to be entitled an act repealing the militia laws of this State.

Respectfully,

THOS. B. BAREFOOT,

Clerk House of Rep.

Which was read and accompanying House bills placed among the orders of the day, and Senate bill ordered to be enrolled.

House bill to be entitled an act to amend an act to prevent citizens of other States from fishing in Lakes Iamonia and Miccosukie,

Was read a third time and put on its passage.

The vote was :

Yeas—Mr. President, Messrs. Arnow, Carter, Clary, Hogue, Hopkins, King, Norwood, Roper, Russell of Jefferson, Russell of 17th District, Scott, Smith and Taylor—14.

Nays—None.

So the bill passed—title as stated.

Ordered that the same be certified to the House of Representatives.

House bill to be entitled an act relating to the offices of Calhoun County,

Was read the third time, and, on motion, passed over informally.

House bill to be entitled an act to purchase clothing for the soldiers of this State,

Was read the first time and ordered for a second reading on Monday.

House bill to be entitled an act fixing the salary of Comptroller's Clerk,

Was read the first time and ordered for a second reading on Monday.

House bill to be entitled an act for the relief of Gen. Wm. E. Anderson,

Was read the first time and ordered for a second reading on Monday.

House bill to be entitled an act to repeal an act to facilitate the construction of the St. Johns and Indian River canal, approved January 1st, 1857, and for other purposes,

Was read the first time, rule waived, read a second time by its title, and referred to a select committee consisting of Messrs. Russell of 17th District, Taylor and Scott.

House bill to be entitled an act for the relief of John Kelly, and for other purposes,

Was read the first time and ordered for a second reading on Monday.

On motion, the rule was waived, and the House bill to be entitled

read a second time by its title, and ordered for a third reading Monday.

The rule being waived, Mr. Arnow moved to amend the resolution concerning the expenditure of funds, by striking out the words 'House of Representatives of the State of Florida in General Assembly convened;'

Which was adopted.

The orders of the day being through with, on motion, the Senate adjourned until 10 o'clock, Monday.

MONDAY, December 8th, 1862.

Senate met pursuant to adjournment.

The President in the chair.

A quorum present.

The journal of Saturday was read, corrected and approved.

The President announced motions in order.

Mr. Russell, of the 17th District, presented a resolution relative copying the laws;

Which was received and placed among the orders of the day.

Mr. King presented a resolution relating to the Florida Hotel at Richmond, Va.,

Which was received and placed among the orders of the day.

Mr. Cooper, from the Committee on Engrossed Bills, made following report :

The Committee on Engrossed Bills ask leave to report the following bills as correctly engrossed, viz :

A bill to be entitled an act fixing the salary of the State Treasurer

A bill to be entitled an act to prevent the fraudulent use of Bonds issued by the Florida Railroad Company; also,

A bill to be entitled an act to prevent the entry of lands occupied by soldiers or their families during the continuance of the present war, and also to regulate the entry and sale of public lands.

All of which is respectfully submitted.

JAMES G. COOPER, Chairman

Which was read and the accompanying bills placed among orders of the day.

Mr. Hogue, from the Committee on the Judiciary, made the following report :

The Committee on the Judiciary, to whom was referred a bill to be entitled an act in relation to dower, have had the same under consideration, and a majority of the Committee are of the opinion that the bill ought not to pass.

D. P. HOGUE, Chairman