

FLORIDA STATE LIBRARY

Florida Becomes a State



FLORIDA CENTENNIAL COMMISSION

1945



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FLORIDA BECOMES A STATE

WATER ROUTES.

N^o 1. St. Augustine to Savannah.

St. John's River	42
Talbot Inlet	6 48
Nassau Inlet	5 53
Cumberland Sound	18 71
Fernandina	2 73
St. Andrew's Sound	22 95
St. Simons Sound	10 105
Matanzas Sound	15 120
Sapelo Island	5 125
Sapelo Sound	14 139
St. Catherine's Sound	14 153
Oxapaw Sound	12 165
Wassaw Sound	9 174
Savannah L.I.	10 184
Savannah	20 204

N^o 2. St. Augustine to St. Marys & Colerain.

Cumberland S. as in N ^o 1.	71
St. Marys	8 79
Colerain	38 117

N^o 3. St. Augustine to Lake George & Volusia.

St. John's Entrance	42
The Bluffs	14 56
Front Creek	10 66
Jacksonville	10 76
Selma (Black Cr.)	24 100
Pechua	14 114
Little Cedar Creek	6 120
Rollstown	25 145
Outlet of Duval L.	6 151
Coktanaha River	18 169
Lake George	8 177
Duval's Island	4 181
Volusia	20 201

N^o 4. St. Augustine to Thompsons Is^l.

Matanzas Inlet	22
Haulover	23 45
Mosquito Inlet	34 79
M ^r Tucker	20 99
Cape Canaveral	50 149
Indian Riv. Inlet	51 203
The Gap	11 214
St. Lucie Rocks	9 223
Blotch Yard	14 237
Jupiter Inlet	9 246
Grayse Hills	10 256
Rock Spring	4 260
Orange Grove	16 276
Dry River Inlet	18 294
Hillsboro Inlet	13 307
Indian Haulover	8 315
New River Inlet	8 323
Bear Cut	17 340
Key Biscayne Inlet	9 349
Ellis' Island (N.P.)	12 361
Cesars Creek	11 372
Sound P ^l (C. Lany)	18 390
Rodrigues Island	13 403
New Matanzas N.P.	16 419
Old Matanzas S.P.	13 432
Typer Key	7 439
Cayo Sombreo	23 462
B. Honda	10 472
Gr. Pine Island	18 490
Thompsons Island	22 612

To Havana 107 1/2 Miles.

WATER ROUTES.

N^o 5. Pensacola to Mobile.

Fort Barancas	7
Perdido Inlet	15 22
Lagoon	17 39
Fort Boyser	20 59
Mobile Point	1 06
Pass au Heron	6 66
Poulet River	11 77
Dog River	7 84
Mobile	7 91

N^o 6. Pensacola to St. Marks.

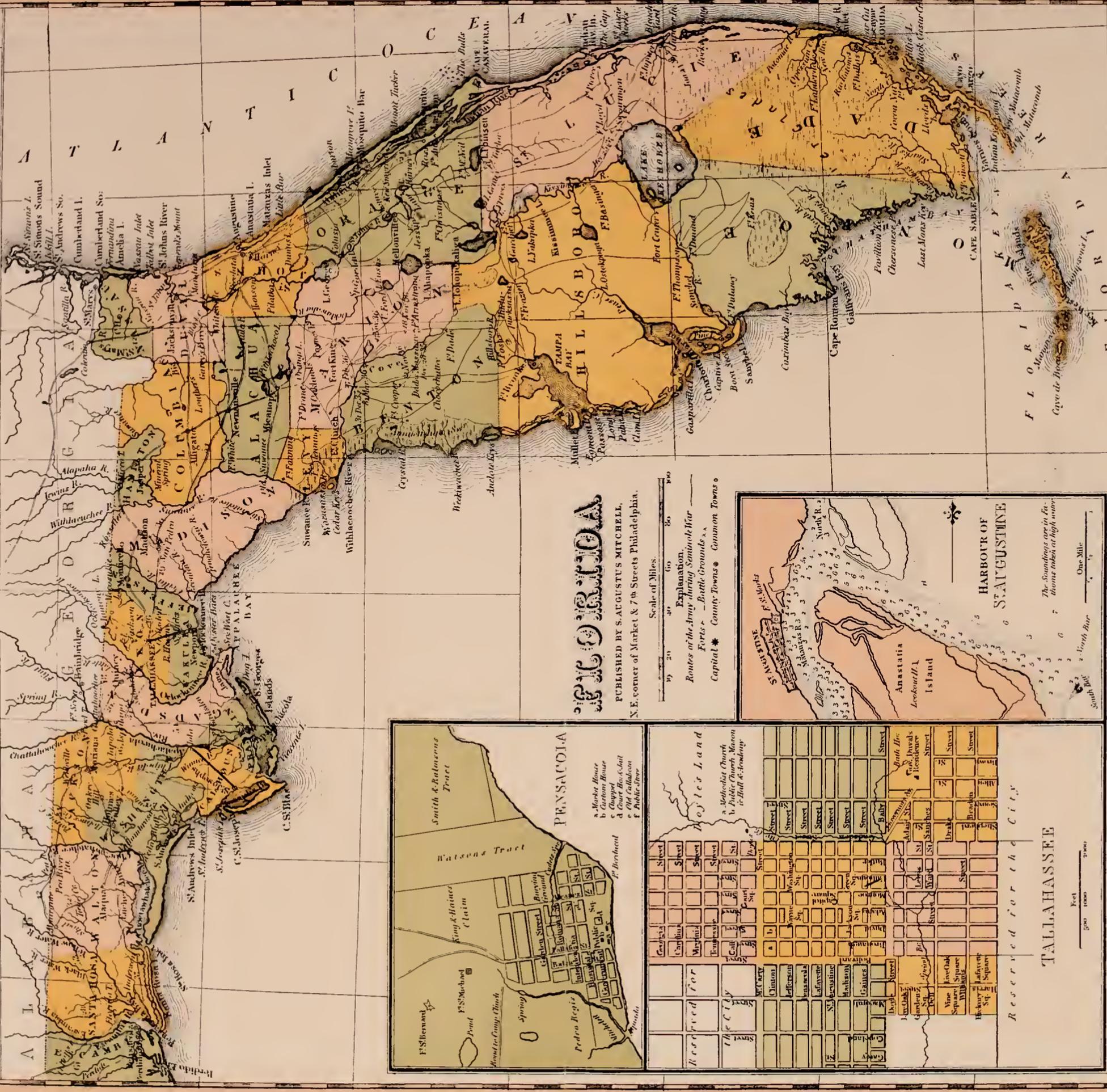
Fort Barancas	7
St. Rosa Inlet	47 54
St. Andrew's Inlet	63 117
St. Andrew's Island	5 122
Cape St. Joseph	14 136
Cape St. Blas	36 172
St. Vincent's I./E.P.	20 192
Fox Island	24 216
Dog Island	9 225
S. W. Cape	17 242
St. Marks	24 266

N^o 7. Pensacola to Thompsons Island.

St. Marks as in N ^o 6	266
Fenholoway R.	28 294
Stinchatchee Riv.	34 328
Cedar Keys	38 366
St. Martin's Keys	18 384
Anclote Key	38 422
Amazuro Key	4 426
St. Clements Is ^l	6 434
Holly's Keys	24 458
Holly's Islands	7 465
Grants P ^l (Long I.)	10 475
Boon Sena	10 485
Boat Sanxota	22 507
Clam Is ^l (S.P.)	10 517
Little Clam I.	6 523
Boca Casparilla	21 544
Boca Grande	8 552
Boca Captive	9 561
Rosa Sea	13 574
Carimbus Bay	10 614
Cape Roman	19 633
Pavilion Key	44 677
Presque Isle	10 687
Lost Mans Key	11 698
Cape Sable	25 723
Pine Islands	34 757
Thompsons Island	30 787

EXPLANATION.

- Canals ————
 - D^o Proposed ————
 - Rail Roads ————
 - D^o Proposed ————
 - Leading Roads ————
- The Land distances from Town to Town, are noted along the Roads, thus.

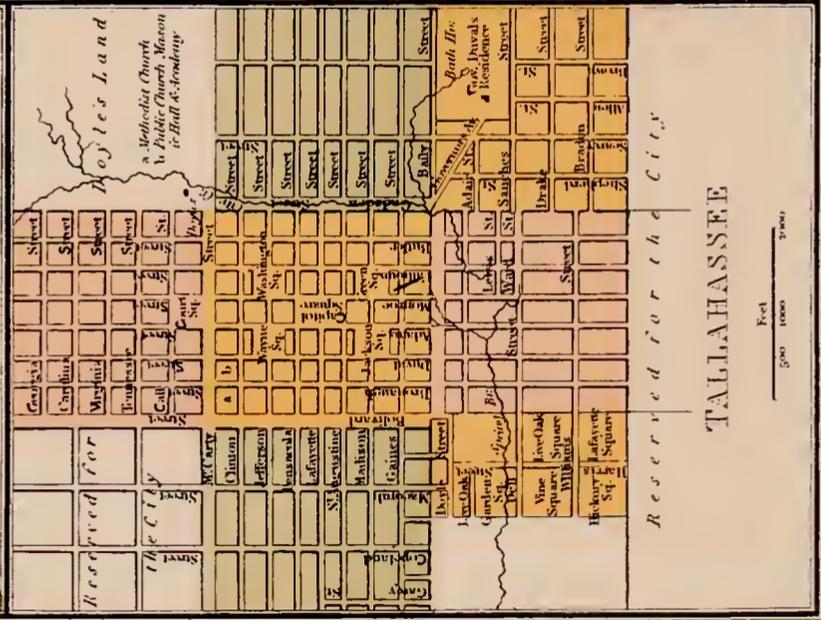
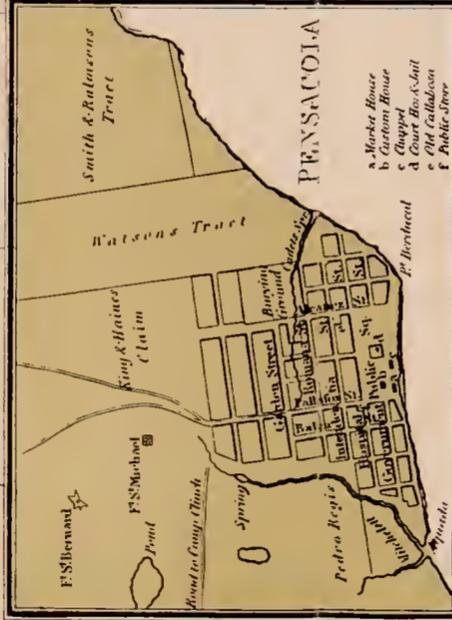
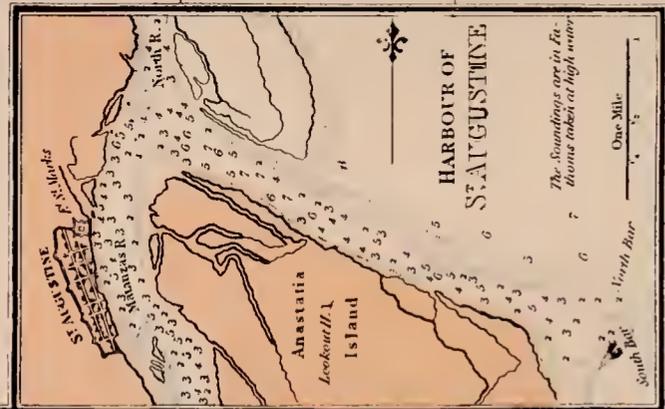


FLORIDA

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Scale of Miles.
0 20 40 60 80 100

Explanation.
Routes of the Army during Seminole War
Fort — Battle Grounds
Capital * County Towns & Common Towns



FLORIDA BECOMES A STATE

Foreword: Social Life in Florida in 1845

W. T. CASH
State Librarian

Introduction and Edited Documents

DOROTHY DODD, PH. D.
Archivist, Florida State Library

FLORIDA CENTENNIAL COMMISSION
Tallahassee
1945

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PREFACE

This volume is issued in commemoration of the first centennial of Florida's statehood. The idea of such a publication had its inception at a meeting of the State Library Board held May 9, 1944, at which time Governor Spessard L. Holland gave assurance of his approval. A special committee of the Florida Centennial Commission, consisting of Mr. LaMonte Graw, Chairman, and Messrs. Walter J. Matherly and Herbert Lamson, meeting in Lakeland, October 26, 1944, approved the idea and the use of Centennial Commission funds necessary for publication. Final plans for the volume were made December 15, 1944, at a joint meeting of the special committee of the Centennial Commission with the State Library Board. Subsequently Governor Millard F. Caldwell gave assurance of his approval and support. Preparation of the volume has been under the direction of the State Library Board.

Florida Becomes a State consists of selected documents relating to the admission of Florida to the Union, an introduction by Dorothy Dodd, Archivist in the Florida State Library, and a foreword by W. T. Cash, State Librarian, discussing social life in Florida about the time it became a state. The documents constitute a casebook in the formation of a state and are, therefore, not only useful to those interested in Florida history, but to students of the science of government as well. The introduction is more than a skillful interpretation of the documents; it is a splendid illustration of the gradual progress of Florida in surmounting obstacles on the road to statehood.

The portraits of William P. DuVal and Robert Raymond Reid, facing page 170, were made available, respectively, through the courtesy of Messrs. Randall Chase and B. F. Whitner, Sr., of Sanford, and of the Webb Memorial Library, St. Augustine. That of William D. Moseley, facing page 400, is reproduced through the kindness of Mr. J. W. Collins, of Tallahassee.

The State Library Board hopes that following this Centennial Volume, it can from time to time issue other publications that will show the progress of Florida and increase the interest of its citizens in their history.

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FOREWORD

SOCIAL LIFE IN FLORIDA IN 1845

The social and cultural life of territorial Florida, just as its political and economic activities, was chiefly determined by the composition of its population. This included the original Spanish element, with such other groups as had come during the British and later Spanish periods, and those moving in from elsewhere after American occupation began. Immigrants were chiefly from that part of the United States south of the Mason and Dixon line, more being from Georgia than any other state; probably some were from every previously established state and territory of the United States and a few came from foreign countries. As might have been expected, territorial Floridians had the same religious beliefs, the same manners and customs, and the same type of educational facilities as other frontier areas of the South. The average citizen, in 1845, spoke English, claimed to believe the Bible, favored States' rights, opposed total abstinence, hated the Seminole Indians, took plenty of calomel, and, in spite of several years of financial depression, had faith in the future of Florida.

Not all of them, however, had the same ideas as how best to plan for that future. Some thought that both Florida and the nation would advance faster with the Whig party in control of the government. Others, just as sincere, thought the people would fare better with the Democrats in control; and, then as now, there were some who thought it made little difference.

The geography of the territory caused differences. The area between the Suwannee and Apalachicola, on account of having, in general, a soil better adapted than other sections to the agriculture of the time, led other parts in population, wealth and culture. The situation of Key West made it a place apart, varying from other towns in industries carried on and somewhat in customs followed. The Spanish and Minorcan element in St. Augustine caused that place to differ considerably in customs from the remainder of Florida, and the many Northern winter visitors, among whom were such persons as William Cullen Bryant and Ralph Waldo Emerson, gave the Ancient City at least a slight touch of New England culture.

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But those easily observable differences can be too greatly emphasized. Throughout the length and breadth of the territory the people of Florida were very much alike. A great deal has been said, for instance, of political differences between East and Middle Florida, but except on the question of the immediate admission of Florida to the Union, by 1840 the political opinions of the average Jefferson County and St. Johns County voter varied but little, and the so-called "backwoods revolution" of that year, mentioned in Brevard's *History of Florida*, affected Leon County almost if not quite as much as Alachua.

Except in the ancient towns of St. Augustine and Pensacola, the majority of the people were Methodists and Baptists. The better educated folks of Duval had the same cultural standards as those of Gadsden and even read the same books. Except in the homes of the comparatively few wealthy planters and merchants, the same foods were served, the same clothes worn, the same medicines taken, the same kind of guns used in hunting from the Perdido to Biscayne Bay.

HOMES OF THE TERRITORIAL PERIOD

The best territorial residences were in the old cities of St. Augustine and Pensacola; in the cotton-belt towns of Tallahassee, Quincy, Marianna and Monticello; in Apalachicola, the territory's chief port; and on the plantations where the chief cotton planters lived. As a rule these were of substantial frame construction, although few deserved to be called mansions. A number of cotton-belt planters, however, were probably still living in log houses as late as 1845. Prince Achille Murat, at Lipona, seems to have supplemented a small main dwelling by a row of white-painted log cabins situated just in the rear. The claim has been made that such brick mansions as the Governor Call home, "the Columns" (now the Dutch Kitchen), and Goodwood, just outside the city limits of Tallahassee, were built prior to 1845. However, there are good reasons to believe that most of the outstanding ante-bellum homes were built after 1845 and, generally, after 1850. The famous Chuleotah residence of Judge John C. McGehee, president of the Secession Convention, was not erected till 1858; and the handsome home of Chandler H. Smith, of Madison, one of the richest men in the state at that time, is said to date from 1860.

The truth seems to be that the 1850-60 period, during which railroad mileage increased from 21 to 350, several plank roads were built, sawmills were multiplied, and at least two cotton factories began op-

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eration, was also a time when the construction of good homes greatly increased.

Outside the cotton-belt area and the larger towns the great majority of homes were log houses, both slave owners and non-slave owners, with but few exceptions, living in such structures. The more opulent dwelt either in double-penned or in "hip-roofed" houses. A double-penned house was one with two log pens united by a hallway and having a "stick-and-dirt" chimney at the end of each pen. Nearly always such houses had front and back porches, called "piazzas," extending the full length of the building on each side. Sometimes there was a second story called the "upstairs," but oftener, to provide the extra room a second story furnished, two plank or ceiling-board rooms were constructed on the back piazza. A "hip-roofed" house had a roof at right angles to and lowered from that over the single log pen first set up, which served to cover one or more so-called "backrooms." Like double-penned houses, dwellings of this type generally had both front and back porches, and likewise a room or rooms was often erected on the back porch. Close to many of the larger log houses were log kitchens, where cooking and eating took place. These were often connected with the main dwellings by elevated walks which might or might not have roofs over them. It should be realized, however, that at the close of the territorial period the number of single-penned log cabins in Florida exceeded the combined total of all the double-penned and "hip-roofed" structures.

Courthouses, stores, and offices in frontier towns were generally log structures. According to Charles Lanman, the celebrated traveler, as late as 1854 all the houses in Newnansville, then county seat of Alachua and location of one of Florida's three land offices, were of this type. Bishop Henry Benjamin Whipple, in his *Southern Diary*, states that Nassau County in 1844 had a log courthouse, and there was probably no other kind in all East and South Florida except in Monroe, St. Johns, Duval, and possibly Hillsborough Counties.

Some of the better-built log houses occasionally had imported (in common parlance "storebought") furniture, but in most cases it was homemade. Bedsteads were made of split pine, the corner posts being joined by wooden crosspieces. Slats rived from pine logs united the two sides of the bedstead, and above the slats were mattresses made by stuffing cotton ticking with grass, moss or lint cotton. Occasionally there were families who owned flocks of geese, which were

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picked at regular intervals in order to get material for feather beds to place over the mattresses.

While a goodly portion of those living in log dwellings sat on home-made benches, there was a growing number of families who had chairs made by rural chair makers from one or more varieties of hardwood. These, by a deft use of chisel and turning lathe to shape and smooth the parts and a skillful joining of posts by proper arrangement of rounds and backs, made reasonably comfortable chairs. The cowhide bottoms might have to be replaced in from 10 to 20 years, but the frames would last a lifetime or longer.

Almost always, the shelves, tables, and clothes presses found in log-built residences were homemade.

At one end of either the front or back porch of a log dwelling stood a water shelf on which sat a large gourd or a tin or cedar bucket to hold the water necessary for drinking and face and hand washing. In the bucket or gourd one noted a drinking vessel, which might be either a small gourd or a tin dipper. By the water receptacle sat a tin basin known as a "washpan." On the log wall, at right angles to the water shelf, a homespun or white cotton towel was either looped to a nail or attached to a roller. Towels were generally changed once or twice a week, having meantime acquired a sour odor.

In the better homes of town-dwellers and cotton-belt planters were high oak bedsteads, inside whose frames were heavy cotton mattresses, with feather beds often placed above them. The oaken chairs, shelves, tables, cupboards, desks, and clothes presses were in the style of the period, but differed greatly from much of the similar classes of furniture found in modern homes. Chests of drawers were common, as were tall clocks, and the more opulent had their grand pianos with mahogany woodwork.

Some of the wealthier families went in for art. Mrs. Ellen Call Long, in *Florida Breezes*, quotes Colonel Augustus Alston, Miccosukee planter, as saying that a painting of the battle of Waterloo, which he showed visitors, cost a crop of cotton.

Floridians both high and low, rich and poor, loved flowers and trees. One of the first things the frontiersman, his wife, or both, did after getting their cabin home ready for occupancy was to set out a crepe myrtle and plant a black walnut, and as late as the beginning of the twentieth century many ancient cabin sites could be identified

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by three things: a clayey heap, where a "stick-and-dirt" chimney had stood, a crepe myrtle bush, which might possibly have become a small tree, and a black walnut. The survival of myrtles and walnuts over the long years proves that these plants were even tougher than the pioneers who planted them.

The backwoodsman's wife liked monthly roses, which though not as large and showy as those found in the gardens of the wealthy, had the advantage of blooming every month in the year but one. In addition, the frontier wife also grew four o'clocks, honey suckles, cape jessamines, evening primroses, periwinkles and bachelor's buttons. Water oak trees were often set out in front of settlers' cabins and many of them still survive.

The flower gardens of the more opulent planters and towns-people were in some respects similar to the better-kept front-yard flower patches of the frontier; but the former exceeded the latter in both variety and profusion. One seldom saw showy hydrangeas, the fancier roses, the althea or the oleander in frontier flower patches, while these were common in town and plantation gardens of Middle Florida. Here also were seen japonicas, century plants, and various specimens of grandiflora. Among the trees set by more affluent Floridians were live oaks, lindens, cedars, magnolias, and often cabbage palmettos which had been brought from nearby swamps and transplanted. The water oak was everywhere a popular house-front tree. Mulberries and chinaberries were set almost exclusively by frontier families.

RELIGION

The frontier conditions existing in practically all Florida when American rule began was no more a deterrent to penetration by the chief Protestant denominations of the time than they had been to Roman Catholic priests, who came with the first Spanish colonists. By 1822 the Methodist, Baptist, Episcopal, and Presbyterian denominations had laid the foundation for their future work, and by 1845 each of these bodies had a more or less effective organization of its members.

In 1843 a division among the Baptists on the question of missions caused them to split into two denominations—the Missionary Baptists and Primitive Baptists. The former were soon afterwards organized into the Florida Baptist Association with 28 churches in Florida and three in South Georgia; the latter continued in the Ochlockonee Association, founded in 1827, and the Suwannee Association, founded

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in 1835. The total membership of both Baptist denominations, including Negro communicants, was probably well past the 5,000 mark by 1845.

The growth of the Methodist Church in Florida during the territorial years was so rapid that, in 1844, it was set off into a separate conference, holding its first meeting February 6, 1845. It is true that three of the four presiding elder's districts comprising this conference included a sizable area of South Georgia, but this was probably more than compensated for by the fact that all churches west of the Apalachicola River were placed in the Alabama Conference. At its admission to the Union in 1845, Florida must have had, including Negro communicants, more than 10,000 Methodists, for the recent years had been a period of great growth, the Tallahassee church alone having had more than 100 accessions in 1842.

In 1840 all the Presbyterian churches of Middle Florida, including that of Marianna, were erected into the Florida Presbytery, while those of northeastern Florida, comprising St. Johns, Duval and Nassau Counties, remained in the Presbytery of Georgia. Those of extreme northwest Florida, including the present Okaloosa and Walton Counties and the area beyond, probably were and remained part of the Alabama Presbytery.

The Florida Diocese of the Episcopal Church in 1845 had parishes at Key West, Jacksonville, Apalachicola, Monticello, Tallahassee, Quincy, Marianna and Pensacola, but several of them depended in part on aid from the Domestic and Foreign Missionary Society of the church.

At the close of the Spanish period the Roman Catholic was the only denomination which could legally hold services, and while both Presbyterian and Baptist ministers did occasionally preach in private homes without much, if any, interference, their membership was still very small and did not compare with the number of Roman Catholic communicants, which probably numbered as many as 3,000. But the advantage the Catholic Church had at first was not maintained and whatever growth occurred was small. The Pensacola and St. Augustine churches continued to function but the only Roman Catholic activity elsewhere was the maintenance of mission stations in Jacksonville and on Amelia Island, and a priest's holding occasional services in Key West, Tallahassee and Apalachicola.

It is a question whether Methodists or Baptists were best adapted

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to the frontier conditions of territorial Florida. At first, it is possible that the Methodist itinerant system caused it to be more effective. The Methodists had behind them a conference organization, which not only made strenuous attempts to see that every station or circuit got its pastor, but also that expansion into new territory went forward as fast as possible. What we read in George G. Smith's *History of Methodism in Georgia and Florida* and Simon Peter Richardson's *Lights and Shadows of Itinerant Life* is enough to convince us that swimming streams, coarse food, fear of Indians, or naught else was sufficient to keep the Methodist preacher from carrying the gospel into unknown wilds.

In some ways frontier conditions favored the Baptists. As Dorothy Dodd well says in the July, 1945, number of the *Florida Historical Quarterly*, "Their simple associational form of organization and dependence upon a volunteer ministry did not presuppose much financial support." That lower educational standards were demanded of Baptist pastors and missionaries than those of any other denomination then active in Florida was an additional advantage, for it made it easier to fill vacant pulpits than would have otherwise been the case.

Both Missionary Baptists and Methodists had revivals, often called "big meetings," generally at annual intervals, but the "camp meeting" seems to have been for the most part, if not entirely, exclusive to the Methodists. These were held in late summer or early fall, usually at such places as in a hammock, near a spring, on a lakeside, near a river bank (perhaps at some boatlanding point) or some other place where people would be most likely to meet together.

Discussing the early camp meetings in his *Trail of the Florida Circuit Rider*, Dr. Charles Tinsley Thrift, Jr., says: "These meetings became increasingly important in spreading Methodism throughout Florida . . . In many instances visitors from remote parts of the territory chanced to attend . . . returning home to organize Methodist societies as a result of their camp-meeting experiences."

Dr. Dodd suggests that, "The missionary fervor of the Baptists and Methodists was probably due, in part, to a religious awakening that began to sweep Middle Florida as early as 1842." An epidemic in 1841, which, according to one authority, carried off 450 persons (probably an overstatement) in Tallahassee out of a population of slightly over 1,600, may have also caused many persons to become members of churches.

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The hard times following the nation-wide Panic of 1837 doubtless had their effect, making many believe their best hope lay in a world beyond. It seems to be a habit of mankind to feel the greatest need of divine help when earthly affairs go badly.

Whatever the occasion for it, the last years prior to Florida's admission showed large increases in church membership, many more joining the Baptist and Methodist denominations than the others, though they, too, apparently made substantial growth.

EDUCATION

According to Thomas E. Cochran's *History of Public-School Education in Florida*, reported school enrollment, which, for 1840, was given only for the academies, increased from 732 in 1840 to 5,997 in 1850. We have no figures for 1845, but the Committee on Information and Historical Data, appointed by the Florida Historical Society in 1944 to gather material for the centennial of Florida's admission to the Union, estimated that total enrollment in 1845 was 3,950.

With reported school enrollment in 1840, and subsequently, so small, it is surprising that the federal census of 1850 reported nearly 85 percent of all white Floridians above the age of 20 able to read and write. Does Cochran's reported enrollment give the true picture of educational opportunities and the use made of them? Probably not.

The indications are that many frontier children were taught by their parents and that there were numbers of short-term schools of which there was no knowledge beyond the communities where they were operated. It is regrettable that we know so little of educational conditions in the backwoods of territorial Florida.

The known places where territorial Floridians could have their children taught were in what Cochran calls the "public schools" and academies, in neither of which was instruction free. The principal differences between these schools were that in the first type instruction was no more advanced, and generally not as much as that given in the schools in our more thinly-settled sections today, and in the second, not only were the ordinary branches of reading, writing and arithmetic taught, but many such advanced subjects as rhetoric, botany, foreign languages, algebra, geometry, surveying, moral philosophy, chemistry, etc.

Tuition in each class of school was determined in large part by subjects studied. In the *Apalachicola Commercial Advertiser* of No-

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vember 22, 1845, appeared an advertisement of a school which charged a \$9.00 fee for five months' instruction in reading, writing and arithmetic, and a fee of \$10.00 for the same period for teaching a student English grammar and geography.

In an advertisement in the *Florida Sentinel* of November 21, 1843, the Quincy Male and Female Academy, one of the most reputable institutions in the territory, gave the following as the cost of instruction for a five months' term:

Orthography and reading	\$ 8.00
Orthography, reading and arithmetic	10.00
Orthography, reading, writing, arithmetic, grammar, geography and history	14.00
Natural and moral philosophy, rhetoric, botany, chemistry, geology and mineralogy, added to the above	20.00

According to Dr. Simon Peter Richardson, author of *Lights and Shadows of Itinerant Life*, this academy was the best school in Florida and many students were sent there from elsewhere.

This and a number of other similar institutions were boarding as well as day schools, that is to say students could stay at the schools by paying board and room charges, or merely come daily, paying only tuition. Expenses for board and tuition ranged from \$116 to \$140 a year.

While both boys and girls were included among the students of those institutions, they were taught in separate rooms. During the territorial period there were a few seminaries open for girls exclusively, and before the close of 1845 Dr. N. M. Hentz, assisted by his wife, Caroline Lee Hentz, the author, opened one in Pensacola.

Although many frontier teachers were woefully lacking in scholarship, some not even having an elementary knowledge of punctuation, principals and assistants in academies and seminaries were apt to be persons of education and culture. Dr. Hentz, prior to opening his girls' school in Pensacola, had been professor of modern languages in the University of North Carolina, C. W. Downing and A. C. Gillette, who ran the St. Augustine Academy, were educated at the University of Virginia and Yale, respectively, and Amizie A. Beach, principal of the St. Joseph Academy, was an M. A. graduate of Princeton.

If the advertising columns of the territorial papers are an indication of demand, Floridians of that day were great readers.

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In an advertisement in the *Quincy Sentinel* of March 27, 1840, the following were only a few of the many books listed: Clark's *Commentary on the Bible*; Dick's *Philosophy of Religion*; John Wesley's *Whole Works*; Finney's *Lectures on Revivals*; *Methodist Hymn Book*; Keith's *Demonstration of the Truth of Christianity*; Parley's *Universal History*; Turner's *History of the World*; *History of Arabia*; *History of the American Congress, 1783-1793*; Prescott's *History of the Reign of Ferdinand and Isabella*; Robinson's *History of America*; Marshall's *Life of Washington*; Irving's *Columbus*; Scott's *Life of Napoleon Buonaparte*; Southey's *Life of Nelson*; Boswell's *Johnson*; Shakspeare's *Works*; the poems of Milton, Byron, Cowper, Moore, Mrs. Hemans, Bryant, and others; Bulwer-Lytton's *Last Days of Pompeii*; Scott's *Waverly*; Dickens' *Sketches by Boz*; Cooper's *Precaution*, and "nearly all standard novels."

The Bible was doubtless the most universal of all books in territorial Florida, but others, such as Murray's *English Reader*, De Foe's *Robinson Crusoe*, St. Pierre's *Paul and Virginia*, and the sermons of Richard Flavel, were popular.

School readers are not usually listed as literature, but the McGuffey Readers, which began to appear in 1835, became just that to the great rank and file of Floridians about the end of the territorial period, remaining so for the next 40 years. And why not, when within them were found such favorites as "Mary's Little Lamb," "Twinkle, Twinkle Little Star," "We Are Seven," "The Hare and the Tortoise," and the "Supposed Speech of John Adams"?

Of the 10 newspapers published in Florida in 1845, the *Floridian* and the *Sentinel*, both published in Tallahassee, probably had most subscribers, but it is doubtful if either of them had as many as 700. The *Pensacola Gazette*, which was established March 13, 1824, was, as the successor to the *Pensacola Floridian*, the oldest newspaper in Florida in 1845. The latter paper, begun August 18, 1821, was operated until March, 1824, when the owners sold its press to W. Haswell Hunt, founder of the *Gazette*. The three papers above named and seven others—the *Florida Herald* (St. Augustine), the *News* (St. Augustine), the *Commercial Advertiser* (Apalachicola), the *Newport Patriot*, the *Florida Statesman* (Jacksonville), the *Key West Gazette*, and the *Star of Florida* (Tallahassee)—were in operation in 1845. Excepting two of the three Tallahassee papers (the *Floridian* and the *Sentinel*), whose influence was much greater than one would have expected from their small circulation, it is probable that the

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Pensacola Gazette and the *St. Augustine News* had more influence than either of the others.

Legislative sessions increased the prosperity of the papers published at the capital, for sometimes the council paid for subscriptions to them for all of its members. There was profit, too, for the paper which obtained the contract to print the journals and acts of the council.

Such outside newspapers and periodicals as the *National Intelligencer*, *Niles' Register*, the *Charleston Courier*, *Macon Telegraph*, *Southern Literary Messenger*, *Richmond Whig*, *New York Herald*, *New York Evening Post*, *Godey's Lady's Book*, and the *New York Mirror*, had considerable circulation in the more thickly settled areas. Various religious and agricultural publications had some readers, but their total circulation was small.

Lack of post offices, infrequency of mails, and, while it lasted, the Seminole War, tended to hold down newspaper and periodical circulation for most of the territorial period. At the time of admission in 1845, postal facilities were improving, but from a modern viewpoint there was still much to be desired.

Among Florida authors of the territorial period were James Grant Forbes, John Lee Williams, Prince Achille Murat, and Dr. William H. Simmons.

Forbes' *Sketches Historical and Topographical of the Floridas* was published in 1821. While useful to the student looking for source material, it was probably meant for a "booster" book. Indications are that it was financed by a land company of the time, for it contains a plan of the proposed town of Colinton, on the Apalachicola, situated on the site of what had once been the "Negro Fort" and subsequently Fort Gadsden. While the plan is complete to the point of showing streets and lots reserved for public use, it is doubtful if the town ever got beyond the paper stage, and the possibility exists that we would never have known of its being projected if Forbes had not written a book.

John Lee Williams, author of two books—*A View of West Florida* (1827) and *The Territory of Florida* (1837)—is said to have had the manuscript of a novel completed or about finished at his death in 1856. His *View of West Florida* was apparently written to describe the part of Florida west of the Suwannee River—and to tell what im-

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migrants and other interested persons would like to know about the soil, the climate, the natural resources, the plants and animals, and the prospects for economic advancement therein. Counties established and existing towns of any consequence are listed. His *Territory of Florida* includes a geographical description of the entire area; a list of its chief plants and animals; the names and boundaries of its political divisions, with data on its chief towns; some discussion of its resources and advantages; a brief history; and an account of the progress of the Indian War then going on.

Prince Achille Murat was the author of several books, all written in French. The best known is *Esquisse Morale et Politique des Etats-Unis*, republished in translation as *America and the Americans*. First published in 1832, this interesting book was Murat's attempt to interpret America and its institutions to Europeans.

Dr. William H. Simmons, for many years a resident of St. Augustine, had apparently not moved to Florida when he wrote his *Notices of East Florida* (1822), but he had just visited the area and in his book gives his impressions of it, adding thereto an account of the Seminole Indians.

RECREATIONS

The parties given by the planters living in the more populous areas of Florida are interestingly discussed by Mrs. Ellen Call Long in *Florida Breezes*.

The men in attendance at a party would first deposit hats and overcoats in a small house generally used as the planter's office, and, before going to the main hall, such as were in the mood would help themselves to drinks of wine, punch, apple toddy, cordial or some other beverage calculated to stimulate them for the occasion.

After proceeding to the main residence, the gentlemen would, after a few preliminaries, find partners, and while chosen musicians played fiddles, banjos, or other instruments, gay pairs would merrily dance for hours. By midnight their exercises would make the dancers hungry for the huge supper that had been prepared.

Noting the immensity as well as the variety of one of these feasts, a visitor new to such an occasion asked a black-eyed girl the question, "Who makes all these things?"

"When anybody [*i.e.*, any family] determines to give a party," re-

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plied the girl, "their friends soon know it, and every one feels it a duty to help. Mrs. so and so makes the best of this, and Mrs. somebody else makes that the best; so all our neighbors come to help. We have servants, of course, to do all the drudgery, but we must direct everywhere."

Food was not the only thing for the delectation of those partaking of those suppers. There were toasts and songs and maybe recitations, and always stories and anecdotes.

In addition to these parties, the Middle Florida planter class had frequent picnics, strawberry suppers, and various other social entertainments. During sessions of the Legislative Council there were balls and other parties at the City Hotel or in the homes of Tallahassee residents. At these political discussions were frequent.

At Tallahassee, and doubtless Monticello and Marianna, there were tournaments where knights drawn up in front of the gathered crowds listened to orators who referred them to the days of chivalry and pointed to the fair ladies assembled to reward with approving smiles their deeds of activity and valor. Three arches with a ring suspended from each were placed in position at points 50 yards apart, and each knight started 90 yards from the first arch, 15 seconds being allowed him to make the distance. When a bugle blast sounded the charge, a knight rode forth in an attempt to take one or more of the rings. Other knights followed until each had his chance.

The first attempt to take rings from the arches was followed by a second and a third. The knight who took most rings during the three attempts was allowed to designate his choice of the assembled fair ladies as Queen of Love and Beauty, in doing which he advanced, bearing upon his lance an artistically wrought crown with which he decorated his maiden's brow.

Tallahassee, Apalachicola and St. Joseph had their race tracks and the racing season, generally, occurring in January and February each year, was an event that the elite looked forward to as much as did the old Romans to the sports of the arena.

Racing did not take place contemporaneously at each place. After the St. Joseph races came those in Apalachicola and Tallahassee, in order that those interested in the "sport of kings and the king of sports" could, when the five-day program was completed at one place, go to another and enjoy the excitement all over again. The stand at

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the Tallahassee race track, says Mrs. Long, "was radiant with plumes and flowers, velvet and silk, but the beauty of freshness was supreme in the white muslins and silken scarfs, as worn by the young ladies in such graceful becomingness."

Often the women were as much interested in betting on their favorite horses as the men, but both women and men, in so far as we are informed, took losses as well as winnings in good humor. Peter W. Gautier, Jr., editor of the *St. Joseph Times*, admitted, after the St. Joseph races of 1841, that he had lost too much on them to attend those to follow in Tallahassee and Apalachicola.

While territorial Florida was not a place where dramatic artists could have grown rich from patronage received, at times theatrical performances were witnessed at St. Augustine, Pensacola, Tallahassee, Apalachicola, and probably St. Joseph. We are told by Dr. S. Walter Martin in his recent book, *Florida During the Territorial Days*, that traveling companies of players who visited Pensacola sometimes remained for weeks, so popular was the drama there. During the latter part of the Florida War, 1835-42, Coacoochee, one of the Seminole leaders, and his band massacred a number of persons belonging to a party of players who had been performing in St. Augustine. The Indians appropriated the costumes of the players.

Townpeople and planters did not have all the amusement. Their necessary work gave occasion for some of the commonest social enjoyments of frontier families. Following house-raising, rail-splitting and log-rollings often occurred dances, called "frolics" by the frontier folks who participated. During late autumn and winter no other incentive was needed than the desire to get together. The favorite dance was the cotillion for which were required eight dancers (four of each sex). Before dancing began, a fiddler would sit down on bench or chair by the cabin door, get his instrument in tune, and as he began drawing his bow over the fiddle strings, a man sitting at right angles to him would, with one or two broom sedge straws, beat the strings, making a "toong, toong" sound. Someone who could remember the steps would call them out, beginning, "Honor your partner, lady on the left and balance all. Swing your partner, your corners too, and all promenade." Then followed multitudinous "sashaying," ladies "floating," balancing to partners, and what not, till the cotillion caller decided to stop the set by hallooing out, "Right hands to your partners, gents to the center and ladies to your seats."

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Among the tunes played by backwoods fiddlers on their cheap instruments, which, nevertheless, gave forth delightful strains, were such as "Cindy," "The Girl I Left Behind Me," "Hell after the Yearling," "Sugar Babe," and "Weevly Wheat."

A great gathering point for frontier men and boys was at the water mill on grinding days. Not only was there swimming in the millpond, but much playing of fox and goose, and checkers, and such card games as "seven up," "blind jack" and "casino," in the millhouse while waiting for the slow grinding of corn into meal and hominy. The backwoods cane grindings usually occurring in late November amounted, in reality, to social events for the many who usually had but little other opportunity for mixing and mingling with folks outside their own families.

Generally there were only one or two cane mills for miles around, and all the grinding for the entire area was done there. Syrup-making (many families also made some brown sugar) often lasted for a month, during which time, especially on Saturday nights, crowds would gather, the older folks congregating around the kettle where the cane juice was boiled to syrup or sugar, while the young folks would indulge in games. On the closing night of a cane grinding there might be a candy pull followed by such singing plays as "Mr. Coffee Likes Sugar and Tea," "We're Marching 'Round the Level," "Steal Partners," and "Fishing for Love."

While the frequent quilting bees of the frontier would probably be considered monotonous work by the modern female of the species, during the territorial period and long after they gave women who seldom had opportunity to get around a chance to gratify their social proclivities. As wives, spinsters and teen-age girls sat around quilting frames, between passing of snuff boxes, there was much gossip, much discussion of such matters as weaknesses of particular members of the sex known to the quilters, hawks getting the biddies, how hard it was to make Old Whiteface or Old Redside give down their milk, what particular skill had been exercised in making Mollie's new dress, and the like. It is doubtful if women of today enjoy their bridge clubs any better than backwoods women of the 1840's enjoyed their quiltings.

Christmas was a great event wherever there were sufficient people to form crowds, whether in the larger towns, the planter section, or out on the piney-woods frontier. This, said a Northern visitor

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mentioned by Mrs. Long in *Florida Breezes*, "is the negro's carnival; they are permitted a week of idleness in holiday; those of the plantations visit town in their best attire, hence, general greeting, feasting and dancing among them."

The whites also celebrated. To quote the Northern visitor mentioned by Mrs. Long, "The early 'egg-nog' before breakfast is a feature that commemorates Christmas morning; an immense bowl full is manufactured of this ambrosial food, or drink, for it partakes of both, and this every member of the family, white and black, are expected to share."

No doubt there were Christmas trees, too, and certainly there were Christmas gifts which even the Negroes shared.

Charles Lanman tells how Christmas was celebrated in Newnansville, one of Florida's frontier towns. "High and low, rich and poor, good and bad, the sober and intemperate, white and black, the wise and the foolish," he said, "have come together, from village and from country cabins, to enjoy the most ancient festival of Christmas with the most boisterous hilarity. I have witnessed groups and scenes that were perhaps more peculiar than beautiful, and more exciting than interesting. The exercises of Christmas holiday usually commence with a casual meeting of the blacks by twos and threes at the corners of the streets, and, by the time all things are ready for a foot race, out step . . . a bevy of sable damsels, dressed in white, with fancy turbans and huge pantalets and scarlet sashes around their waists; and then follow the scrub races, upon which the planters bet their dollars and the darkies their shillings [probably quarters or dimes were meant]; then the drinking and the merriment proceed . . . In the mean time a very nice young man, whom everybody praises, but who will have his 'spree,' has jumped into his buggy, and is racing his horse through the streets for his own private gratification, whereby he proves to the satisfaction of all who see him that his spirits are as abundant as they are good.

"Now the banjo and the fiddle are taken up, and two negroes are placed each upon a dry-goods box for the purpose of ascertaining which of the twain can dance the longest time without stopping to breathe . . . Anon we have a systematic street fight between a couple of rowdies; and then the motley crowd gather around an old hunter, who has just entered the village, riding upon a gaunt horse, and bringing to market the hams of his one hundred and fortieth deer of

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the season. At the approach of night the pastimes and noises of the day . . . subside, and give place on the part of the negroes to the break-down dance and religious services; and while the more jovial make night hideous by their animal hilarity, those who are serious accomplish the same end by their moanings and wailings and wild singing. Indeed the perfect freedom which the negroes here enjoy during Christmas week struck me with surprise, and I am inclined to believe that if we have any tears to shed they should be for the master rather than for the slave."

CRIME

That the recreations of territorial Florida sometimes led to crime is indicated by presentment No. 2 of the Leon County grand jury at the April, 1843, term of court. The jurors said that, "On our oaths we present the Marion Race Course [the one near Tallahassee] as a public nuisance, a hotbed of vice, intemperance, gambling and profanity, deserving the just censure of every lover of decency and good order." Among the signers of this presentment were Francis Eppes, grandson of Thomas Jefferson, and William Bloxham, father of W. D. Bloxham who nearly 40 years later became governor of Florida.

The unfairness and inequality of law enforcement in latter territorial Florida was vigorously set forth in a protest to the Senate of the Legislative Council by two members of that body from the Eastern District—James G. Cooper, of Duval County, and Gabriel Priest, of Alachua County—on March 12, 1844. The occasion was the passage by the Senate, on March 8, by one majority, of a resolution for the relief of James G. Landon, John M. Hanson, and others, sureties on the bail bonds of John McMullen and D. P. Bryant, two fugitives from justice.

The protest stated that the two men were Tallahasseeans who, in the spring of 1840, while temporarily in Jacksonville, killed two citizens of that town, one a peace officer and the other an inoffensive man with a large family. After a coroner's jury had found McMullen and Bryant guilty of murder, they were carried to St. Augustine jail for safekeeping. "The worthy and able judge," charged the protesting senators, erroneously admitted them to bail, which had been furnished by certain St. Augustine citizens after assurance by influential Leon County friends of the prisoners that they would indemnify the bondsmen against loss.

Notwithstanding the indictment of McMullen and Bryant at the

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first term of court in Duval County following the killing, the two Tallahasseeans failed to appear for trial; in fact, prior to January, 1842, they had not been rearrested. However, Judge Isaac H. Bronson, who had allowed the bail, happening to see McMullen on the streets of Tallahassee while the judge was there in January, 1842, to attend a session of the Court of Appeals, had McMullen arrested and placed in jail.

McMullen soon escaped from this second imprisonment and Bryant had not been taken. Now, nearly four years after the alleged crime, the two senators asserted that the relief of Landon, Hanson, and the other bondsmen was sought on the grounds that Bryant had died and McMullen was in a Mexican prison. The senators further charged that relief of the bail would be a precedent fraught with monstrous evil, establishing the fact that criminals with rich and influential assistance (such as the friends who early intervened in McMullen's and Bryant's behalf after the killing) would be unpunished for their crimes, while the poor, unknown, and friendless might be hanged as scapegoats.

The senators argued that there was no certainty of Bryant's death and that McMullen's release from prison was entirely possible. The real reason, Cooper and Priest asserted, for the resolution of relief, was that certain Tallahasseeans, who were obligated to the bail, sought relief from their own embarrassment.

The year of the Jacksonville killing (1840) seems to have been the worst for crime in the history of the territory. In Leon County the situation was especially turbulent, judging by an editorial in the *St. Joseph Times* of September 4, 1840, which reads as follows:

“The papers at Tallahassee, more than confirmed by private reports, show a disturbed state of society in Leon county, partaking of a personal and party character much to be regretted by every citizen of the Territory. We can't see why the gentlemen of Leon county cannot differ in politics as in other parts of the country without permitting unfriendly feelings to disturb their social relations. Violence and proscription are not the best tests of sincerity and honesty of purpose. Argument and a temperate discussion of principles are the only weapons of a patriot politician. Pistols, Bowie Knives and Bludgeons may frighten slaves, but cannot intimidate freemen. We cannot commend to the parties of Middle Florida, better advice

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than that engraved on the escutcheon of the great State of Georgia:—WISDOM, JUSTICE AND MODERATION.”

During the Leon County disorders mentioned by the *St. Joseph Times*, Governor Robert Raymond Reid took soldiers engaged in Seminole fighting and stationed them in Tallahassee, explaining his action to the Secretary of War, in a letter dated August 12, 1840, as necessitated by the lawlessness of conditions, which made more than local protection necessary to maintain peace. Governor Reid's action caused loud protests, but conditions were undoubtedly bad.

In a letter in the Florida State Library from John S. Tappan, a New Englander who visited Tallahassee in November, 1841, to his cousin, Benjamin French, is this statement: “A year ago you could not walk the Streets [of Tallahassee] without being armed to the teeth.” Continuing his letter, Tappan said: “Now its different for during the last summer out of a population of 1600 inhabitants God has seen fit to take away 450 of them composing most all the Gamblers & Blacklegs of the place.”

The disorders around Tallahassee had their inception in political discussions which became so heated as to result in Florida's most famous duel, fought by Augustus Alston, a Miccosukee planter, on the Whig side and General Leigh Read, a leader among Leon County Democrats. The affair occurred December 12, 1839, resulting fatally to Alston. On the night of January 6, 1840, Willis Alston, a brother of the deceased, tried to kill Read in the City Hotel, but the result was merely a severe wound. A little more than a year later, Alston shot Read from ambush, mortally wounding him. Escaping from a none-too-closely guarded Leon County jail, he went to Texas where he soon met death at the hands of some of Read's friends who had previously moved there.

The Alston-Read duel was only one of a number which occurred during the territorial period, although as early as 1832 dueling had been made unlawful by an act of the Legislative Council, one of whose provisions prevented either party to the duel, or his second, from ever holding public office. But according to Dr. S. Walter Martin's *Florida During the Territorial Days*, the same council which passed the anti-dueling law pronounced a man failing to accept a challenge a coward.

In any article as brief as this foreword must be, it would be out of the question fully to discuss crime conditions in Florida on the eve

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of statehood. Suffice it to say that these were probably no worse and no better than they were in other American frontier sections during their periods of settlement. However, they were bad. Governor John Branch, in his 1845 message to the council, said:

“The Criminal Code, wisely designed to protect the citizen and preserve the peace and dignity of the country, has manifestly failed to accomplish its object; otherwise we should not so often witness the violation of both private and public justice. It may be that something is owing to the want of a penitentiary and common jails, or an adequate revenue to enable the officers to prosecute with effect, or to the mal-administration of existing laws. Let the cause be what it may, it is your solemn duty to trace it out and apply the remedy.”

TRAVEL

Prior to the depression beginning in 1837, the effects of which were not fully felt in Florida till after 1840, many wealthy planters and business people of the towns visited various Northern and Southern resorts, but the fall of cotton prices, the failure of the Union Bank to remain more than nominally “open,” and the foreclosure of the loans of numerous borrowers who could not meet their interest did much to stop this northward summer exodus. Instead, many Middle Florida families went to Bel Air, a village in the sand hills three miles south of Tallahassee, to St. James Island, or to St. Joseph, prior to its destruction in 1841. It would not be correct to say all who went to these resorts were driven there by financial troubles, but undoubtedly the majority were.

By 1845 Mineral Springs (now known as Suwannee Springs) and White Springs—both on the Suwannee River and only 12 miles apart—were having many visitors both from within and without Florida, some using them as health resorts, others going there because both were delightful places, and, according to Charles Lanman, had good accommodations.

Hard times was not the sole cause for lack of travel. During Florida’s territorial period even those in good financial shape traveled much less than now. We who grumble about our sometimes dusty trains and the service furnished by our bus lines would grumble even more if we had to go back to the stages of 100 years ago. Charles Lanman describes those in which he rode from Newnansville to Tallahassee as “dilapidated stage wagons,” but bad as they were he could not always get transportation as good or as cheap as they

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furnished. He and one or two companions were charged \$24.00 for being driven from Garey's Ferry on Black Creek to Newnansville, a distance of 48 miles. Lanman said they only had one breakdown on the way, "but then," he added, "the road was very good."

Notwithstanding Lanman's statement (probably made ironically), the roads of territorial Florida were only relatively good. There were complaints about the road from St. Augustine to Tallahassee from its first construction. Much of this highway and other public roads—not to mention the ordinary sort—was practically impassable after heavy rains. The causeways would come loose and make them not only less than no protection against water, but what amounted to floating menaces. One of the first complaints against the St. Augustine road was the failure of the contractor to fell trees where the highway ran low enough to keep them from striking and stopping vehicles. Bad roads thus interfered with and sometimes stopped stage travel, made mails irregular, and were one of the reasons why a good many Floridians financially able to travel frequently remained at home.

Travel was not curtailed because of high hotel rates. The City Hotel at Tallahassee, then probably the largest in Florida, in 1845 furnished its patrons room and meals at \$1.00 per day and advertised a monthly rate of \$20.00. In the best hotels of Apalachicola the rate was slightly higher—\$1.50 per day and \$30.00 per month, but nowhere was hotel cost excessive.

DRESS

Women of the planter classes or equivalent social set dressed according to the latest Paris fashions as soon as they got the styles from their latest *Godey's*. By 1841, according to Carl Kohler's *History of Costume*, "a firm basis had been laid for further progress [in dress]. Long, tight sleeves, wide, padded skirts that entirely concealed the feet, and bodices high at the neck and padded in various places—all these constituted a very practical style of dress for women." From 1820 on, white, though still much worn, no longer predominated. If a dress was white the waist belt was colored. The "ham shaped" sleeves, enormously wide at the top, which became so popular about 1830, changed after 1840 to sleeves tight all the way down. The upper part, which had exaggerated the width of the figure across the shoulders, and the bodice were made as plain as possible. The waist was still long, but the neck was much less low. The

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word "waist" came to mean "bodice." Yearly the skirt length increased. Underneath dresses had the same width at top and foot and were pleated at the waist.

Men attending fashionable parties in the 1840's wore broadcloth dress suits; on ordinary occasions frock coats of black, blue, or variegated colors, generally, but not always, with pants to match. Linen, gingham, or other light material were used for making men's summer suits.

In frontier sections women were glad to get prettily colored calicos for Sunday dresses and checked homespuns for week days. Men often wore homemade jeans coats and pants to whatever gatherings they attended in autumn, winter and early spring. In summer homemade suits of imitation linen or light cotton cloth were often worn, but not infrequently men and boys at this season went to church or other gatherings in their shirt sleeves.

FOLKLORE

No social history of territorial Florida would be complete without some reference to the superstitions, the customs, the strange treatments for common diseases, and the ballads sung, even by the illiterate.

Many put the cobs from which seed corn had been shelled in the nearest running stream to keep the corn from "firing" (leaves turning yellow prematurely). Corn planted on a growing moon would make large stalks, but the harvester at gathering time would find that the seemingly big ears were nearly all shuck. The moon also had its effect on sweet potatoes. Those set on a growing moon would make abundant vines, but only a few stringy potatoes, while such as were set on the decrease might not have so much vine, but when digging time came there would be plenty of potatoes.

The "increase of the moon" was, however, a very propitious time for making soap and for hanging salted pork in the smokehouse. The ingredients used in soap boiling would make a full pot and the pork parts—such as hams, middlings and shoulders—would be insured against shrinkage.

On south moon, or when it was "south under," was the time to go fishing if one expected luck, but luck would vanish if the fisherman was careless enough to step over his pole before he started.

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Warts were carried away by a dozen methods, one of which was to take a drop of blood from the offending protrusion, put it on a grain of corn, and then feed this to a chicken. However, there were skilled conjurers in practically every fair-sized community who made warts disappear by methods known only to themselves. Also there were men who could cure babies of the thrush (the frontier name was "thrash") by merely taking them aside and going through the necessary performance. Fire was "talked out" of the accidentally burned. Any man able to do this could teach a woman the art, and likewise women performers could instruct men; but if either explained the how to one of their own sex it was "never again."

It was just too bad if anyone carried an axe with handle in it through a dwelling, for some member of the family living there would die that year sure. Nor must any female in the interest of tidiness sweep dust from a dwelling after dark, as dire results would follow. It was very risky to start work on Friday if it could not be finished that week, and just too bad for one to turn back after starting on any journey unless he first made a cross mark and spat on it.

There were girls who cooked "dumb suppers" in order to find out in advance who their future husbands were to be. The usual way was for two girls to prepare a meal without saying a word while the cooking went on. If the rule was strictly adhered to, it was claimed that when the food was placed on the table the spirits of the maidens' future husbands would appear in bodily form to take part in the meal. Another way for a maid to determine her future husband in advance was to take a mirror to a well on the longest day in the year and, exactly at high noon, focus it over the water, at which time she would see her future husband distinctly and unmistakably. This method of advance husband determination was still practiced by some Florida girls after the opening of the twentieth century.

Sleeping with a Bible under one's pillow prevented dreaming. Squeezing one's pocket knife or turning one's pocket wrong side outward stopped so-called "death owls" from making their scary noises.

"Vinegar and nails," that is, a liquid made by soaking rusty nails in vinegar, was a particularly good treatment for puny children. (Who knows but what this gave an idea to the manufacturers of modern iron tonics?) Asafoetida worn around the neck would keep off infectious diseases. Eating white sand from the bed of a running stream would prevent anyone who had been bothered with boils from

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having them again. Those subject to nosebleed could cure the trouble if they would, at the next attack, let the nose bleed over blue vitriol.

Territorial Floridians could often be heard singing ballads which originated in Great Britain or during the colonial period, many if not most of the singers being unable to tell from whence they came. Some of the more popular songs were: "Old King Cole," "The House Carpenter," "Lord Thomas and Fair Ellinor," "Sweet Mary," and "Lord Randal, My Son."

The entire social life of Florida was modified by the frontier conditions then existing, by the long Indian War lasting from the latter part of 1835 till August 14, 1842, and by the get-rich-quick ambitions of so many. However, with all the crime abroad in the land and other excesses found chiefly in Middle Florida, life in the territory, in general, went on with reasonable smoothness. The small farmers in Alachua, Walton, Hamilton, Columbia, or Marion, seldom heard of the strife in the claylands, of duels fought between leading territorial politicians, or of the atmosphere of sin at the Marion Race Course.

Life in Florida, as it reached statehood, was not too hard, except for that minority which had almost upset itself by the economic risks it had taken. The great majority could raise its corn, sugar cane, and sweet potatoes on fertile cow-penned land, for if a settler did not have cattle himself some owner of a large herd would pen him enough to "trod" his land and furnish his milk and butter besides, in return for his looking after the cattle for the three or four months of penning season. There were huckleberry patches in the woods, and blackberries needed little encouragement to get them started; fish could be caught with but little effort in a hundred rivers and creeks and in ten thousand lakes and ponds, in numerous tidal creeks, and in the Gulf. Deer were so abundant that the writer's grandfather, who settled within the present Taylor County not long after the close of the territorial period, killed 55 in five months. Under such conditions, unless a settler was hopelessly lazy it was almost impossible to starve.

There were, of course, many inconveniences from a modern point of view. There was not a kerosene lamp in the world until 14 or 15 years after Florida became a state, nor would there be an electric light for more than 30 years to come. Women had no sewing ma-



MILLARD F. CALDWELL
Governor of Florida

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chines until after Elias Howe's invention in 1846. Dr. John Gorrie did not patent his ice-making machinery in the United States till May 6, 1851, six years after Florida's admission to the Union. In 1845 the telegraph had been in use less than one year, and it is certain no line had reached Florida. The telephone was, of course, 30 years in the future.

The old-fashioned fireplaces in which the great majority of women cooked the meals of their households were so inconvenient in comparison with what even the poorer classes have today that most of us do not realize how far we have traveled in one hundred years.

There are still backwoods frolics, but no maiden now walks several miles to get to them. Today children both rich and poor, in addition to free schooling, have even their books furnished. The few Floridians who subscribed to newspapers in 1845, if the papers came from any distance, would have thought themselves fortunate to get them within two weeks of publication. Now we get the New York, Chicago, or Washington papers the second day after publication, and with our radios know the news before they arrive.

The friction match came into use in 1836, but many Floridians in 1845 still struck fire with flint and steel. The photographic process had been perfected enough for use six years prior to Florida's admission, but as late as 1850 there were not more than half a dozen "daguerreotypists" (as photographers were then called) in the state.

Still these century-ago Floridians had much to enjoy. When they picnicked, went to preaching, had dinner parties or dances, chatted close to syrup kettles at cane grindings, or gossiped around quilting frames; when they drank their thirty-cent a gallon whiskey; when they shot their muzzle-loading guns at deer, turkeys, ducks and alligators; when, far away from a doctor, the "granny" took care that each new baby made proper entrance into the world; when many houses had the reputation of being haunted and there were, as some believed, witches abroad in the land; with all these numerous benefits and annoying nuisances, there were no Darwin's works to make people believe men were merely ascended from lower animals, no appendicitis (in so far as name was concerned), no fear of atomic

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bombs, no doubt of the reality of a heaven for the few or a hell for the many.

What an interesting place was our Florida when, on March 3, 1845, John Tyler signed the bill admitting it to the Union!

THE MOVEMENT FOR STATEHOOD

I. EARLY AGITATION FOR STATEHOOD

By the treaty of February 22, 1819, Spain ceded the Floridas to the United States. The treaty guaranteed to the inhabitants of the Provinces of East and West Florida incorporation into the Federal Union as soon as might be consistent with the principles of the constitution.¹ Unlike the Ordinance of 1787, which specifically promised the formation of states in the territory northwest of the Ohio River, the treaty of cession only contracted for the incorporation of the inhabitants of the Floridas into the Union. A similar guaranty, in the treaty of April 30, 1803, to inhabitants of the Louisiana Purchase had been fulfilled in part in 1812 by the admission of Louisiana as a state. But might not the guaranty be met by the merging of the provinces with already existing states? If separate statehood were implied by the terms of the treaty, were the provinces to become one state, or two?

These questions received the attention of Congress in 1822 when the organic law for the government of the provinces was formulated. The act of March 3, 1821, providing for carrying into execution the treaty of cession,² had been a stop-gap, designed to implement the recently ratified treaty as quickly as possible. Under it President Monroe had appointed Andrew Jackson provisional governor of the Floridas. "In consideration of the pre-existing division, and of the distance and difficulty of communication" between Pensacola and St. Augustine, he had named two secretaries, one to reside at Pensacola, the other at St. Augustine. He considered, however, that the "provinces were formed into one territory."³ Since the act of March 3, 1821, would expire by its own limitation when Congress should adjourn in 1822, the President recommended that Congress establish, as soon as practicable, a government "over that Territory, on the principles of our system."⁴

The propriety of constituting two territories in the Floridas was considered and rejected in committee, partly on the grounds of economy and partly because of the opposition to two new slave territories engendered by the controversy over the admission of Missouri in August, 1821.⁵ The legislatures of both Georgia⁶ and Alabama had passed resolutions late in 1821 favoring the annexation to their

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states, respectively, of East Florida and West Florida. The Georgia resolutions do not appear to have been sent to Congress, but those from Alabama were presented in both houses.⁷ The latter were reinforced by a memorial from citizens of West Florida requesting annexation.⁸ Singularly enough in view of the subsequent attitude of the section, citizens of East Florida petitioned against any division of the territory.⁹ The proposal to annex West Florida to Alabama was killed in the Senate, after considerable debate, by a vote of 25 to 19 on the ground that, though not inexpedient in principle, it was premature.¹⁰ The act of March 30, 1822, therefore, constituted all the territory of the ceded provinces as the Territory of Florida. Provision was made for a governor, secretary, judiciary, and Legislative Council to be appointed by the President, and for a delegate to Congress to be elected by the people.¹¹

From the first meeting of the Legislative Council in July, 1822, most Floridians believed, and many hoped, with Governor William P. DuVal, that Florida would, "in a few years, assume a rank among the states of our great and happy union."¹² Even though residents of East Florida might be sufficiently irritated by inconveniences incident to union with West Florida to petition Congress, later in the year, for a separate territorial government, they asked it only "until the population of both sections united, may be adequate to the formation of a state."¹³ And when the question of the annexation of West Florida to Alabama was again agitated in 1826-27, the Legislative Council, by this time elective and composed of five members from West Florida, two from Middle Florida, and six from East Florida, resolved unanimously that division of the territory would be contrary to the expressed will of their constituents "and completely calculated to destroy that which is their best hopes, that of becoming a state government."¹⁴

As the time for the federal census of 1830 approached, it was hoped that Florida would be shown to have a population sufficient to entitle her to admission. Governor DuVal, in his message to the 1828 Legislative Council, "confidently believed" that this would be the case.¹⁵ An anonymous correspondent of the *Pensacola Gazette*, himself opposed to statehood on the score of expense, stated that with "many of our citizens" it was "a favorite subject of conversation."¹⁶ At a public dinner at Magnolia in 1830, "the following toast was drank with much approbation:

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“‘Florida—as impatient to break *into* the union, as South Carolina is to break *out*; perhaps it would be better for both to stay where they are, until better acquainted.’”¹⁷

The returns of the census should have effectively dampened the ardor of statehood enthusiasts. Florida’s total population was less even than the existing ratio of representation, which would be increased on the basis of this census. James D. Westcott, Jr., acting governor, felt it necessary, however, to recommend to the Legislative Council of 1832 that no application for admission be made. It was improbable that Florida could be admitted for another 10 years, he said. In any event, statehood would be undesirable until the territory should have become free of debt and better able to meet the expenses of government which, under the territorial system, were borne by the United States. But in discussing the disputed Georgia-Florida boundary, he suggested that Georgia, if permitted to retain state lands therein, might be willing to cede to Florida several of her border counties. Such cession, he thought, might give Florida sufficient population to enable her to apply for admission as a state.¹⁸

It is to be doubted whether this was more than a passing comment on the part of Westcott. The suggestion, however, seems to have been taken seriously. In 1833, the Committee on the State of the Territory submitted for the council’s approval a memorial requesting the states of Alabama and Georgia to cede to Florida their territory lying south of the parallel of 31° 15’, in order to facilitate the admission of Florida to the Union. The argument advanced was that of Southern interests. Were Florida to be divided and annexed to her neighbors, the population thus gained would entitle neither Georgia nor Alabama to additional representation in Congress. Yet the interests of the South urgently demanded additional congressional strength to check the sectional legislation anticipated when the territories in the northwest should become states. By complying with this request, Alabama and Georgia would bring to their sides a state “presenting with them in the general Congress an undivided front in the support of the great principles of southern policy.”¹⁹ The memorial failed of passage by a non-sectional tie vote,²⁰ but the argument of Southern interests thus advanced was to be brought forward time and again, and with increasing urgency as the antislavery movement gained momentum in the North.

Southern interests aside, there were several reasons why Florid-

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ians wished to enter the Union. As the old Spanish population was submerged under the tide of American immigrants, the feeling grew that a "state of provincial vassalage" was inconsistent with the status of American freemen. Republican institutions were demanded by the genius of a free people. A limited system of self-government had been extended to the territory by the grant of the privilege, in 1826, of electing members of the Legislative Council and, in 1829, of electing all county officers except justices of the peace. But the highest executive and judicial officers remained federal appointees, not answerable either directly or indirectly to the people. And all too often, in the view of Floridians, the demands on federal patronage caused the appointment of outsiders whose sole interest in Florida was the desire to find themselves on a federal payroll or to regain their health in a genial climate. Even where such appointments were unobjectionable on any score but that of non-residence, they deprived Floridians of the opportunity of indulging in that favorite avocation of the ante-bellum Southerner—politics. Congress, too, retained the right to review and, on occasion, annul the legislation of the council, which resulted in a feeling of irresponsibility on the part of the latter. Until Florida's government should acquire the stability of constitutional sanctions, it was thought that migration from other states, and thus the development of the country, would be retarded. There was also the desire, natural in a community of limited public resources where land was one of the two chief forms of wealth, to gain control of the sixteenth sections and the two townships reserved for schools and seminaries when Florida should become a state.

These reasons, though not so baldly stated, were urged by the Committee on the State of the Territory, which, in 1834, reported a bill to submit to the people of the territory the question of state government. After advancing the arguments in favor of statehood, the committee considered the two great objections of expense and insufficient population. Until this time it seems to have been generally assumed that Florida could not be admitted until her population, in federal numbers, should at least be equal to the congressional ratio of representation. The committee, however, construing together the constitutional clauses giving Congress the power to admit new states and providing that each state shall have "at least one representative," concluded "that a state may exist or consequently be created although not having the number of inhabitants which consti-

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tutes the basis of the ratio."²¹ But even should a population equal to the federal ratio be required, it was argued that the increase of population since 1830, together with the increase anticipated by reason of the projected removal of the Seminole Indians, would give the territory the requisite population before measures to organize a state government could be carried into effect.

The committee was equally optimistic on the question of expense, in spite of the territory's unfortunate fiscal history. Acts passed by the first Legislative Council to raise a revenue and to authorize the governor to borrow \$5,000 to meet the incidental expenses of the territory until taxes could be collected²² had been promptly nullified by Congress. It had been provided, moreover, that no territorial tax bill should become a law without the specific assent of Congress, except when such bills should authorize county and municipal taxes for local purposes.²³ Until 1828, when this prohibition was rescinded,²⁴ the only tax bill sanctioned by Congress was that to levy a poll tax.²⁵ Yet the territory, in 1827, assumed all claims against the counties for criminal prosecutions and obligated itself to meet such expenses in future from the territorial treasury.²⁶ When finally allowed to impose a territorial tax, the council passed a revenue act levying taxes on land, slaves, licenses, and gross receipts of merchandise sold.²⁷ It also attempted a crude funding operation by authorizing the treasurer to issue, in payment of claims against the territory, interest-bearing notes receivable for taxes.²⁸

The people, however, were reluctant to pay taxes. Each year from one-third to one-half of the counties failed to make tax returns, while in many counties which made returns the taxes either were not collected or were not paid into the treasury.²⁹ As a result, between 1829 and 1831 more treasury notes were issued annually than were redeemed.³⁰ Moreover, the accounts of the treasurer were so poorly kept that it was impossible to ascertain the exact financial status of the territory. To bring some order out of the chaos, a Board of Treasury Commissioners was appointed in 1832 to investigate, and place on an intelligible accounting basis, the territory's financial affairs.³¹ At the same time, the issuance of treasury notes, or scrip, was discontinued. Although the board, after auditing claims against the territory and debts due it from former officers, set up account books that showed the territory to be solvent, many of the debts due were uncollectable and the territory, in reality, was in debt. During the 1833 fiscal year the treasury received from all

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sources less than \$4,500, and at the end of the year its cash balance was \$86.91 $\frac{3}{4}$, with several thousand dollars of warrants outstanding.

Despite all this, the Committee on the State of the Territory believed that a "moderate system of taxation," properly enforced, would raise the \$30,000 it estimated to be sufficient to support a state government.³² The council thought otherwise. It defeated the bill to submit the question of state government to the people by a vote of 10 to 5,³³ while it postponed "until the fourth of July next" a bill designed to insure a more efficient collection of taxes.³⁴ This action met with the approbation of the editor of the *Pensacola Gazette*, to whom "the greatest objection to the project of going into the Union" was "our poverty." Florida's territorial form of government, he said, might "be a homely garb, (a 'servile' one it certainly is not) but it serves very well to *keep us warm*."³⁵

The question of statehood was not raised in the 1835 council. In 1836, without a formal report on the subject and without a roll call, the council passed a resolution providing that the question of "State" or "No State" should be submitted to the people at the next election.³⁶ There can be little doubt that this action was the result of increasing abolitionist agitation for Congress to abolish slavery in the District of Columbia. During the summer of 1835, meetings had been held in Leon and Jackson Counties "to take into consideration the efforts that are now making by the Fanatics of the North, for the immediate abolition of slavery." Resolutions had been passed requesting the next Legislative Council to take such measures as would "defeat the machinations of the Fanatics."³⁷ The 1836 council adopted a report and resolutions which recognized that the power of Congress to regulate slavery in the territories was corollary to a constitutional right to abolish it in the District of Columbia. But the council was "unwilling to acknowledge that the fundamental principles of *rights* and *securities* guaranteed under the constitution . . . were forfeited by a migration to a country, the domain of which is in the government of the confederation" of states.³⁸ Although there is no direct evidence in the council Journal of a connection between the resolutions on abolitionism and statehood, clearly a change from a territorial to a state government would have obviated all danger of congressional legislation on the subject of slavery in Florida. Since Governor John H. Eaton failed either to sign or to veto the statehood resolution, no election was held under it.

At the next council it was the governor who proposed that meas-

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ures be adopted preparatory to applying for admission to the Union. In his message of January 3, 1837, Governor Richard K. Call based his recommendation on the desirability of a government more responsive to the needs and wishes of the people. In particular, he pointed out that, for want of a quorum, there had been no session of the Court of Appeals for three years. Since the judges of the superior courts, who constituted the Court of Appeals, were federal appointees they were beyond the control of the council. The only remedy lay, he said, in assuming "a State Government, under which all public officers may be held mediately, or immediately, responsible to the people." The matter of expense he regarded "as a trifling consideration when compared with the sacrifice of Independence, and the rights and privileges incident to a state government."³⁹ The council responded by passing an act providing for a referendum on statehood at the election for delegate to Congress in May and for taking a census.⁴⁰ The bill was introduced by the Committee on the State of the Territory without an accompanying report and was passed by a vote of 23 to 3, the dissentients being from Washington County in the West and from Nassau and St. Johns Counties in the East.⁴¹

The question of statehood does not seem to have been much agitated in the campaign preceding the election for delegate, although the *Pensacola Gazette* and the *Florida Herald* both considered it premature, and on much the same grounds. As did all opponents of the measure, they took the position that Florida could not constitutionally be admitted until her population should equal the existing ratio of representation. The objection of insufficient population, moreover, was, in their view, inextricably linked with that of expense. A man might vote for a state government, said the *Gazette*, if he knew the population was 60,000, whereas he would vote against it if the population were only 40,000. The advantages to be gained—increased political power and control of the school lands—would be more than offset by a "very onerous" tax burden.⁴² The *Herald*, spokesman for East Florida, "now . . . but a wild waste and depopulated region" as a result of the Indian War begun late in 1835, thought that state taxes would prevent new settlements. "In becoming a state," it said, "we have all to lose and nothing to gain."⁴³

That these papers reflected the views of their readers is shown by the election returns. The returns also gave proof of a sectionalism, long apparent in Florida politics, which the question of statehood

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was to bring to a feverish pitch during the next eight years. Sectionalism had been latent in the old Spanish divisions of East and West Florida. At the change of flags in 1821, Florida's population of less than 5,000 whites was concentrated around Pensacola and St. Augustine,⁴⁴ more than 400 miles apart and connected overland only by "a circuitous route of more than seven hundred miles through parts of Georgia and Alabama."⁴⁵ Nature aggravated the situation. The principal rivers of Florida flow north and south and the peninsula, extending 400 miles to the south, was a hazardous obstacle to communication by sea, the voyage around it being "as difficult as a trip to Liverpool or Bordeaux."⁴⁶ These physical obstacles to the administration of East and West Florida as one territory could, in the opinion of the first Legislative Council, be removed by the construction of a direct road from Pensacola to St. Augustine and the location of a permanent seat of government on or near the road and approximately equidistant from the old towns.⁴⁷ These measures were initiated in 1824, when the capital was located at Tallahassee, through which the new road was to run. In the same year, Congress added the Middle Judicial District, between the Apalachicola and Suwannee Rivers, to those districts previously established for East and West Florida. The judicial districts proved to be, in general, conterminous with distinct economic sections and their designations, geographically apt, carried generally recognized sectional implications.⁴⁸

It was soon apparent that Middle Florida was to be the center of the territory in every sense—economic, social and political, as well as geographical. The greater part of the peninsula had been set aside as an Indian reserve in 1823, and that part of East Florida available to settlers was plastered with litigated Spanish land claims. West Florida, except for a part of Jackson County, consisted of poor agricultural soils fitted for little more than subsistence farming. Middle Florida, on the other hand, had lands suited to the cultivation of cotton and, except for the Forbes Purchase whose approximately 1,500,000 acres were largely unfit for planting, was free from Spanish claims. The survey of public lands was begun at Tallahassee in 1825. Middle Florida lands quickly attracted settlers from the older Southern states, who brought with them their capital in the form of slaves. By 1838, the contiguous counties of Jackson, Gadsden, Leon and Jefferson formed a cotton-planting blackbelt in which was concentrated the greater part of the territory's wealth and culture and half of its population.

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The East and West, while retaining some of their mutual distrust, promptly transferred most of their jealousy to Middle Florida. This they evidenced politically whenever they found, or could make, an opportunity. In the biennial elections for delegate to Congress, the votes of East and West were usually combined to defeat the Middle Florida favorite. Although the location of the capital in Middle Florida had been at the instance of a council composed largely of members from St. Augustine and Pensacola, the site had hardly been selected before agitation for its removal was begun. For years members from the East, supported by now one Westerner and then another, proposed that a new site be chosen.⁴⁹ The question of equitable apportionment of representation in the council found the East and West successfully aligned against the Middle. From 1826, when the council was made elective, it had been granted the right to reapportion representation, but it always refused to do so. Reapportionment was achieved from time to time only by congressional intervention. Middle Florida never received the representation to which its federal numbers, and for a while even its white population, entitled it, while East Florida was always over-represented on either basis.

East Florida's longstanding particularism was intensely aggravated by the Indian War. While both Middle and West Florida experienced Indian alarms and atrocities, they were relatively slight in comparison with events in the East. The economic life of East Florida was entirely disrupted by the war. Plantations were destroyed, settlers were driven from their holdings, and immigration ceased. It was small wonder, therefore, that "the bleeding, suffering East," when it went to the polls in May, 1837, registered an emphatic "No" against the statehood project. Almost equally emphatic were the agriculturally poor West Florida counties of Washington, Walton and Escambia. The substantial territory-wide majority in favor of a state was due to the enthusiasm of Middle Florida and the commercially prosperous West Florida towns of Apalachicola and St. Joseph.⁵⁰ The majority of 63.4 percent probably indicated a more favorable attitude than really existed, for there was considerable apathy in the election, particularly in the East. Nearly 16 percent of the electors who went to the polls did not vote on statehood, for a total of 4,145 votes was cast for delegate as against 3,488 on statehood. By sections, 24.7 percent in the East did not vote on the question, 16.4 percent in the West, and 7.6 percent in the Middle. On the

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other hand, of those who voted on statehood, 69.3 percent in West Florida and 81.2 percent in Middle Florida favored it, while 67.4 percent in East Florida opposed it.

Although the act under which the election was held had provided also for the taking of a census, it allowed such a small compensation to the sheriffs, on whom the duty devolved, that, in general, they ignored it. Consequently, Governor Call recommended to the 1838 council that further steps be suspended until a census should have been taken. There was no reason to believe, he said, that Florida could be admitted without encountering great opposition arising "from a struggle for power between the Northern and Southern States." If she did not have a population equal to the federal ratio, he doubted that she could make a successful demand for admission. Under such circumstances it would be unwise to incur the expenses of a convention. He suggested, therefore, that laws be passed providing for a census and authorizing the governor to call a convention by proclamation should the returns show the territory to have the requisite population.⁵¹

The select committee to whom this portion of Call's message was referred had no difficulty "in arriving at conclusions according with the popular will" rather than with the views of the governor. Florida's right to become a state, it said, did not depend on population. It was granted by the treaty of cession and rested alone on her ability to support a state government. To doubt that she could do so was "to doubt the patriotism, the Energy and the spirit of her people." Aside from the right to choose her own officers and to control the school lands, admission would give Florida a claim to a congressional grant of public lands and to the right to share in the distribution of surplus revenue. And should the South "fail in preserving the national Compact, from pollution and disruption," Florida, as a state, could "retire from the old to the new confederacy" with the same rights as her sister states. The committee, therefore, reported a bill to call a convention, as it had previously reported a bill to take a census, though in the latter case without yielding the principle that the right to admission was clear and distinct from the question of population.⁵²

Optimism concerning Florida's ability to support a state government rested on a slightly firmer basis than in earlier years. The territory was at last out of debt. The auditor of public accounts, in

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his reports for 1836 and 1837, had asserted that, with proper management and economy, there was no danger that Florida would be unable to meet the necessary expenses of a state government.⁵³ The fact remained, however, that many counties still failed to pay taxes, not one Eastern county having made a return since 1835. Treasury receipts from all sources in 1837 were less than \$15,000. Opponents of statehood, therefore, called for a report on probable expenses and the sources from which revenue would be derived. The Committee on Finance returned a report that was just as optimistic as that of the select committee. To offset an estimated annual expense of \$60,000, it listed possible revenues of \$123,000, including such items as \$20,000 from banks and railroads and \$10,000 from "Faro Banks and other Gaming tables."⁵⁴ Although it was obvious to all that statehood would necessitate heavier taxes, a revenue bill introduced after the convention bill was passed, was laid on the table on the last day of the session.

The census bill, which provided for a census to be taken before the first Monday in May, was passed on January 22. Members from the East generally opposed the call of a convention, and others disagreed as to time and place. A fight on apportionment of representation seems to have been avoided by drafting the bill in the first place to give both East and West Florida a greater proportionate representation in the convention than Middle Florida. The bill, as introduced, also provided for delegates to be elected on the first Monday in March and for the convention to meet at Tallahassee on the third Monday in April.⁵⁵ If a constitution were to be framed in time for submission to the session of Congress then sitting, an early date was necessary. Objections could be raised, however, on the grounds of the expense of a special election and lack of time to set election machinery in operation and to bring out candidates. For these or other reasons, the bill was amended to provide that delegates be elected in October at the election for council members and that the convention meet on the first Monday in December.

As to the place of meeting, the *Florida Watchman* reported during the debate, "Some have moved for it to meet at Pensacola, some at St. Joseph, some at Tallahassee, some at Mineral Springs; and one . . . [even] to meet at the battle ground of the 31st December on the banks of the Withlacoochee."⁵⁶ Leon County members fought hard to have Tallahassee chosen, but, according to William Wyatt, a member from Leon, they made concessions out of patriotism, as they "were deter-

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mined to go for the Convention bill, even if the Convention set in a *Cypress Swamp*.”⁵⁷ St. Joseph won the prize, presumably as the result of a coalition of East and West against Middle Florida.⁵⁸ The bill was finally passed on January 31 by a vote of 18 to 9. Voting in the negative were the members from Escambia County in West Florida, Hamilton County in Middle Florida, and Nassau, St. Johns, Mosquito and Monroe in East Florida, while the two members from Duval split on the question.⁵⁹

While the convention bill was under consideration, the question of division of the territory was brought before the council in the form of resolutions of the Alabama legislature proposing the annexation of West Florida to that state.⁶⁰ In transmitting the resolutions, Governor Call stated that such a measure would have “most fatal consequences” for Florida and would postpone a state government for years.⁶¹ The council concurred in this opinion, although the *Pensacola Gazette* thought that sentiment in West Florida was “almost universal” in favor of the measure.⁶²

East Florida was not slow to turn this proposal to its own ends. Commenting on the Alabama resolutions, the *Florida Herald*, of January 6, 1838, suggested: “Perhaps it would suit all parties better to divide the Territory at the Suwannee and let that part west of that river ‘set up for herself,’ if she will. We should like to hear this subject discussed.” The suggestion fell on fertile ground. On February 5, a public meeting in St. Augustine adopted resolutions opposing the incorporation of East Florida into a state with Middle and West Florida and providing for a memorial to Congress to be drafted and circulated in East Florida. The memorial represented that the connection with the Middle and West had been “most peculiarly harassing and vexatious” to the East, which had no business connection with them and was “so disconnected from the Legislature, and remote from its place of session as to be nearly excluded from all its benefits.” The burdens a state government would cast upon East Florida were “truly alarming.” The logic of geography demanded a separation. It was requested, therefore, that Congress erect that part of Florida east of the Suwannee River into a separate territory.⁶³

The memorial took Charles Downing, Florida’s delegate in Congress and an Eastern man, completely by surprise. Although he presented it to Congress, he scoffed at the idea of division. “A Territory with 5000 inhabitants!” he wrote a friend. “No one ever

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heard of such a thing. Congress would laugh at the proposition." And even if congressional assent could be obtained, it would simply make East Florida the target of abolition petitions for an indefinite period. The whole project was "*a Northern light*" (*i. e.*, an abolition scheme), which he would oppose as long as he lived, "in any and every place, in any and every way."⁶⁴

Downing's attitude did not quiet the divisionists. The *Herald* saw in division the means by which East Florida could "be freed from the shackles of a petty despotism."⁶⁵ The Middle and West cared nothing for the true interests of the East, it asserted, but only for her population and the taxes they might garner. It was immaterial to them that by pushing statehood they were "inflicting worse than Egyptian bondage upon their housless, homeless, impoverished fellow citizens."⁶⁶ This kind of talk was too much for the *Pensacola Gazette*. Escambia County voted against statehood, it said, but would abide by the will of the majority. The policy of the territorial government had been marked by "favors and forbearance towards the East," particularly in the matter of taxes, which East Florida counties had pretty generally failed to pay. But "they are a little too clever for us at a bargain, and thus far, all our legislation has grown out of bargaining. They have made us roll their logs, and pile them up, and burn them, and they hav'nt touched a log of ours."⁶⁷

Having antagonized his East Florida constituents by opposing division, Downing procured the introduction in Congress of a bill that gave small comfort to advocates of statehood. Indeed, it seems on its face to have been designed to stymie that measure. The bill authorized the governor to call a convention by proclamation, but only after a census should show that Florida had a population of 47,700 in federal numbers, which was the existing ratio of representation. It provided, moreover, that the first action of the convention should be to determine "whether it is or is not expedient to form a constitution and State Government," and that two-thirds of the members elected should constitute a quorum.⁶⁸ This last provision alone, said the *Floridian*, was sufficient to defeat the object of the bill, since it placed in the hands of East Florida the power to prevent the formation of a constitution.⁶⁹ And certainly the population requirement would have prevented even the calling of a convention. Downing later declared that, though Middle Floridians had told him the territory had a population of at least 60,000, he had tried to have the requirement stricken from the bill before it was reported. His sole

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object in having the bill introduced, he said, was to save the territory the expenses of a census and convention by having the Federal Government assume them.⁷⁰ Since this bill did not make such provision, he procured its withdrawal and had a second introduced which provided that the census be taken at federal expense.⁷¹ As it was introduced only two days before Congress adjourned, its passage was hopeless.

The pre-election campaign that started even before Downing's first bill was introduced proved to be, at least in Middle and East Florida, "the most exciting which has ever taken place."⁷² Not only were convention delegates and the usual council members to be elected, but members of Florida's first Senate were to be chosen, for Congress had at last granted the territory a bicameral legislature. Instead of turning upon a discussion of general constitutional principles, the campaign developed into a free-for-all controversy over regulation of the territory's banking institutions. The popular concern over banks was an aftermath of the Panic of 1837. It was heightened by the fact that the territory had guaranteed bonds of the Union Bank of Florida and the Bank of Pensacola in the amounts of \$3,000,000 and \$500,000, respectively, and was obligated by territorial law similarly to endorse bonds of the Southern Life Insurance and Trust Company upon application of that corporation.

The need of an adequate circulating medium and credit facilities to meet the demands of a growing country had early been felt, especially in Middle Florida. All efforts to incorporate banks met with executive vetoes, however, until 1828, when the Bank of Florida at Tallahassee was chartered over the objections of Governor DuVal. The next four years saw the incorporation, always over the governor's veto, of five commercial banks with authorized capital ranging from \$200,000 to \$1,000,000. In reality, lack of capital forced the banks to operate on a very limited scale. The Central Bank of Florida at Tallahassee, for instance, although authorized to raise a capital of \$1,000,000, operated its first year with paid-in stock of only \$60,000 and with bank notes in circulation of less than half that amount.⁷³ As James D. Westcott, Jr., pointed out in 1832, "The erection of these institutions cannot create capital where there is none to spare, and this is the misfortune of Florida."⁷⁴ But the planter group in the territory was bent on securing banking facilities. After an effort to secure for Florida a branch of the Bank of the

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United States came to naught,⁷⁵ it hit upon the scheme of using the credit of the territory to raise capital.⁷⁶

The charter of the Union Bank, incorporated in 1833, authorized an initial capital of \$1,000,000, which might later be increased to \$3,000,000, to be raised by the sale of bonds of the territory drawn in favor of the bank. To secure the principal and interest of the bonds, an equal amount of capital stock was offered for subscription by land-owning citizens of Florida. The subscribers, in turn, could secure their stock by mortgages on real property and slaves, and were entitled to loans from the bank up to two-thirds of the value of their stock. This bank won the approval of Governor DuVal as being "truly the *Planter's Bank*" and an institution that would "induce the investment of *foreign capital* in it."⁷⁷ As first passed, the bill required that the assent of Congress be given before the charter should become operative, but at DuVal's request this stipulation was dropped. Although the charter provided for books of subscription to be opened in all parts of the territory, it was obvious that the benefits would accrue chiefly to the planting counties of Middle Florida. It is not surprising, therefore, that the final vote of 10 to 8 showed all but one of the East Florida members opposed to its passage.⁷⁸

In approving the Union Bank charter, DuVal had receded from a position on which he had stood firmly for a number of years. Holding the territorial government to be "but an imperfect, qualified, and dependent corporation, without any certain term of existence," he had until then doubted that it could "properly create other corporations and make them of more indissoluble character than itself."⁷⁹ James D. Westcott continued to hold such views and, as secretary and acting governor, obstructed the organization of the bank.⁸⁰ The question was also raised as to the possibility that Congress might disapprove the act and void contracts made under it after the bonds had been sold, as well as to the power of Florida, in becoming a state, to release herself from obligations entered into as a territory. Legal opinion on these points was sought in 1834 from Chancellor James Kent, Horace Binney, Peter A. Jay, and Daniel Webster. All agreed that the bank charter was legal and that obligations of the territory would be binding on the state. But Webster, asserting the absolute power of Congress to repeal any territorial law, no matter what rights might have accrued under it, declared that Congress could relieve the territory of its contractual obligations at any time by repealing the charter. Binney and Jay agreed that Congress could re-

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peal the charter whenever it saw fit, but argued that it could not invalidate contracts made prior to its repeal, while Kent flatly declared that, Congress, having acquiesced in the charter by not repealing it at the last session, was estopped from further action.⁸¹

When the organization of the Union Bank was finally effected it became very clear that it was a Middle Florida institution. Subscription books were not even opened in East Florida, and no stock allotments were made to Pensacola subscribers. Demands were therefore made in 1835 for some equivalent for East and West Florida. West Florida was satisfied by a territorial guaranty of \$500,000 of bonds to be issued by the Bank of Pensacola and used for the construction of a railroad from Pensacola to Columbus, Georgia. The charter of the Southern Life Insurance and Trust Company, to be located at St. Augustine, authorized a capital stock of \$2,000,000, which might be increased to \$4,000,000, to be paid in instalments over a period of three years. Capital secured by stock subscriptions was to be lent on first mortgages of real and personal property in Florida. To increase this working capital, certificates, or bonds, guaranteed by the territory, might be issued to the amount of outstanding loans. The Southern Life and Trust charter met with strong opposition from the planting interest, the Jackson County members and seven of the 10 Middle Florida members voting against it.⁸² After its passage, the Bank of Pensacola measure was adopted without a roll call.

The Florida banks were caught in the deflationary Panic of 1837 and suspended specie payments in May and June of that year. In spite of this, the Union Bank, then operating on a capital stock of \$1,000,000, opened subscription books in October to increase its capital to the full \$3,000,000 authorized by its charter. The prospect of guaranteeing \$2,000,000 more of bonds for a bank that could not redeem in specie the quarter million of notes it had in circulation was alarming to some members of the 1838 council. A "little group of disorganizers," as they were called by one member, tried hard to pass a law forbidding the governor to issue more bonds.⁸³ They were unsuccessful, and after the council had adjourned Governor Call, as required by law, delivered the additional \$2,000,000 of bonds for the Union Bank. Aside from the propriety of extending the capital of the bank at this time, preference given to old stockholders in the allocation of new stock caused criticism of the bank.

The failure of the council to take action made the bank question

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the leading issue in the convention campaign. "Are you in favor of a connexion between Bank and State?" was the kind of question put to candidates in Middle Florida meetings.⁸⁴ According to the *Floridian*, all candidates "urged the propriety of constitutional regulations of the powers of the Legislature in regard to incorporations," and some "urged the necessity of investigation and reform."⁸⁵ Consequently, in Middle Florida there were no well-defined bank and anti-bank tickets. As events in the convention proved, both bank and anti-bank men were elected by the same constituents.

The campaign was more heated in East Florida, where excitement over the banks overrode the general distaste for holding a convention. Returns of the census, as they were made public, showed that the territory could not meet the federal ratio of representation.⁸⁶ Many Eastern divisionists therefore questioned the constitutionality of a convention and urged the impolicy of Eastern participation in it.⁸⁷ This kind of talk was silenced partly by the feeling that, since a convention obviously would be held, the East should be represented in order to protect its "rights," and partly by the controversy that arose over the Southern Life Insurance and Trust Company.

Although no territorial bonds had yet been issued for that bank, it was unpopular for other reasons. The company had been organized with Northern capital and many of its officers had but lately come to Florida from the North. The only difference between it and "the grand Humbug the Union Bank of Florida," said one critic, was "that one is for the benefit of a distant portion of the Territory, and the other a distant portion of the Union."⁸⁸ More particularly, the bank's trust functions were distrusted and it was charged with speculating in land and depreciated currency. St. Augustine pranksters neatly pointed the latter charge by moving the barber's pole to the door of the bank, as the symbol of a "shaving shop" where "they'll shave you *so close*, that you'll not need being shaved again *by them* for a long time."⁸⁹ The bank made the mistake of taking too high-handed a course toward its critics. When the *Herald* published, without comment, a report of a public auction of Southern Life and Trust notes at which the bills brought far less than their face value, the bank filed a libel suit against the editor. The only result was to insure the whole-hearted opposition of the paper, for the suit had to be dropped.⁹⁰ Feeling ran so high that toward the end of the campaign candidates divided into definite factions—the bank, or Mechanics' and People's Ticket, and the anti-bank, or Democratic Re-

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publican Ticket.⁹¹ In spite of lavish spending, "the exciting inducements of the 'invisible spirit of rum,'" and "all the influences that wealth could command," if we may believe the *Herald*, the "Bank-Whigs" took a beating in the East.⁹²

Only in West Florida was the campaign quiet. In Franklin and Calhoun Counties delegates were elected without opposition and in most of the other counties apparently there were not even two aspirants for each seat. While the bank question must have been discussed, insufficient heat was engendered to attract press comment.

II. THE ST. JOSEPH CONVENTION

The men chosen to write Florida's first constitution included natives of 13 of the 26 states then comprising the Union and of four foreign countries. Only three of the members were native Floridians.¹ Their occupations were varied, though not so diverse as their birthplaces. Lawyers and planters predominated, but there were at least two ministers of the gospel, two newspaper editors, three doctors, an innkeeper, a sea captain and fisherman, and a merchant in the group.² More than a third of the delegates had had legislative experience, 18 as members of the Legislative Council and two, William P. DuVal and Robert Raymond Reid, as members of Congress. Among the former were four past presidents of the council.³

When the convention convened at noon on December 3, 1838, in the bustling little boom town of St. Joseph, 46 of the 56 delegates elected were present.⁴ A temporary organization was effected by the election of Jackson Morton, of Escambia, as chairman and of Richard Fitzpatrick, of Dade, as secretary *pro tempore*. After canvassing the election returns for delegates, the convention adjourned until the next day in order to allow the delegates from the several judicial districts to select proxies for the absent members. The choice of proxies, authorized by the act calling the convention, revealed a rift in the Southern and Middle delegations which was especially significant in the case of the latter. Neither William Marvin, of Monroe, nor Fitzpatrick would agree to let the other cast the vote of Joseph B. Browne, of Monroe. The delegation from the Middle District, after reporting that they were unable to agree on a proxy, compromised by naming Thomas Brown, of Leon, to act as proxy for his colleague, William Wyatt, and making John N. Partridge, of Jefferson, proxy for the two absent members from Madison.⁵ As events speedily proved, a different choice of proxies could have altered the choice of president of the convention.

The Middle District ostensibly stood aside to let the presidency go to one of the other sections. Apparently the majority of the delegation hoped to place in the chair a man from their section by joining with the West to elect William P. DuVal, who, though a resident of Leon County, had been sent to the convention by Calhoun County.

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DuVal was nominated by Samuel Parkhill, of Leon, who alluded to his prior services to the territory as judge of the Superior Court for East Florida and as governor for 12 years. In seconding the nomination, Thomas Brown expressed the hope that there would be no opposition. This, of course, was too much to have been expected. Leigh Read, of Leon, nominated Robert Raymond Reid, of St. Johns, then judge of the Superior Court for East Florida. Referring to the objections of the East to the immediate formation of a state, Read "urged that the election of Judge Reid was due to the East, and would be of salutary effect there." Furthermore, he said, Reid's political sentiments were more acceptable to him than were DuVal's. James D. Westcott, Jr., of Leon, likewise pressed the election of Reid as the choice of the East, which, he said, "had claims upon the liberality of the other sections."⁶ When the vote was taken, Reid received 27 votes, DuVal 26. Fitzpatrick was the sole East Florida man to vote for DuVal; C. E. Bartlett, of Franklin, the only delegate from West Florida to vote for Reid. The members from Middle Florida who voted for Reid were Westcott, Read, and Leslie A. Thompson, of Leon; Abram Bellamy and Partridge, of Jefferson, the latter of whom cast the two Madison County votes for him; and Joseph B. Watts and William B. Hooker, of Hamilton.⁷

Although every county in the territory had elected delegates, it was by no means certain that the East and the extreme West would consent to the formation of a constitution. The editor of the *Floridian* had said in the issue of December 1 that immediately upon organization of the convention an effort would be made to dissolve it "by a motion that it is inexpedient at this time to organize a State Government." Benjamin D. Wright, editor of the *Pensacola Gazette* and a delegate from Escambia, had hinted at the possibility even before the election.⁸ Two years later he declared that "our delegates went to St. Joseph prepared to act with the eastern delegation in opposition to the making of a constitution at that time," only to find "that the entire voice of the 'bleeding, suffering east' was for a constitution and state government."⁹ Too few data are available to account entirely for this unexpected attitude on the part of the Eastern delegation. It seems probable, however, that it was largely the result of a deal with the anti-bank men from Middle Florida, the first evidence of which was seen in the election of Reid.

Uncertainty as to the course of the Eastern delegation persisted for several days. Two proposals obviously intended to test their

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good faith were made. While the report of the rules committee was under consideration on December 5, Thomas Baltzell, of Jackson, moved to prescribe by rule an oath for the members faithfully to discharge their duties. After rejecting the motion as smacking of coercion and sectarianism, the convention adopted a resolution authorizing the president to administer an oath to such members as might think proper to take it. Whereupon all the members present were sworn.¹⁰ On the same day, Fitzpatrick introduced a preamble and resolutions defining the duties the members had sworn to perform by asserting Florida's right to admission and declaring it to be "expedient and necessary" for the delegates to "proceed to the formation of a constitution and State Government."¹¹

In the debate that ensued on December 7, it was openly admitted that the resolutions were a test. Some opposed them as unwise and insulting to the East, whose delegates had already taken the oath. DuVal, on the other hand, contended that all that was aimed at was to know if there was a majority in favor of a state government. If there was not, he said, there was no use in consuming time and the people's money in further deliberations. It was soon evident that majority sentiment was opposed to any test, but the discussion got out of hand and developed into a heated argument as to the proper test to be proposed should a test be desired. Three viewpoints were revealed in regard to the formation of a state government as distinct from the writing of a constitution. Spokesmen for the East thought that no declaration of policy should be made until after a constitution had been adopted. Moderate advocates of statehood favored binding the convention then to apply to Congress for admission when a constitution should have been formed. And a few enthusiasts, charged by Marvin with being "in favor of anarchy, of revolution, and rebellion," admitted that they wanted the convention to declare it to be "the determination of the people of Florida to establish a State Government forthwith, and put it into execution, even if denied admission into the confederacy by Congress at the present session."¹² Since an attempt to force a declaration of policy at this time might easily have broken up the convention, the resolutions were dropped.

As this action indicated, the majority of the convention was determined to postpone consideration of controversial questions until the essential parts of a constitution could be formulated. Although the bank question undoubtedly was "the all engrossing topic of con-

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versation," as reported by the correspondent of the *Floridian* on December 6,¹³ efforts by extremists in both the bank and anti-bank factions to force an early consideration of the question failed. The report of the Committee on Banking and Other Incorporations and the introduction of numerous resolutions on the subject gave ample warning, if, indeed, any warning were necessary, that the debate, when it came, would be long and arduous. All attempts to call them up, however, were overridden until December 28. In the meantime, the framework of a constitution was mapped out and considered article by article, first in committee of the whole and, on the third reading, in formal session.

Resolutions designed to establish a method of procedure had been introduced on December 4 by both Fitzpatrick and Westcott. The former proposed that five six-member committees be appointed to draft articles on the Bill or Declaration of Rights, the legislative department, executive department, judicial department, and general provisions of the government. This scheme, which followed closely the constitution of Alabama, would have debarred almost half of the members from participation in committee work. Westcott's suggestion, which was adopted, was the appointment of a committee of seven to determine the subjects to be considered. Westcott was made chairman of the committee, which advised the appointment of 17 committees to draft as many separate articles, as well as a committee to draft such regulations and ordinances as might be necessary for the establishment of a state government. This plan made it possible for all members to receive committee appointments.¹⁴

Reid seems to have made the appointments with proper consideration for fitness. DuVal, for example, was made chairman of the Committee on the Executive Department. The Committee on the Legislative Department, with Thomas Brown as chairman, included such legislative veterans as Abram Bellamy, four times president of the Legislative Council, Jose Simeon Sanchez, and William Wyatt, and the Committee on the Judicial Department, headed by R. C. Allen, who was soon to be named a superior court judge, included some of the ablest lawyers in the territory. Leslie A. Thompson, auditor of public accounts of the territory, was chairman of the Committee on Revenue and Taxation and Leigh Read, a general in the Florida militia, drew the chairmanship of the Committee on the Militia. Westcott, an anti-bank man, was given the chairmanship of the Committee on Banking and Other Incorporations, but the committee, as final-

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ly constituted, was evenly divided between the bank and anti-bank factions.¹⁵

After the appointment of committees on Friday, December 7, the convention adjourned over the week end. When it reconvened on Monday, several committees were ready to report by the simple device of presenting the appropriate article from the Alabama constitution with little or no change. Even the reports on controversial articles, however, were made within the week. As many of the reports dealt with subjects assigned to some other committee, the chairmen of the several standing committees were designated as a "condensing and consolidating" committee to effect an orderly arrangement. The convention accepted the proposal of this committee that the several articles be taken up in the order in which it was proposed to incorporate them in the constitution.¹⁶ During the next two weeks the Declaration of Rights and the articles on the three departments of government were passed and those on the right of suffrage and qualifications of officers, the militia, and taxation and revenue were advanced to a third reading and ordered to be engrossed.

The very first article to be considered caused a clash between bank and anti-bank men. George T. Ward, of Leon, moved to include in the Declaration of Rights a section safeguarding the obligation of contracts. He frankly admitted that his purpose was twofold: to incorporate an important principle in the constitution and to bring to an immediate issue on the floor of the house the matter that was the all-absorbing topic outside. Now was the time, he said, "to bell the cat." Westcott accepted the challenge by proposing to add a proviso declaring "the supremacy of the law over all contracts and all corporations." After cooler heads on both sides had pointed out that banking was not before the house and that Ward's motion should be considered on its merits, without reference to banks, it was passed and Westcott's proviso was rejected.¹⁷

The form of government adopted in the other articles followed rather closely the existing territorial system. The executive department consisted of a governor, secretary of state, treasurer, and comptroller of public accounts, all of whom had territorial counterparts. The only new office was that of attorney general, which was established as part of the judicial department. Although the first bicameral Legislative Council was yet to meet, the unicameral system

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had long been unpopular and the convention unhesitatingly provided for a bicameral legislature. It clung to annual sessions, in spite of efforts to change to biennial meetings, and placed no limitation on their length, probably because congressional restrictions had proved irksome.

The judicial power of the state was vested in a supreme court, courts of chancery, circuit courts, and justices of the peace. There were to be at least four judicial circuits with a judge and solicitor for each, the circuit courts being equivalents of the territorial superior courts. The Supreme Court was to consist, for five years at least, of the judges of the several circuits in the same manner in which the Court of Appeals was formed by judges of the superior courts. Until separate chancery courts should be established by law (and they never were), original equity jurisdiction was vested in the circuit courts. The territorial county court, intermediate in jurisdiction between justices of the peace and the superior courts, was dropped. Since this court was the administrative body for the county and its judge exercised probate jurisdiction, it was necessary to provide new agencies to perform these functions. The General Assembly was, therefore, directed to provide by law for the appointment in each county of a probate judge and was authorized to establish in each county a board of commissioners for the transaction of county business.

In its provisions for the selection of officers, the convention evidenced a distrust both of the people and of the executive. The governor was the only state officer to be popularly elected, and in his choice a plurality could prevail. The committee's proposal to throw the election into the General Assembly in case no candidate received a majority was objected to as being liable to corrupt that body, while the alternative of a second election was, in the opinion of some, to be avoided because frequent elections "tended to agitation, party spirit, and excitement."¹⁸ Less than one-third of the members voted to provide for calling a second election in order that the will of the majority might govern.¹⁹ The other executive officers, the judges, solicitors, and clerk of the Supreme Court were to be chosen by joint vote of the two houses. This was a departure from territorial practice in the case of the executive officers, for the treasurer and auditor of public accounts were appointed by the governor subject to confirmation by the council. A motion for the popular election of judges was de-

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feated by a vote of 48 to 6.²⁰ Only in the selection of local officers was there a disposition to adopt the more democratic procedure. The clerks of the territorial county courts were elected; those of the superior courts were appointed by the judges. Both methods were proposed for selecting clerks of the circuit court, the former being adopted. The convention also made possible the election of justices of the peace, appointed by the governor of the territory, by leaving it to the General Assembly to decide the method of their selection.

Differences of opinion on most of these matters apparently were personal rather than sectional. A tiff between DuVal and Westcott on the eligibility requirements for governor, however, casts a significant light on the part played by the latter in the convention. Although he did not agree with the member from Leon on the matter under discussion, said DuVal, Westcott deserved thanks "for his universal action and unlimited efforts to conduct the entire business of this body." He was followed "with submission, and reverence and wonder, on most subjects" and would undoubtedly secure "to his admiring countrymen, by the efforts of his uncommon mind," a constitution that would insure their lasting happiness. "Where, let me ask," he continued in the same sarcastic vein, "was ever such indefatigable activity, such willing sacrifice of watching and labor evinced on the part of a single individual to save his fellow-laborers from the trouble of thinking and acting for themselves?"²¹ After the convention the editor of the *Floridian* remarked that, according to one's viewpoint, Westcott had been the Ulysses or the Thersites (*i. e.*, the wise man or the demagogue) of the Locofocos, as the anti-bank men were called.²²

On the subject of taxation and revenue a sectional attitude was more apparent. Whether by chance or design, three of the five members of the committee appointed to draft the article were from East Florida, the other two being Leslie A. Thompson, one of the Middle Florida members who voted for Reid, and Stephen J. Roche, from the poor West Florida county of Washington. The committee report, if adopted, would have revolutionized the tax system, for it recommended the *ad valorem* method of assessment for all species of property. Under the territorial tax laws then in force, an *ad valorem* tax was levied only on town lots. The two great sources of revenue, acreage and slaves, were subject to specific taxes, the former being arbitrarily divided into first rate, second rate, and third rate lands for assessment purposes. The proposed change would have

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lightened the anticipated tax burdens of the East by throwing a greater incidence on the planting counties of Middle Florida.²³ Adoption of the *ad valorem* system for all property was rejected on second reading by a vote of 32 to 18. The two members from Washington County, and Read, Thompson, and Westcott, of Leon, joined with a majority of the Eastern delegation to sustain the committee.²⁴ David Levy, of St. Johns, then moved that land should be taxed in proportion to value. Slaves having been exempted from *ad valorem* taxation, enough Middle and West Florida men supported the motion to secure its passage.²⁵ When the article came up for final passage, however, most of them reversed their votes and the section was stricken, although the full East Florida vote was cast for it.²⁶

The convention seemed to regard the article on suffrage and qualifications of officers as a proper vehicle for the expression of an assorted lot of social, political, economic, and even religious opinions. Suffrage qualifications were tightened by requiring two years' residence in the state instead of the three months stipulated by territorial law. Provision was made for the registration of electors—an innovation in Florida—and an effort was made to bolster the militia system by disfranchising men subject to militia duty who failed to enroll. A proposal by Thomas Brown to return to *viva voce* voting at elections, not used in the territory since 1823, was turned down in short order.²⁷ The anti-sectarian tone of the convention was demonstrated in the rejection of a proposal by John L. McKinnon, from the Scotch-Presbyterian county of Walton, to disqualify from civil office any person who denied the being of God or a future state of rewards and punishments²⁸ and by the adoption of a section making ministers of the gospel ineligible for the offices of governor and state senator and representative.²⁹ In the original draft of the article, bank officers and ministers had been coupled in the same section. The convention had the grace to separate the two, but the Westcott-East Florida faction had no difficulty in retaining the disqualification of bank officers and extending the period of ineligibility to a year after connection with a bank had been severed.³⁰ After considerable controversy, participants in a duel were disqualified from office, as were federal officers and collectors of public moneys who were in arrears. Dual officeholding was prohibited to all but justices of the peace, notaries public, constables, and militia officers.³¹

The normal order of business was finally interrupted on December 28, when the article on census and apportionment was passed over in

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order to take up the bank question. The report of the Committee on Banking and Other Incorporations, submitted on December 13, had proposed extensive restrictions on the powers of the General Assembly in the future incorporation of banking institutions, but had omitted any mention of existing banks or of the territorial bonds. It had even recommended the establishment of one or more state banks with capital raised by the issuance of bonds guaranteed by mortgages on the real property of borrowers. While agreeing to the main report, Westcott and Levy had brought up the question of territorial banks and bonds in a supplementary report. They proposed alternative modes of procedure in regard to the Union Bank and the Bank of Pensacola, for which bonds had been issued. The General Assembly could, at its first session, assume for the State of Florida the obligations of the territorial bonds if the two banks would submit their charters for amendment at that session. If the General Assembly did not assume the bonds, the banks could secure confirmation of their charters by substituting their own bonds for those of the territory. The charters of all other territorial banks (including the Southern Life Insurance and Trust Company, although it was not mentioned by name) would be subject to modification by the first General Assembly.³²

The reports fell far short of the ideas of extremists on both sides. The next day brought a spate of resolutions embodying the varying views. Bellamy, of Jefferson, would have the convention repudiate the faith bonds, forbid the General Assembly to raise revenue with which to pay them, and forever prohibit the pledge of the state's credit in aid of any corporation. Marvin countered with a proposal to leave the whole question of the liability of the state for the territorial bonds "open and undecided," but to authorize the General Assembly to modify the charters of the territorial banks. If a demand should ever be made upon the state to pay the bonds, he would have a convention called to decide what course should be followed. Levy submitted that the subject of territorial banks and bonds was "proper for the consideration and action" of the convention, and advocated repudiation. Fitzpatrick, on the other hand, proposed that the Union Bank be adopted as the state bank of Florida and that its capital be increased by \$10,000,000, one-half to be owned by the state and one-half by private stockholders, but the whole to be raised by the issuance of state bonds.³³

Divergent as these proposals were, they were all predicated on the

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theory that the bond question was a matter for solution by the people of Florida, either in this convention or at some future date. Thomas Baltzell, of Jackson County, injected an entirely new element into the controversy by moving the appointment of a committee to draft a memorial asking Congress to annul so much of the territorial bank charters as authorized "the issuance of any further bonds."³⁴ This proposal was designed to prevent the issuance of bonds for the Southern Life Insurance and Trust Company, which, it was understood, would soon apply for them under its charter.³⁵ Under the rules of the convention, all of the resolutions were laid on the table. As no immediate action was forthcoming on his motion for a committee, Baltzell drafted his own memorial and introduced it in the form of resolutions on December 26. These resolutions declared that, since the territorial government was the creature of the general government, Congress had the power, which it was morally bound to exercise, so to alter, repeal, or modify the bank charters as to protect the interests of the people of Florida from the results of the Legislative Council's "improvident legislation."³⁶

On the same day, William Wyatt offered resolutions declaring that it was "not expedient" for the convention "to disavow or acknowledge the liabilities of the Territorial Government." He held, however, that the subject properly belonged to the people of Florida and should be "decided by them or their competent authorities when such liabilities should be demanded." Wyatt further proposed that it was expedient for the convention to vest in the General Assembly supervisory powers over the territorial banks.³⁷

Implicit in these propositions before the convention, when it assumed consideration of banking in committee of the whole, were the questions that had been raised in 1833-34 concerning the validity of the Union Bank charter and the bonds issued under it. Extant reports of the convention's proceedings are too fragmentary for the debate to be followed in detail, but the main positions are discernible. To the bank faction, headed by Fitzpatrick, DuVal, Thomas Brown, Ward, and Thomas M. Blount, there could be no question either of the validity of charters and bonds or of the essential soundness of the financial theory on which they rested. Anti-bank extremists, such as Westcott, Thompson, Marvin, Levy, and Abram Bellamy, contended either that the charters were illegal in the first place or that, even if the bonds were valid, a primary convention of the people had the right to repudiate them. Holding the balance between these two groups

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were men like Alfred L. Woodward, of Jackson, who regarded banks and bonds as an evil but could not be persuaded that the convention could impair the obligation of contracts.

According to Westcott, who based his position on the theory of the social contract, when the convention was called society was resolved into its original elements, "all floating around us," and it was the province of the convention "to gather them up, to select and arrange them."³⁸ Marvin asserted that the powers of the convention were supreme "so far as this world is concerned, next the power of Heaven."³⁹ Woodward, on the other hand, insisted that the convention could exercise only delegated authority and was bound by the law creating it. As for the social compact, he said, the people of Florida were not savages, but were already living in the social state and under a system of laws. It was only proposed to change from one form of government to another. But if a social compact were insisted upon, he took the ground that the people, in their sovereign capacity, could not infringe upon primary rights without undermining the very foundation of civil society. How, he asked, could the convention approach Congress holding in one hand a constitution that proposed to safeguard contracts and in the other resolutions that repudiated such obligations?⁴⁰

On the question of congressional intervention, Westcott and Marvin again took the extreme position. To them the powers of Congress over a territory were unlimited. Until Florida should become a state, its people had no political rights under either the constitution or the treaty of cession.⁴¹ Their constitutional theories carried implications that reached far beyond the subject under discussion, and Wyatt was not slow to state them. Such doctrines were monstrous, he declared, for "they assume all the grounds contended for by the abolitionists of the North, in relation to the powers of Congress over the Territories, and their right to abolish slavery in the Territory of Florida." John Quincy Adams, or Arthur Tappan himself, "could not contend for more than this, so far as right is concerned."⁴² He would have the people of Florida settle the bank question themselves, and not jeopardize their rights and those of the whole South by an appeal to Congress. Woodward, although he took issue with the theories of Westcott and Marvin, favored the adoption of Baltzell's resolutions. The people of Florida should long ago have memorialized Congress on the subject of banks, he said, and it was perfectly proper for the convention to do so. Such action could consti-

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tute no threat to vested rights, since "the constitution covers every inch of ground within our wide domain; Territories as well as States." If Congress could not, or would not, devise measures for the relief of the people of Florida, they would have to meet their obligations as best they could.⁴³

The debates in committee of the whole seem to have resulted in the decision to accept Baltzell's resolutions invoking the aid of Congress as a substitute for all resolutions under consideration, but not until they had been amended to "deprecate any course calculated to impair the obligations of contract or to weaken the credit, or, affect injuriously the character and honor of the people of Florida."⁴⁴ This was still unacceptable to the bank men. On January 3, when the committee of the whole was discharged from further consideration of banking, Thomas Brown introduced resolutions declaring any interference with territorial institutions or laws to be beyond the legitimate powers of the convention and referring the territorial banks and bonds to the consideration of the state government. There was nothing new in this, but Brown further proposed popular ratification of the constitution.⁴⁵ Consideration of Brown's resolutions was prevented by a parliamentary ruling that to him, at least, savored of trickery, and Baltzell's resolutions were formally adopted by a vote of 38 to 18.⁴⁶ The question of what action the convention itself should take in regard to the territorial banks having thus been settled, there remained the question of the policy the state should pursue toward banks in general and the faith bond banks in particular.

The real temper of the convention in regard to banks and other corporations, where no question of the extent of its powers was involved, was shown in the provisions adopted to govern future acts of incorporation. The General Assembly was forbidden to pass any act of incorporation except by a two-thirds vote of each house and unless public notice of intention to apply for a charter had been given by advertisement in one or more newspapers for three months. Banking corporations must be composed of at least 20 persons, a majority of whom must be residents of the state; other corporations must consist of 10 or more persons, five of whom must be residents. No bank charter could be granted for more than 20 years or ever renewed. Banks were restricted to the business of exchange, discount, and deposit; dealings in real estate, insurance, manufacturing, and import or export were specifically prohibited. The capital stock of a bank could not be less than \$100,000 and must be created

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by the actual payment of specie. Expansion of capital by borrowing was prohibited, as were loans made on stock. The liabilities of a bank, including circulating notes, were never to exceed twice the amount of paid-in capital. Dividends were limited to 10 percent. Annual examination of banks was provided for, as was forfeiture of charters for violation of any of the foregoing provisions. The General Assembly was also forbidden to pledge the faith and credit of the state to raise funds in aid of any corporation.

These provisions were adopted with little difficulty, but differences as to the powers to be granted to the General Assembly in regard to the territorial banks caused a deadlock. The bank faction hoped to nullify the effect of the appeal to Congress by having the convention authorize the General Assembly to make the Union Bank the state bank of Florida.⁴⁷ Such action, of course, would have been tantamount to a recognition of the validity of the bonds. The extreme anti-bank men wanted to grant the General Assembly continuing and practically unlimited powers over territorial banks. Proposal after proposal was advanced, but neither side could secure the necessary majority. To add to the difficulties of reaching an agreement, members began to absent themselves from the convention.

A crisis occurred on January 4. A quorum was maintained with difficulty, if at all.⁴⁸ At the end of the morning session the bank faction seemed to have won a victory when a motion by Fitzpatrick, to postpone indefinitely the subject of banking, was carried 29 to 27.⁴⁹ During the noon recess the anti-bank men mustered sufficient strength to force reconsideration of Fitzpatrick's motion by a vote of 31 to 24, but the deadlock continued.⁵⁰ Neither bank nor anti-bank men could suggest a formula in regard to the territorial banks that was acceptable to a majority. Thomas Brown sought to adjourn the convention to Tallahassee; later he moved to recommit everything on the subject of banks to the committee of the whole. C. E. Bartlett, of Franklin, one of the most level-headed delegates, twice moved to adjourn *sine die*. Every proposal was rejected.

A way out of this seeming impasse was found overnight. The first motion made the next morning was one by E. Carrington Cabell to submit the constitution to the people for ratification. The motion was carried by a vote of 52 to 3.⁵¹ Ruffled feelings were smoothed by allowing Thomas Brown to bring his resolutions to a vote. They were rejected, as was a motion to submit Baltzell's resolutions for popular ratification. The convention then voted, 29 to 26, to au-

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thorize the transmission of Baltzell's resolutions to Congress.⁵² These matters having been settled a second time, the convention, with no more ado, accepted a section authorizing the General Assembly, at its first session, to regulate territorial corporations in the interests of the people, but not to the extent of "violating vested rights, or impairing the obligations of contracts."⁵³ The article on banks was then passed to a third reading and ordered to be engrossed.

Although further opposition to the decisions thus taken on the bank question proved futile, it was continued to the last day of the convention. The article on banks was passed with only minor amendments on January 9. The next day Fitzpatrick protested against its incorporation in the constitution because a quorum had not been present when the vote was taken.⁵⁴ The convention acknowledged the truth of this charge by reconsidering and repassing the article, but it ignored a second protest by Fitzpatrick that the article still was illegal because there had not been a quorum present on its passage from second to third reading.⁵⁵ A last attack was made on Baltzell's resolutions when the enrolled copy was presented for the president's signature on January 10. Cabell moved that all further proceedings under the resolutions be dispensed with, but his motion was tabled.⁵⁶ At the next session he entered his formal protest against the resolutions. Not only did they transcend the powers of the convention, he said, but they were calculated to prejudice vested rights and create public excitement and unrest. Since the convention had refused to submit them to the people, they were not an expression of the popular will but only the opinion of a majority of the individuals composing the convention.⁵⁷

While the anti-bank men had not gained all for which they had contended, they had won a substantial victory. Their success was due largely to the cooperation of the Eastern delegation and the Middle Florida members led by Westcott. The two groups parted company, however, over apportionment of representation. According to an East Florida delegate, "the Eastern men were weak enough to let the Bank question come on before the Representative question, and when Westcott had used them against the banks, he dropped them on the representation, and laughed at them."⁵⁸

The opposing attitudes on apportionment were exactly what might have been expected from the past history of the subject and the interests involved. Of the 20 existing counties, six were in West Florida, five in Middle Florida, and nine in East Florida. Furthermore, since



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Governor of Florida, 1941-1945

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three-fourths of Florida's total area was in East Florida, it was logical to expect that more counties would be created there in the future than in the other sections. On the other hand, approximately 47 percent of the population was in Middle Florida, 29 percent in West Florida, and 24 percent in East Florida. It behooved the East Florida delegation, therefore, to press for a scheme of representation that would give more weight to area than to population, while the interests of the large Middle Florida counties demanded that population be made the chief factor.

The method of apportionment for the House of Representatives was easily determined. The principle of allowing at least one representative to each county had been established by the congressional apportionment act of 1834.⁵⁹ It was provided that the General Assembly should apportion representation in 1845, and every tenth year thereafter, on the basis of the returns of a decennial state census. For purposes of apportionment, three-fifths of the number of slaves was to be added to the whole number of whites. Every county was to have one representative, and additional representatives were to be allotted to the more populous counties in accordance with a ratio of representation to be determined by the General Assembly. The size of the House was limited to 60 members by a new section added to the article on the legislative department. Although the East opposed the measure,⁶⁰ it was also provided that no new county should be entitled to separate representation unless its population equaled the existing ratio and that the population of a county could not be reduced below the ratio by division.

The act of Congress establishing the territorial Senate had frankly apportioned membership on a sectional basis, the senators being elected at large from the several judicial districts.⁶¹ A motion by Marvin to continue this system by fixing inalterably the number of senators to be allotted to each judicial district was not even brought to a vote.⁶² East Florida wanted a senator for every county.⁶³ Most of the delegates from large counties wanted to authorize more than one senator to a district if districts were to be determined by county lines, or, failing that, to permit the division of counties in establishing districts.⁶⁴ None of these proposals was adopted. It was provided that the General Assembly should fix by law the number of senatorial districts, which should never be less than one-fourth nor more than one-half the number of representatives. Each district should be entitled to only one senator. The population of the several

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districts should be as nearly equal as possible according to the ratio of representation, but no county could be divided in forming a district and every county in a district must be adjacent to some other county in it.

In addition to establishing the principles to be followed by the General Assembly in apportioning representation, it was necessary for the convention to determine the apportionment of the first General Assembly. The committee on census and apportionment had proposed a House of the same size and composition as the convention and a Senate of 11 members, as provided for the territorial Senate. Not only was the proposed relative size of the two houses contrary to the principle adopted for limiting the size of the Senate, but a House of 56 members was probably objectionable on the ground of expense. The proposal would have given Middle Florida and West Florida 24 members each in the General Assembly and West Florida 19 members. Delegates from Middle and West Florida joined to improve the strength of their sections relative to that of the East by adopting a substitute that gave Middle Florida 21 members, East Florida 20, and West Florida 19. The membership of the House was 41, that of the Senate 17.⁶⁵

Both the article on banks and that on census and apportionment were passed to a third reading on Saturday, January 5. Over the week end there seems to have been an exodus of delegates;⁶⁶ some left to take their seats in the Legislative Council, which convened at Tallahassee on January 7, others because they were dissatisfied with the bank provisions. All the members were growing restive. A tendency to expedite proceedings was shown in frequent calls for the previous question, and most of the remaining articles were dealt with in short order.

Rejecting proposals to direct the General Assembly to establish a general system of education, the convention was content to provide only that proceeds from school lands should constitute an inviolable fund, the interest from which should be appropriated solely to the support of schools and seminaries. The principle of state support of internal improvements was accepted, with the provision that proceeds from the sale of any public lands that might be granted to the state should be applied to that purpose. Neither a proposal to fix the seat of government permanently at Tallahassee nor one to give the first General Assembly power to select the site was acceptable.⁶⁷ Instead, it was provided that Tallahassee should be the capital for

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five years; during the succeeding five years the General Assembly could change the site, but at the end of the ten-year period it must make a permanent location. The article on amendments and revision, which later was the subject of criticism, vested the amending power in two-thirds of each house of two consecutive sessions of the General Assembly. There was no provision for popular ratification, but publication of a proposed amendment was required between the two sessions and prior to the election of house members. A constitutional convention could be called by a two-thirds vote of each house.

The most important sections in the article on general provisions, as subsequent events in Congress proved, were those relating to slavery. While there could be no question of Florida's fundamental position on slavery, some members evidently doubted the wisdom of writing any provision on the subject into the constitution. Attempts were made to strike out all references to it. The majority, however, insisted upon retention of clauses prohibiting the General Assembly from passing laws for the emancipation of slaves and to prevent settlers from bringing their slaves into the state, and empowering the General Assembly to pass laws to prevent free Negroes and mulattoes from coming into the state.⁶⁸

The only other subjects of importance were federal relations and the measures to be adopted to insure a smooth transition from the status of a territory to that of a state. The report of the committee on federal relations had reiterated Florida's right to admission under the treaty of cession without reference to population. The controlling constitutional provisions, it asserted, were the clauses giving Congress the right to admit new states, providing that, though the number of representatives should not exceed one for every 30,000 of population, each state should have one representative, and declaring treaties to be the supreme law of the land. Since the treaty of cession was silent upon the subject of population, the sixth article could constitutionally be implemented at any time that the people of Florida might consider themselves competent to assume the responsibilities of a state government. The very calling of the convention was proof that that time had come. Although refusing to admit that it had been the intention of the contracting parties for any ratio of population to be required for the admission of Florida, the committee insisted that the most that could be asked under any construction was 35,000, the ratio in effect when Florida was ceded. The committee, therefore, recommended the adoption of resolutions providing for the

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submission to Congress of a memorial claiming admission to the Union and requesting Florida's delegate to procure such admission by the Congress then in session.⁶⁹ The report was readily concurred in, but consideration of the resolutions was deferred until an agreement could be reached on the method and time of organizing a state government.

Some of the Middle and West Florida members were pressing for the convention to follow the example set by Michigan a few years before by organizing a state government without awaiting the assent of Congress. There was good reason why they should attempt to force the hand of Congress in this manner. Though convinced of their right to admission under the treaty, they had well-founded doubts of the cogency of any legal argument that could be presented. The practice of admitting Northern and Southern states in pairs, begun with the admission of Maine and Missouri and followed by Arkansas and Michigan, made it clear that political expediency, rather than any legal right, would govern the action of Congress. And no Northern territory was seeking admission at that time.

The report of the committee on ordinances had made no provision for the organization of the state government nor for submission of the constitution for ratification, which had been subsequently decided upon by the convention. A new committee was therefore appointed with instructions to consider several proposals. Westcott wanted provision made for the election of state officers and a representative in Congress in May. Ward moved that the constitution be submitted for ratification in May and that state officers be elected at such subsequent time as the committee might determine. Read and Levy proposed the election of state officers only after Congress should have passed an act of admission. Marvin suggested that, in addition to a referendum on the constitution, a second referendum should be taken on whether the people desired a state government.⁷⁰

The committee reported a provision for a referendum on the constitution in May and for the election of state officers in October if the constitution should be ratified. The proposal for the immediate election of state officers was rejected by a substantial majority in favor of a provision for organization of the state government only after the passage of an act of admission.⁷¹ The statehood enthusiasts were placated, however, by the adoption of a resolution, introduced by Walker Anderson, for the convention not to adjourn *sine die*, but to be subject to meet again at Tallahassee at the request of one-

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third of the members should Congress refuse to admit Florida into the Union. The convention then adopted the resolutions of the committee on federal relations for an application for admission to be made to Congress.⁷²

By the morning of January 11, the constitution had been enrolled and was ready for final passage. After it had been read first by title, then article by article, and again by title, the president put the question, "Shall this be the Constitution of Florida?" The ayes and nays being called for, the vote was, Ayes—55, Nays—1. The lonely "nay" was cast by Richard Fitzpatrick, but 12 affirmative votes were cast by proxy. The president then rose and said, "I solemnly proclaim and declare, this to be the Constitution of the State of Florida."⁷³ At the afternoon session, the 41 members present signed the constitution and the convention adjourned, subject to a call to meet at Tallahassee should Congress refuse the application for admission.

The work of the convention had proved to be a bitter disappointment to many delegates from the very constituencies that most keenly desired a state government. To the Westcott-East Florida faction, however, it had amply demonstrated the advantages of political action based on party principles and party organization. Since Florida could have no part in national politics so long as she remained a territory, territorial politics had, in the main, revolved around personalities and sectional interests. Statehood, whenever it should come, would certainly result in the formation of parties along national lines. With an eye to this eventuality, the leaders of the successful faction in the convention resolved to consolidate the advantage they had gained by continuing their cooperation as an avowed political party. Not only should this strengthen their position in territorial politics, but it held forth the promise of dominance in state affairs.

The project was consummated at a meeting held at a St. Joseph hotel on the evening the convention adjourned. A non-sectional aspect was given by the election of officers from all sections. Walker Anderson, of Escambia, who had been accounted a bank man when he came to the convention, was made president of the meeting and Abram Bellamy, of Jefferson, Gabriel J. Floyd, of Calhoun,⁷⁴ and Edwin T. Jenckes, of St. Johns, were named vice presidents. Westcott took the lead from the floor and introduced the resolutions that were inevitable in any public meeting. The resolutions sought to combat a popular distrust of political parties by declaring them, when "organized upon principle . . . and regulated by regard for the public welfare,"

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to be absolutely necessary for the "purity and conservation" of a republican government. More high-flown phrases followed concerning "the Jeffersonian Republican faith," "the cardinal principles of Democracy," and "the polluting hand of abolition and incendiarism." But practical politics was not overlooked. On the national level, the meeting declared its adherence to the Van Buren administration. In order to achieve concerted action in Florida affairs, it was resolved to appoint committees of correspondence in each county, with a central committee in Leon County.⁷⁵ There is no direct evidence as to how well these specific plans were carried out, but the course of Florida politics during the next six years gave proof of the effectiveness of the "Jeffersonian Republican Democratic" party.

III. THE STRUGGLE FOR ADMISSION

The convention's memorial,¹ repeating the familiar arguments in favor of Florida's admission to the Union, and copies of the constitution reached Congress late in February. No action was likely at that session in any event, both because Congress was soon to adjourn and because the vote on ratification had not been taken. But Downing, who would come up for reelection as delegate in May, was not disposed to press the matter. Although he had been hostile to the idea of division when it was first broached, he was beginning to see it in another light. In January he again presented to Congress the St. Augustine memorial for division that he had ridiculed the year before.² His first reaction had been unduly harsh, he explained in a circular to his constituents; now he found some merit in the proposal. Several Southern members of Congress, he said, were anxious for division in order to provide the means of balancing the admission of both Iowa and Wisconsin when those territories should apply for entrance into the Union. This was worthy of the consideration of all Floridians. Even were Florida to come in as one state, it might be well to divide the territory until the two parts together had the requisite population. Such a step would increase the wealth and prosperity of East Florida and would not delay statehood, since he thought that there was no hope of gaining admission until Florida could meet the federal ratio.³

The 1839 Legislative Council showed even less disposition than Downing to support the application for admission under the constitution formed at St. Joseph. The council was interested neither in statehood nor in division, but in the action the convention had taken in regard to the banks. Not a single resolution was introduced in either house endorsing the application. Although division evidently was mooted in the lobbies of the council, no material support could be gained for that project. Ten East Florida members, "actuated by a sense of duty to their constituents," sent a petition to Congress requesting division of the territory at the Suwannee River,⁴ but resolutions in favor of division, introduced in the Senate by William P. DuVal, were not brought to a vote.⁵

The actions of the convention were subjected to a double attack. S. L. Burritt, of Duval, introduced in the House resolutions seeking

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to discredit Baltzell's resolutions by declaring that the convention had exceeded its authority in their adoption and by expressing confidence in the good management and solvency of the territorial banks.⁶ After rejecting a request by Baltzell and Westcott, neither of whom was a member of the council, for permission "to appear at the bar of the House" in defense of the convention's resolutions,⁷ the House adopted Burritt's resolutions by a vote of 20 to 8.⁸ Richard Fitzpatrick followed up this victory of the bank forces with a bill to nullify the entire work of the convention by repealing the act under which it was called.⁹ The House passed the bill, 17 to 7,¹⁰ but both it and Burritt's resolutions were defeated in the Senate by votes of 6 to 5 and 7 to 4, respectively.¹¹

Regardless of how little a majority of the council members might like the constitution, it was necessary to pay for it. There was a substantial balance in the treasury at the end of the fiscal year, but the effects of the Panic of 1837 had been reflected in decreased receipts. Expenditures, too, would be increased materially by the appropriation of territorial funds for the relief of Indian War victims in East and West Florida.¹² It was obvious that the \$20,000 of convention expenses,¹³ added to the extraordinary expenses in connection with the Indian War,¹⁴ would bankrupt the territory unless additional revenue were provided. A revenue bill that doubled the existing tax rate on land and tripled the rate on slaves met with the usual difficulties. It passed the House, but was defeated in the Senate. On the last day of the session, however, the Senate reconsidered and passed the measure at the request of Governor Call, who pointed out in a special message the pressing financial needs of the territory.¹⁵

The short campaign that followed adjournment of the council hardly gave time for clarification of the issues. In East Florida the constitution was defended on its merits by members of the convention¹⁶ and by the Democratic *Herald*. Ratification, argued the *Herald*, would not hasten statehood; the constitution would provide a sound fundamental law whenever Florida should be admitted.¹⁷ The *News*, which had been established late in 1838 as the organ of banks and division, told its readers, on the other hand, that a vote for the constitution was a vote for a state and "for the most odious taxation," of which the 1839 revenue act was only the opening wedge.¹⁸ The force of this argument is shown by a presentment of the Duval County grand jury, who gave it as the opinion of themselves and "a large portion of their fellow citizens" that it would be "highly

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impolitic" to assume "the taxation and expenses attendant upon a State Government."¹⁹ In West Florida, as in the East, opposition to the constitution seems to have been predicated in part, at least, on a dislike for statehood,²⁰ while in Middle Florida many advocates of statehood could not swallow the banking provisions of the constitution. The constitution "is reprobated in the highest terms by the State party and the Bank party, who are now identified," wrote a Tallahassee correspondent of the *Florida Herald*, "and . . . will do all they can to defeat its adoption."²¹

In the contest for delegate to Congress, the candidates were Downing and Thomas Baltzell. The former was a Whig who had made a fairly good record in pressing Florida's needs and wishes on a Democratic administration and many voters felt that he should be given a second term.²² Leigh Read had been mentioned as a candidate,²³ but on his refusal to run Democratic support was thrown to Baltzell. Although he was the author of the famous convention resolutions, Baltzell was not yet fully identified with the incipient Democratic party. In some places he was regarded as a Whig.²⁴ His platform was, "The constitution; Florida, a State and entire,"²⁵ but he felt impelled to disclaim any hostility toward the Union Bank.²⁶ Downing declared that he disliked the constitution "as a whole" and that he would vote against it.²⁷ He did his part to confuse issues by coming out as the "heartly advocate" of statehood in Middle Florida, while flirting with the divisionists in East Florida.²⁸

The returns of the election, which was held on May 6, 1839, soon indicated that Downing had received a handsome majority over Baltzell. The latter ran well in Middle Florida but was overwhelmed by the East and West Florida vote for his opponent.²⁹ The referendum on the constitution, however, was governed by a poorly drafted ordinance of the convention which did not state clearly whether election returns should be made to the governor, to the president of the convention, or to both, although the latter officer apparently was directed to proclaim the result. In consequence, official returns were slow in reaching the proper quarters. Those that were received indicated a very close vote, and the rejection of the constitution was generally conceded during the early summer.³⁰ In August, however, Governor Call certified to Robert Raymond Reid returns received at Tallahassee that showed a vote of 2,070 for the constitution and 1,975 against it.³¹ Believing these returns to be incomplete and possibly incorrect, Reid addressed an appeal to the clerks of the county courts to send him certified copies

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of the poll books.³² What response this elicited is not known, but finally, on October 21, Reid proclaimed the ratification of the constitution without stating the majority in its favor.³³

The official returns were not made public by Reid until 1841,³⁴ but the newspapers carried reports that agreed substantially with his subsequent statement of the votes. These reports showed that ratification had been carried by the narrowest of margins.³⁵ They also indicated that, unlike the election in 1837, there was very little apathy on the part of the electorate. Only 5 percent of those who voted for delegate failed to vote on the constitution. This time the abstainers were mainly in Middle Florida, where there was an 18 percent smaller vote on the constitution than for delegate, while in West Florida there was actually a 14 percent greater vote. While ratification of the constitution was in doubt, its defeat was charged by some to East Florida,³⁶ but the returns show that the major upset was in West Florida. That section, which had given a majority of 69.3 percent in favor of statehood two years before, now returned a majority of 55 percent against the constitution, due largely to a reversal in the votes of the commercial towns of Apalachicola and St. Joseph.³⁷ The East Florida vote for the constitution was larger, both in numbers and in percentage, than it had been for statehood, although the majority against ratification was 62 percent. Although Middle Florida returned a majority of 70 percent for ratification, this represented a substantial decrease from the 1837 vote for statehood.

The campaign for the October election of council members was in full swing long before the vote on the constitution was known. Party lines were frankly drawn in Middle and East Florida, but West Florida tended to adhere to the old system of personal politics in council elections. The bank question was the main issue, with statehood and division taking secondary but important places. The Loco-focos were given new ammunition by the issue in August of \$274,000 of bonds for the Southern Life Insurance and Trust Company³⁸ and by the failure of the Union Bank to resume specie payments after the sale of the \$2,000,000 bond issue had been negotiated in Europe in the spring of 1839.³⁹ The Democratic *Floridian*, believing that the constitution had been rejected, advocated a new convention and urged that every candidate be committed on the question of statehood or division.⁴⁰ Middle Florida Democrats, led by Westcott, Thompson, and Leigh Read, nominated council members on an anti-bank and pro-statehood platform.⁴¹ East Florida Democrats concentrated on the banks. Their opponents sought to divert the

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attack by insisting that division was the main issue, but even the Whig candidates declared against the further issuance of faith bonds.⁴² Although division was generally popular in the East, especially in St. Johns County,⁴³ there were efforts to discredit the division bank party by charges that the division movement was originated and fostered as an abolition project for the establishment of a free state in East Florida.⁴⁴ This attack did little to diminish the East's enthusiasm for division, which was further stimulated by public meetings in support of the measure.⁴⁵ As a result of their division agitation, the Whigs were partially successful in East Florida, but the Locofocos made almost a clean sweep in Middle Florida and a majority of the house members elected from West Florida proved to be anti-bank.

Before the Legislative Council met in January, 1840, the budding Democratic party achieved another success in the removal of Governor Call and the appointment of Robert Raymond Reid as his successor. Although Call's removal has been attributed solely to his differences with the War Department over the conduct of the Indian War,⁴⁶ it was undoubtedly due in part to the efforts of Florida Locofocos. Not only was Call the executive who had issued the 1838 Union Bank bonds and, more recently, the first bonds for the Southern Life Insurance and Trust Company, but he had defended the banks in his message to the 1839 Legislative Council.⁴⁷ The *Floridian*, which received the news with gratification, said the Democratic party in the territory had worked strenuously for some time to effect the change. It regarded the appointment of Reid as particularly good because not only was he completely identified with the party but he was an uncompromising advocate of the constitution and statehood and an opponent of division.⁴⁸ The satisfaction of the Locofocos was tempered somewhat, however, by the fact that Reid's commission did not reach him in time to prevent the issuance by Call of \$126,000 more of bonds for the Southern Life Insurance and Trust Company.⁴⁹

In his annual message to Congress, President Van Buren took a more direct notice of the situation in Florida by calling the attention of that body to the Florida bonds. On motion of Thomas Hart Benton, the Senate promptly passed a resolution requesting the President to procure from the territorial authorities all pertinent information relative to Florida banks and bonds. This resolution, together with the recommendation of Governor Reid that the Legislative Council make an immediate investigation, resulted in the adop-

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tion by the Locofoco House of two reports on the banks. One indicted the banks for violations of their charters and for mismanagement; the other denied the validity of the faith bonds and recommended their repudiation. The Senate, all of whose members held over from 1839, thereupon passed a resolution condemning the doctrines advanced in the House reports as "disorganizing in their character, subversive to settled order of society, dangerous in their tendencies and calculated in the eyes of the civilized world to destroy all confidence in the honor, integrity and good faith of the people of Florida."⁵⁰

The two houses were almost as far apart on the subject of statehood as they were on the banks. In his message of January 13, 1840, Governor Reid had canvassed the matter in a conciliatory manner marred only by a veiled reference to division as an abolition project.⁵¹ He thought that the will of the majority, as expressed in the votes on statehood and the constitution, should govern and that admission should be pressed on Congress. He suggested, however, that the act of admission might be so drawn as to defer the time at which the state government should become operative and to provide for the eventual division of the new state. Kingsley B. Gibbs, representative from St. Johns, raised the question of whether or not the constitution had really been ratified by proposing the appointment of a joint select committee to examine the returns of the election.⁵² This proposal was rejected by the Locofoco House majority on the grounds that it reflected on the integrity of the president of the convention and made the council the judge of the acts of the "sovereign people." As a member of a select committee on statehood and division, Gibbs next presented a minority report in which he enumerated the objections of East Florida to the constitution and state government and advanced that section's arguments for division.⁵³ Unimpressed by his statements, the House adopted by a large majority the lengthy majority report⁵⁴ and resolutions⁵⁵ in favor of immediate statehood and against division. In addition to the usual legal arguments in support of Florida's right to admission, the report averred that there had been a widespread change of opinion since the May election and that four-fifths of the people of Florida were now decidedly in favor of a state government. As for division, far from promoting Southern interests as claimed by its proponents, that measure would indefinitely delay statehood and prevent the admission of any Southern state for years to come. Unable to prevent the adoption of the resolutions favorable to admission, the East Florida divisionists could

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only spread their protest on the journals for the benefit of their constituents.⁵⁶ Even in the Whig Senate the divisionists found small comfort. That body adopted a majority report and resolutions, which opposed division but were silent on admission, in preference to a minority report and resolutions, offered by Isaiah D. Hart, of Duval County, which declared for the immediate admission of all Florida west of the Suwannee River and for a separate territorial government for East Florida.⁵⁷

By the time the resolutions reached Washington, Downing had procured the introduction in the House of Representatives of a bill authorizing Middle and West Florida to form a new constitution and providing for the admission of the State of West Florida when Congress should have approved its constitution. The bill further provided that, so soon as West Florida should be admitted, East Florida should be constituted as a separate territory.⁵⁸ The omission of any reference to population, together with the introduction on the same day of an enabling act for Iowa,⁵⁹ constituted a tacit acknowledgment that maintenance of the balance between slave and free states would be the controlling factor in the admission of Florida. Downing, who later claimed authorship of the Florida bill, defended it on the grounds that it got rid of a constitution which many believed, with him, was not voted for by a majority of the people; that it admitted West Florida (*i. e.*, Middle and West Florida) without delay, in accordance with her wishes; and that it gratified the East by the provision for division. In short, said Downing, the bill effected "all."⁶⁰

Downing might like the bill, but no one else was satisfied with it. East Floridians promptly petitioned Congress to provide for the establishment of a territorial government in that section, "independent of the policy or action of the Middle & west."⁶¹ In Middle Florida, both the Whig *Sentinel* and the Democratic *Floridian* found fault with it. The former asserted that it would delay statehood; the latter labeled it as an anti-administration and abolition measure.⁶² James D. Westcott wrote Joel R. Poinsett, secretary of war, with whom the Florida Locofocos had established a political connection, that division would prostrate Florida and ruin the country.⁶³ The *Apalachicola Gazette* objected because, in the projected State of West Florida, "the scattered commercial towns" would be "entirely at the mercy of the planting interests of the interior," whereas in an undivided Florida they could "protect themselves by making common cause with the kindred interests" of the East.⁶⁴ The reaction

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in the extreme West took the form of renewed agitation for annexation to Alabama. That section, as the *Pensacola Gazette* had pointed out, was willing to help bear the burden of "southern policy" by acquiescing in the admission of Florida as one state, but felt that the cost of government would be ruinous if borne by only two sections.⁶⁵ The idea of annexation had long been as popular in Escambia County as that of division was in St. Johns. Citizens of Escambia, therefore, expressed their opposition to Downing's bill by petitioning Congress to sanction the transfer of their county to Alabama.⁶⁶

During the winter and early spring it had been thought that the Van Buren administration would support the admission of Florida in order to secure her electoral votes in the approaching election.⁶⁷ There was obviously no place for division in this scheme, since there could be little hope of a Van Buren victory in Florida without the vote of the Democratic East. A group of Southern senators, on the other hand, were anxious to divide Florida, which was the only remaining slave territory. The way was cleared for action toward these seemingly disparate ends in February, when the Senate referred the Florida question to a select committee, dominated by Southern Democrats, in preference to the standing Committee on the Judiciary, in which the Whigs had a majority.⁶⁸ The intended strategy was revealed in two bills reported on July 2. The first simply admitted Florida under the St. Joseph constitution.⁶⁹ The second provided that, whenever the population, east as well as west of the Suwannee River, should exceed 30,000, the Florida legislature might divide the state into two states, which should thereupon be admitted to the Union without any further proceedings on the part of Congress.⁷⁰ The delay in introducing these bills until it was too late for action at that session seems to have been due to a growing doubt on the part of the administration as to the strength of Van Buren sentiment in Florida.

If this was the reason for not pressing the Senate bills, the October council election proved it to have been well founded. Florida's two most prominent Jacksonian Democrats openly declared for the Whigs. The defection was permanent in the case of Call, who went north to campaign for Harrison, though only temporary for DuVal, who ran for senator from the Middle District as a Harrison Whig. Downing also came out for Harrison. What influence he had in Washington had been undermined by the Florida Locofocos, who apparently had used David Levy as liaison man with the administra-

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tion,⁷¹ and he attacked them bitterly. Charging that he, "a delegate from the people," had been supplanted by "an envoy Jew," Downing asserted that the "destinies of Florida, so far as they depend on the will and action of the Federal Executive, are in the keeping of Governor Reid, of James D. Westcott, and of David Levy."⁷² In Middle and East Florida nominations were made on strict party lines, Harrison bank candidates being opposed to Van Buren anti-bank candidates, while bipartisan nominations prevailed in West Florida.⁷³ The Whigs made a clean sweep in Middle Florida, where only Jefferson and Hamilton Counties went for the Locofocos. The Democrats were equally successful in the East. West Florida, predominantly Whig, elected enough Democratic representatives to give a small Democratic majority in the house, while its Whig senators assured a small Whig majority in the upper chamber.

Of far greater influence on Florida's chance for statehood was an August election in Iowa, where an overwhelming majority voted against a proposal to call a constitutional convention.⁷⁴ The *Pensacola Gazette* recognized the significance of the Iowa vote in its comment, "Florida and Iowa are Siamese twins—one cannot go without the other."⁷⁵ Friends of statehood continued to agitate the subject, however, and held nonpartisan meetings in November and December at Campbellton, Quincy, Apalachicola, and St. Joseph.⁷⁶ These meetings sought to win the East by offering to support the Southern plan for the future division of Florida after its admission as one state, but East Florida was not to be turned from its demand for a separate territorial government. Elsewhere in the territory it was reported that East Floridians went so far as to threaten to "resist with force any attempt to saddle them with the burthens of state government."⁷⁷

In his message to the 1841 Legislative Council, Governor Reid besought the East to abandon the "suicidal" policy of division. Hoping to quiet the charges that the constitution had not been ratified, he offered to transmit a statement of the vote upon the request of the council.⁷⁸ The request was promptly made and complied with. Reid's statement showed that there was a majority of 119 votes for ratification, but that 70 votes, obviously intended to be cast against the constitution, had been rejected because given for "no state" or "no convention."⁷⁹ The Senate's reaction to the statement was the passage of a bill to hold another election upon the subject of state government.⁸⁰ The preamble of the bill recited that such an election would settle conclusively not only doubts entertained as to the

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fairness of some of the returns of the vote on the constitution, which exhibited "at best a very meagre majority in favor of that instrument," but an uncertainty as to the real desire of the people "to support the burthens of a State Government" in view of the embarrassed financial condition of the territory.⁸¹ Evidently, no such doubts were entertained by a majority of the House, which rejected the bill. To the contrary, that body again adopted a memorial urging the early and favorable action of Congress on Florida's application for admission. Continued neglect of their just appeals for statehood, it hinted, might cause the people of Florida to exercise "their inalienable rights" and "sovereign power" independently of Congress.⁸² And again, East Florida members spread on the journals their protest and arguments in favor of division.⁸³

The campaign for delegate had started unusually early, Downing and George T. Ward, of Leon, having announced even before the council met. Both were Whigs, "running on their own hook" without the semblance of a territory-wide nomination.⁸⁴ The Democrats were so slow to put a candidate in the field that their cause looked hopeless. Late in February a meeting at Tallahassee of representatives from all districts—presumably a caucus of Democratic council members—astutely nominated David Levy.⁸⁵ Downing had completely alienated Middle and West Florida by his inconsistent course on statehood and division, which had finally led him to make the flat statement, "Set me down as the candidate pledged against a State, and for division."⁸⁶ There was no offset for this in his Washington record. He had accomplished nothing for Florida during his second term and was under attack in East Florida for his failure to secure payment for East Florida volunteers called out by Governor Call in 1838.⁸⁷ Ward opposed division and favored statehood, but his long association with the Union Bank as a director and stockholder and his stand "in favor of preserving the Faith of the Territory" by recognizing the validity of the bonds told against him.⁸⁸ Levy, on the other hand, was completely identified with the anti-bank, pro-state Locofoco faction. He had always been quietly opposed to a separate territorial government for East Florida,⁸⁹ but the mere fact of his being an Easterner gave him strength in that section, as did his activities in Washington as agent for collection of the volunteers' claims.⁹⁰ Locofoco strength in Middle and East Florida gave Levy the necessary plurality for election, although his Whig opponents polled 500 more votes than he.⁹¹

The unpleasant task of proclaiming this Democratic success fell to

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Richard K. Call, who had again become governor early in April, 1841, after President Harrison had removed Reid to make way for him. Shortly before Call's reappointment, the event long predicted by the Locofocos occurred when application was made to the governor for the payment of interest in default on bonds of the Bank of Pensacola.⁹² The consequent Locofoco landslide in the October election for House members surprised no one, said the *Pensacola Gazette*, "as the locos hold the comfortable opinion that the Bank Bonds are void."⁹³ Though Governor Call believed that both bonds and interest were ultimate obligations on the territory, he insisted that the first liability rested on the stockholders. He recommended to the 1842 council, therefore, the passage of resolutions directing bank creditors to exhaust all legal recourse against the stockholders before applying to the territory for relief.⁹⁴ But the council reflected the temper of its constituents and seized the opportunity to deal once and for all with the faith bonds. Even the hold-over Senate joined with the House to pass resolutions denying that the territorial legislature possessed, or was "ever invested with the authority to pledge the faith of the Territory, so as to render the citizens of the Territory responsible for the debts, or engagements of any corporation" chartered by the legislature.⁹⁵ The council also passed, over Call's veto, an act prescribing the method of canceling such faith bonds as might come into the hands of territorial authorities and forbidding the issuance of further bonds,⁹⁶ but upheld his veto of an act that would have closed the Union Bank on the grounds of insolvency.⁹⁷

The territory could not have paid the interest on the bonds even if the council had been willing to do so. Never before had the territorial treasury been so insolvent. The 1839 revenue act had been ignored in both East and West Florida, and the councils of 1840 and 1841 had suspended the collection of taxes on lands and slaves for those years, leaving taxes on auction sales as the principal source of revenue.⁹⁸ Although at the end of the 1841 fiscal year there were some \$13,000 of auditor's warrants outstanding, with only \$265.84 in the treasury,⁹⁹ the council adopted a resolution indefinitely suspending the assessment and collection of taxes.¹⁰⁰ This refusal to impose taxes was due to widespread economic distress, for to the ill effects of the continued Indian War and of the currency depreciation and credit restriction that followed the banking debacle had been added a failure of the cotton crop in 1840 and 1841. To give some relief to debtors, hard pressed by northern creditors and the Union Bank, which was intent on bolstering its own shaky structure, the

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council passed a law staying the sale of property under execution upon payment of 10 percent of the amount of the judgment every 60 days.¹⁰¹

Insolvency and depression did not deter the council from pressing for statehood. Influenced, perhaps, by the report that Iowa was ready to apply for admission,¹⁰² the two houses acted together for the first time to adopt resolutions requesting the delegate to urge upon Congress Florida's right and desire to be admitted to the Union.¹⁰³ Though East Florida members refused to vote for the resolutions, they acquiesced in them to the extent of refraining from making a formal protest. James D. Westcott, leader of the Locofocos in this council as he had been in the constitutional convention, proposed a resolution providing for the election of state officers in October and the organization of a state government immediately hereafter should the Congress then in session not admit Florida.¹⁰⁴ Even the Locofoco House, which, according to the *Whig Sentinel*, "had barely enough of whig leaven to keep it from self-destruction,"¹⁰⁵ would not accede to the proposal, which received the vote of only a handful of Middle Florida representatives.

During the spring, Middle Florida sentiment in favor of organization of a state government prior to admission increased until it assumed the form of a well organized movement. Resentment was general at the repeated removal of officers for party reasons, first by a Democratic and then by a Whig administration. Not only had two governors and secretaries¹⁰⁶ been removed within as many years, but numerous changes had been made in lesser offices. Particularly distasteful were the appointments in quick succession to the judgeship of the Middle District of two non-Floridians—Alfred Balch, of Tennessee, and Samuel J. Douglas, of Virginia. Even worse in its effect on the popular mind was the appointment of John G. Camp, of Ohio, as marshal of the district. At a time when 1,500 executions were said to have issued from the courts in five months, when, in spite of the relief law, property was being sacrificed at forced sale at less than one-tenth of its value,¹⁰⁷ the people wanted "ministerial officers of the laws who have sympathy with them—who are of them—who are with them."¹⁰⁸ A state government, and the consequent right of the people to choose their own officers, was an obvious answer to this situation. Some persons even thought that organization of a state government would extricate them from the financial morass by arresting proceedings for the collection of debts.¹⁰⁹ Their hope, both political and economic, lay "in a new order," which could

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be achieved by "an efficient government deriving all its powers from the people."¹¹⁰

While Middle Floridians were thus ripe for any change, Iowa decided in March, 1842, to take a second vote on the subject of statehood.¹¹¹ Encouraged by Southern men in Congress, pro-statehood leaders in Florida decided to elect their congressmen and send them to Washington to demand admission when Iowa should apply.¹¹² The device decided upon to achieve this was the reconvening of the constitutional convention under its resolution to meet again in Tallahassee at the request of one-third of its members. As Reid had died the previous summer, the power to call the convention rested with a committee named in the constitution, whose surviving members were Westcott, George T. Ward, Thomas Brown, and Leslie A. Thompson. The committee's decision to take action, which was announced late in April,¹¹³ gave the movement a nonpartisan character, since it was composed of two Whigs and two Democrats. While a requisition for the call to be made was being circulated for the signatures of convention members, popular approval and support were invited in a series of public meetings.

To forestall the feeling that the movement was conceived for the benefit of Tallahassee and dominated by Leon County, the home of all the committee members, the first meeting was held in Quincy. Citizens of Gadsden County, who had always been strongly in favor of statehood, on May 4 adopted resolutions instructing their delegates to the convention to support the call for its reassembling. They offered to cooperate in any measure, "not illegal and irregular," that would secure the immediate organization of a state government. Justification of their position was advanced in the assertion that the rights and privileges of statehood, guaranteed by the treaty of cession, had been "unjustly withheld" by Congress in spite of repeated applications to that body.¹¹⁴ During the next three weeks similar resolutions were adopted by public meetings at Tallahassee, Monticello, Madison, and Benton in Hamilton County.¹¹⁵ The only opposition reported was in Madison, where the objection was made that the people of Florida were not able "to raise the taxes necessary to support a State Government."¹¹⁶ The meeting in the capitol at Tallahassee on May 7 was said to have been one of the largest public meetings ever held in Leon County. Its size was increased by the attendance of many citizens from other counties and its authority enhanced by the presence of the four convention committee members. After speeches by Westcott and Brown explaining and en-

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dorsing the object of the meeting, resolutions were adopted instructing Leon County's delegates to sign the call for the convention and authorizing the appointment of a committee of 13 to draft an address to the people of Florida.¹¹⁷

The address, which was issued on May 26, invited the cooperation of the people of Florida in recommending a meeting of the convention to issue writs for the election of state officers. The legality of the proposal could not be questioned, it intimated. Florida had complied with the terms on which admission was stipulated in the treaty of cession by adopting a republican constitution and declaring her willingness and ability to support a state government. In planning to organize such a government and to present herself for admission, she was only following the course pursued with success by Tennessee "during the administration of the revered Washington" and, at a later date, by Michigan. The only possible objection was expense. This was successfully met, in the eyes of the committee, by a detailed statement of anticipated costs and possible revenue from taxation and federal grants of land, which presented "clear and decisive evidences of the ability of the people to defray the expenses of a State Government." Even if expenses could not be met without great hardship, the "moral" benefits of independence "should incite the patriotic to the contemplated change." Other advantages would be control of the school lands, the increase in population that had followed the admission of every other territory, and, of especial benefit to the East, an influential congressional delegation to press the settlement of claims against the government arising from the Indian War. But the great consideration was Southern interest. The anticipated application of Iowa for admission created a crisis. Unless the people of Florida exerted themselves, Iowa might be received, Florida rejected, and "the South placed at the mercy of the North."¹¹⁸

The *Star of Florida* had reported as early as May 19 that the requisition to call the convention had been signed by the necessary one-third of the members,¹¹⁹ but the call was withheld pending assurances of cooperation from East and West Florida. To solicit the support of those sections, Ward had made a trip to the West while Westcott visited his Locofoco friends in the East. The reaction in West Florida was mixed. An effort to hold a meeting at Apalachicola on May 16 "proved an elegant failure," not because Apalachicolians opposed statehood, said the *Florida Journal*, but because most of them had left town for the summer.¹²⁰ A meeting at Marianna on May 21 took favorable action after a debate between Richard H.

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Long and J. B. Taylor, "who opposed the resolutions for objections to the constitution, and on the ground of its being inexpedient to form a State Government *now*."¹²¹ A week later in Pensacola, the meeting was captured by the opposition. The resolutions adopted pointed out that even the current expenses of the territory could not be met and characterized "the effort now making 'to set the Territory up for herself', previous to an act of Congress . . . and without credit and means," as "rash, uncalled for and unjustifiable."¹²² In East Florida the movement was not publicly recognized by so much as an anti-statehood meeting.

By the end of May it was clear that Westcott had failed dismally in his Eastern mission. The Leon County committee thereupon called a general meeting of the friends of state government at Monticello on June 11 "to propose and adopt" such measures as might remove "the unexpected opposition of our fellow citizens in East Florida." The committee had blandly ignored division in its address of May 26. It now suggested that the East might be won over by a pledge in support of a separate territorial government for that section after Florida should be admitted.¹²³ Although the call for the Monticello meeting was addressed to all parts of the territory, only Middle Floridians attended. Resolutions were adopted agreeing to division after admission and requesting the issuance of the call for the constitutional convention.¹²⁴ The failure of the movement was tacitly recognized, however, by the substitution of November 2 for July 25 as the date for the convention to meet, and by the appointment of a committee to draft a memorial requesting admission by the Congress then in session.¹²⁵ Two weeks later the *Star of Florida* sadly remarked that the proposal for immediate organization of a state government, "under the sanction of the Constitutional Convention, seems to be nearly abandoned."¹²⁶ Any lingering doubts on the subject were dissipated by the returns of the August election in Iowa, which voted three to two against statehood.¹²⁷

This movement seems to have exhausted the energies of advocates of statehood. The October election for the council turned upon the continued economic distress of the territory. Both Whigs and Democrats in East Florida opposed statehood on the score of taxation, the former characterizing "all who advocate going into State Government at this time, as Office-seekers."¹²⁸ Elsewhere the subject does not appear to have been agitated. Democrats generally placed their reliance on continued opposition to the banks and bonds, but since the passage of the repudiation resolution that issue had lost much of

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its popular appeal. As the *Florida Sentinel* remarked, the people were finding that locofocoism would "neither pay their debts nor give them a sound currency."¹²⁹ They responded to Whig promises of "a reform in Territorial affairs" and relief from "an unsound and vitiated currency"¹³⁰ by electing a Whig majority to both houses of the council. But the Whig council and governor were unable to agree on a bill dealing with depreciated currency, although an act was passed depriving the Union Bank of the powers of discount and circulation until it should resume specie payments. Cognizance was taken of the plight of debtors by an extension of the relief, or stay, law, and of the insolvent state of the territorial treasury by the partial revival of the revenue laws to impose a moderate tax on lands but not on slaves, and by a reduction in the salaries of officers paid by the territory.

Opponents of statehood used the depression and the tide of settlers flowing into East Florida since the close of the Indian War the previous summer as the basis of an attack on statehood and the constitution. Isaiah D. Hart, a Whig senator from East Florida, introduced resolutions declaring the St. Joseph constitution null and void "as a fundamental rule of Government for the People of Florida" and directing the delegate to oppose admission until a new convention should be held. Arguments advanced in support of this action were that no benefits which a state government could bring could, in view of the prevailing "pecuniary distress and embarrassment," outweigh the consequent "oppressive direct taxation;" that it was doubtful if a majority of the qualified voters had ever voted for the adoption of the St. Joseph constitution; and that new settlers ought to have a voice in the formation of the fundamental law under which they were to live.¹³¹ The Senate refused to support such a drastic attack on the constitution. It did accept, 11 to 3, substitute resolutions which declared it "unwise, impolitic, and improper to enter into a State Government" at that time and instructed the delegate to oppose admission until a new convention had been held or until the people had approved the constitution in a new election.¹³² The House passed the resolutions with little argument by a vote of 20 to 7. An effort by East Floridians to follow up this victory by securing passage of a resolution in favor of division was defeated in the House, but only by the narrow margin of a tie vote.¹³³

At the 1844 council, East Floridians at last secured passage of a resolution requesting a division of the territory and the organization of two territorial governments in the interest of the preservation of

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the balance of power between slave and free states.¹³⁴ This action was hailed with joy in East Florida. A public meeting at St. Augustine immediately dispatched a memorial to Congress in support of the resolutions.¹³⁵ They elicited from Congress the only formal notice accorded Florida's repeated memorials and petitions since 1840. On the last day of the session both the House and Senate committees to which they had been referred flatly disapproved the request for two territories.¹³⁶ The House Committee on the Territories, however, mindful of Iowa's decision in April to hold a constitutional convention, reported a bill for the admission of Florida which included a provision for future division at the Suwannee River, without any further proceedings on the part of Congress, when the population of each portion of the state should have reached 35,000.¹³⁷ That figure was prescribed because it was the ratio of representation in effect at the date of the treaty of cession. Passage of the bill was not, of course, contemplated at that session of Congress. The committee recommended the postponement of any definite action on Florida's admission until Iowa's application should be presented.

This report served notice on the people of Florida that the hour of decision had come. During the last three years their council had resolved successively in favor of immediate admission, of indefinite postponement of their application, and of division into two territories. Would they accept the opportunity to go into the Union with Iowa or would they refuse it? David Levy, who had been reelected delegate in 1843, took upon himself the task of unifying sentiment in favor of statehood. "Indefinite postponement or prompt assumption of the rights and privileges of independence, is the issue now upon us," he said in an address which was widely circulated in pamphlet form. Florida must act "to maintain the defensive power of the South." If she did not, she would throw "the unrestricted possession of the Government into the hands of the North, and they may admit us afterwards or not, at their pleasure, and with, or without slavery, at their pleasure, without the ability of the South to help us."¹³⁸ It was true, he said, that statehood would involve a sacrifice of opinion on the part of some, a sacrifice of interests on the part of others, and the assumption by all of the responsibility of providing the means of government. But there were numerous benefits to be derived from the step, including grants of federal lands which could be used for internal improvements, control of the school lands, the right of the people to choose their own officers, a greater voice in

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national politics, and more weight in obtaining federal legislation favorable to Florida. The objection of taxation he countered with specific examples that the common man could understand. To support a government costing \$40,000 a year, the owner of a quarter section and five slaves would pay only \$1.65; the owner of a section and 20 slaves, \$6.60. His arguments were effective. The council elected in October went to Tallahassee in January, 1845, prepared to renew Florida's application for admission to the Union.

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Congress did not wait for a renewal of Florida's request for admission or for a formal application from Iowa. The Committee on the Territories on January 7, 1845, reported to the House of Representatives a bill for the admission of the two territories. Inclusion of both in one bill, termed a "slave-monger trick" by John Quincy Adams,¹ was accomplished by a strictly sectional vote in the committee,² whose Southern members doubtless thus sought to preclude the admission of Iowa without Florida. As had the Senate bill of 1840 and the House bill of the previous session, this bill provided for the future division of Florida into two states. It differed from them, however, by omitting the statement that such division should take place without any further proceedings on the part of Congress. The only condition stipulated was that neither state should ever interfere with the primary disposition of, or levy a tax on, the public lands.³

The Legislative Council had convened at Tallahassee the day before the bill was reported in Congress. In his message of January 10, Governor John Branch, a Democrat who had succeeded Call the previous July, advised the council "to gird on the armor of State Sovereignty—to shake off the *old boy*, and put on the new man."⁴ This advice well suited the council, both houses of which, in contrast to the Whig-dominated bodies of 1843 and 1844, were controlled by the Democrats. A joint select committee promptly reported in favor of renewing the application for admission in order that Florida might enter the Union with Iowa.⁵ The knowledge that their cause was lost did not silence a few East Florida divisionists and West Florida annexationists, who vainly made minority reports and protests.⁶ Resolutions requesting Congress to admit Florida with Iowa, with a provision for the future division of the former, were adopted by the Senate on January 23 by a vote of 9 to 6. Two days later the House passed them, 24 to 6.⁷ The opposition came from East and West Florida Whigs, most of the Democrats from those sections voting for the resolutions, which received the unanimous support of Middle Floridians of both parties.

The admission bill was under consideration by the House of Representatives before the council's resolutions reached Washington. So far as Florida was concerned, the principal objects of attack were

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the provision for future division and the clauses in the St. Joseph constitution forbidding the General Assembly to emancipate slaves and authorizing it to prohibit the entrance of free Negroes into the state. Failing to make deletion of these clauses from the constitution a prerequisite to admission, or at least to exclude citizens of the United States from the scope of the clause relating to free Negroes, antislavery men attempted to prevent the admission of Florida. A proposal to make the admission of both territories contingent upon their having a population equal to the federal ratio of representation was aimed solely at the exclusion of Florida, since Iowa was known to have a population in excess of the ratio. When this was rejected, an unsuccessful effort was made to substitute a bill for the admission of Iowa alone.⁸ The provision for a future division of Florida was stricken, however, before the House passed the bill on February 13 by a vote of 144 to 48.⁹

The Senate Committee on the Territories reported the bill without amendment on February 24. The committee had raised the question of population, but Levy had "satisfied" it that Florida had a population of more than 90,000¹⁰—an estimate belied by the subsequent state census of 1845, which showed a total population lower than the federal ratio of 70,680 established in 1842. Antislavery men again proposed an amendment to require deletion of the constitutional clauses relating to emancipation and free Negroes, but to no avail. The Senate passed the bill without change on March 1 by a vote of 36 to 9.¹¹ On March 3, 1845, President Tyler signed the act of admission.¹² At the same time, he approved a supplementary act granting certain public lands to the state and designating it as a federal judicial district.¹³

News of the passage of the act of admission by the Senate reached Florida on March 8. Press comment denoted a general satisfaction, tempered by a sense of the responsibilities entailed by the new status.¹⁴ From the *East Florida Whig News*, however, came the doleful plaint, "The day of trial has come, and the people will soon feel the benefits of the tax collector."¹⁵ When official notification of Florida's statehood was received on March 18, Governor Branch acted immediately to put in motion the machinery for a speedy organization of the state government. One of the last acts of the Legislative Council, before its adjournment on March 11, had been the passage of an act to facilitate the organization of the state of Florida by amending the election laws to make them conform to the constitutional provision regarding elections. In order to obviate confu-

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sion such as had attended the vote on the constitution in 1839, election officials were directed to act under the instructions of the committee of the constitutional convention.¹⁶ Governor Branch, in his proclamation of March 18, announced receipt of a certified copy of the act of admission and directed county officials to hold an election for state officers on May 26, the date set by the convention committee.¹⁷ In a proclamation of its own, the committee issued a call for the election of a governor to serve for four years from May 26, a representative in the Twenty-ninth Congress, and 17 senators and 41 House members from the 20 counties in existence when the constitution was adopted. Under the proclamation, the first General Assembly would hold office until the first Monday in October, 1846. The committee also summoned the General Assembly to convene at Tallahassee on June 23.¹⁸

The call for the election had necessarily been delayed until receipt of official notice of admission. Both Whigs and Democrats, however, had acted on the assumption that statehood was assured when the House of Representatives passed the act of admission. The latter at once set about organizing clubs and associations all over the territory in anticipation of the coming campaign and party leaders arranged to hold a convention of delegates from all districts for the nomination of candidates for governor and representative. The Whigs, perhaps because they were the minority party, had always deprecated partisan politics in local and territorial elections. Instead of planning like the Democrats for a campaign on party lines, they made a futile gesture toward a nonpartisan nomination for governor. On March 3, Whig members of the Legislative Council tendered the nomination to William Bailey, a prominent Democratic planter of Jefferson County who was being mentioned as the Democratic candidate. Bailey refused the nomination unless he should also be nominated by his own party. In that event, he said, he would welcome Whig support.¹⁹

Whatever chances Bailey may have had to receive the Democratic nomination probably were ruined by this offer, for the Democrats were intent upon acquiring control of the state government. The Democratic convention met at Madison on April 14 and 15. Bailey received only 14 votes on the first ballot, to 25 votes for William D. Moseley, also a Jefferson County planter, and 8 votes for Robert Butler, of Leon County, one of the territory's old Jacksonian Democrats. Under the two-thirds rule, Moseley was nominated on the second ballot with 33 votes to 13 for Bailey and 1 for Butler. His

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nomination was then made unanimous.²⁰ For representative, David Levy, the most popular man in the party, was the logical choice. Levy, however, had his eye on the United States Senate. Before consenting to his nomination, his friends exacted an informal agreement that he should be elected senator if the Democrats won a majority in the General Assembly.²¹

The nomination of Moseley placed the Whigs in a predicament. With the election only six weeks away, they lacked candidates for both governor and representative. A caucus of council members had nominated Joseph B. Lancaster, of Duval, for delegate in January,²² but a number of East Florida county meetings had subsequently proposed Benjamin A. Putnam, of St. Johns, for representative. Pointing out that it was too late to hold a convention and that whatever was done must be done quickly, the *Pensacola Gazette* asked, "Will not our friends in Middle Florida move in the matter?"²³ Whigs of Leon, Wakulla, and Gadsden Counties, meeting at Tallahassee on April 22, nominated Richard K. Call for governor and endorsed the East Florida nomination of Putnam for Congress. In an address to the people of Florida, the meeting accepted the challenge of a contest on party lines. The Democrats, it said, by their rejection of Bailey in favor of "a more exclusively party man" and by their nomination for Congress of a man "whom they admittedly design for another station, but whose alleged popularity they think indispensable to a thorough and complete party triumph," had evinced "a settled determination to establish a thorough and exclusive party influence in the establishment and administration of the new Government." To this the Whigs could never passively consent.²⁴

As this pronouncement indicated, control of the state government was the issue. Neither party had a more specific program to offer than the Whig promise of efficiency in government and the Democratic slogan of economy and low salaries.²⁵ The election turned, therefore, on the past records of parties and candidates. The Democrats could claim, with some justice, that theirs was the statehood party. It is true that differences on statehood had been primarily sectional, but opposition had also been largely Whig. Whigs had denounced the constitution; Whig councils had approved postponement of the application for admission in 1843 and asked for division in 1844; Whig council members had opposed renewal of the application in 1845. The Whig record on the bank question also proved a political handicap, in view of the constitutional provision giving the first General Assembly power to regulate territorial corporations. The

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Whigs, for their part, could only denounce the Democrats as office-seekers and political spoilsmen, a charge that had been blunted by much repetition since the birth of the Jeffersonian Republican Democratic party at St. Joseph.

Call and Levy bore the brunt of the campaign for their respective parties, since Moseley and Putnam were little known outside their own districts. Casting off all restraints, both sides indulged in personal vituperation unparalleled in territorial politics. Levy was the proposed beneficiary of a corrupt political bargain, said the Whigs. Call had turned Whig to advance his political fortunes, countered the Democrats. Levy speculated in Indian War claims; Call had pocketed public funds. Call was a corporation man, mortgaged body and soul to the Union Bank; Levy was an unnaturalized alien, ineligible for the office he sought. Levy had not fought in the Indian War; Call had accused the people of Florida of cowardice during the war. It is doubtful if such charges and counter charges had much effect except to bring out the vote, for both Call and Levy polled several hundred votes more than their running mates.

The returns showed a decisive victory for the Democrats. Levy's 900 majority over Call constituted 15 percent of the total vote. The count was: Moseley, 3,292; Call, 2,679; Levy, 3,614; Putnam, 2,395.²⁶ By sections, the Whigs carried West Florida; the Democrats, Middle and East Florida. Call and Putnam together won majorities only in the four West Florida counties of Escambia, Santa Rosa, Walton, and Jackson, which were to remain Whig strongholds until the Civil War, although his fellow citizens in Leon and Gadsden also gave Call majorities.²⁷ In the General Assembly, the Democrats gained more than a two-thirds majority in each house.²⁸ The Democratic party had reaped the reward for which it had planned and organized since 1839.

The new government was instituted with the ceremony that befitted an independent, sovereign state. The Grand Lodge of Florida had called a special convocation. Committees of citizens in Leon, Gadsden, Wakulla, and Jefferson Counties had been named to prepare for the occasion, which attracted crowds of visitors from the neighboring counties. When the General Assembly convened at noon on Monday, June 23, "the newly finished and elegant Capitol was thronged with spectators."²⁹ The assembly organized by the election of James A. Berthelot, of Leon, as president of the Senate, and Hugh Archer, also of Leon, as speaker of the House. Canvass

of the election returns for governor was deferred until the 25th, out of respect to the memory of Andrew Jackson, news of whose death was received on Tuesday. As further tokens of grief for the death of Florida's first American governor, members of both houses resolved to wear crepe on the left arm for 60 days, and the hall of the House of Representatives was "shrouded with the usual emblems of mourning."³⁰ In this funereal atmosphere, early Wednesday morning the speaker opened and published the election returns in the presence of both houses. William D. Moseley, he announced, was the first governor of the State of Florida. The assembly then concurred in plans previously made by the local committee on arrangements for the formal inauguration of the new governor.

The inauguration "was attended with as imposing display as the limited means of a young community would admit."³¹ At noon, upon the firing of a cannon, a procession formed at the courthouse and proceeded four blocks to the east side of the capitol. "The Military"—the Quincy Lancers, from each of whose lances fluttered a gay, red pennon, the Tallahassee Guards, Centreville Hussars, and Leon Artillery—led the way, followed by "the Reverend Clergy." Then came Governor Moseley and David Levy, suitably escorted by five members of the committee on arrangements, and other dignitaries of the territory and state. Twenty-eight school misses, probably representing the 26 old states and the new states of Florida and Iowa,³² were the only feminine participants. After a group of school boys and their teachers marched members of the Grand Lodge in full regalia. At the gate of the capitol square, "the military halted and faced inwards, and the procession passed through into the square." The "official personages" then took their places on the portico of the capitol. The interior of that building, which had been "appropriated to the ladies," was thronged with "belles and beaux," while "the crowd of the masculine gender without, was unprecedented."

The ceremonies opened with the playing of "Hail Columbia" and an invocation by the Reverend Jesse Coe, grand master of the Grand Lodge. Hugh Archer, speaker of the House, delivered the credentials of his election to Governor Moseley and James D. Westcott, on behalf of the committee of the constitutional convention, presented to him the constitution of the state. The governor then delivered his inaugural address. He took the constitutional oath from James E. Broome, judge of the Leon County Court, who was to be the third governor of the state. After Moseley had received the seal of the territory from Governor Branch, Colonel John S. Broome, chief

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marshal of the day, proclaimed "the establishment and organization of the State of Florida, and that William D. Moseley was duly qualified as Governor and Commander-in-Chief of the army and navy of the State." The flag of the United States, to which Florida had added the twenty-seventh star, and the colors of the state were then hoisted. The latter, designed and presented by the committee on arrangements, displayed as their union "the glorious stripes and stars" and consisted of five horizontal stripes—blue, orange, red, white, and green. On the second stripe was inscribed the motto, "Let us alone."³³ As the national and state emblems were unfurled, the Leon Artillery fired a twenty-eight-gun salute and the band played "Yankee Doodle."

Governor Moseley devoted the first part of his inaugural address to a statement of his views on national questions. Prophetic of Florida's future course was his exposition of the constitutional relation subsisting between the states and the federal government. The latter, he said, was a government of strictly limited powers—a creature of the independent, sovereign states to whom were reserved all the rights, powers, and privileges not expressly ceded by them through the written constitution. Adverting "to our young State, now about to become a member of the great family of States," Moseley declared that to the General Assembly, as the representatives of the people, was entrusted the task "of developing her resources and of giving character to her institutions, by a liberal, enlightened, and patriotic public policy." Among the matters whose consideration he deemed of vital importance to the ultimate success of the new government "and to the happy condition of the people" were a sound currency, preservation of the public credit, a well regulated system of common schools, the finances of the state, and the promotion of "virtue, science and knowledge."³⁴

Serious consideration of public policy was deferred until after the settlement of the absorbing political question of who should be Florida's first United States senators. The day after the inauguration, Governor Moseley informed the General Assembly that he would transmit his message on Tuesday, July 1, which was the day fixed upon for the election. In the meantime, the assembly marked time. "The Senate is waiting upon the House," remarked the *Sentinel*, "and the House upon the Governor," who, it supposed, "has thought it better to wait until the rage of electioneering is over."³⁵ Levy's election was regarded as a matter of course, but friends of Walker Anderson, James D. Westcott, and John Branch were pressing their

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claims to the second seat. Levy refused to take sides in the choice, which was made by a Democratic caucus the night before the election. Levy received 30 votes, Westcott 20, Anderson 17, Branch 7, William Bailey 3, and William H. Brockenbrough 1.³⁶ The next day the Democrats duly cast their 41 votes for Levy and Westcott, while the Whigs gave 16 votes to Jackson Morton, of Escambia, and Joseph M. Hernandez, of St. Johns.³⁷ To the Whigs, who had long made him the target of their bitterest attacks, Westcott was the least acceptable man the Democrats could have chosen. Yet the Whig *Sentinel* was impelled to acknowledge his claims to the office. "On the score of party service," it said, "the post of United States Senator was due Mr. Westcott. With him originated the party, and he has ever been its indefatigable worker, as well as its prime director."³⁸

With the senatorial election out of the way, the assembly took up in earnest the task of implementing the constitution. Although there was a general disposition to postpone all but the most pressing matters until the November session, certain legislation was necessary, as Governor Moseley pointed out in his message of July 1, "to meet the immediate requirements of the Government." Among the matters he singled out were a state census, state finances, and regulation of territorial corporations. Not only did the constitution require a census to be taken in 1845, Moseley said, but inequalities in apportionment of representation (due to the establishment of six new counties since 1839) could not be corrected until a census had provided the basis for reapportionment. While recommending postponement of the passage of a permanent revenue law until November, he urged adoption of a temporary system of taxation "to provide for the current expenses of the Government daily accruing." As for territorial corporations, the power vested in the first General Assembly to regulate them in the interests of the people should not be lost through negligence. The assembly must determine if that power extended to an adjourned session.³⁹

Taxation and the banks were the most difficult questions considered by the assembly. The Democratic majorities in each house readily concurred in reports adverse to the validity of the faith bonds. "The questions as to the moral or legal responsibility of the State or People of Florida for these faith bonds and guarantees, have long since been definitively settled in Florida," reported the Senate Committee on Banks. "The only duty yet unfulfilled by the People of Florida, in regard to these Banks and faith bonds, is to see that they

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do justice to their creditors, wind up their affairs, and cease to exist. To have this done, the General Assembly are morally and legally public *Trustees* for all parties."⁴⁰ Bills to effect the desired end were introduced in both houses, but in neither chamber could agreement be reached on details. After much discussion, they were postponed for consideration at the adjourned session. But the members were in no closer agreement on the subject in December than they had been in July. The first General Assembly passed into history without exercising the power for which the first Florida Locofocos had so bitterly contended at St. Joseph.

No accurate data existed on which to base a revenue law. The territorial revenue system, if it could be termed a system, afforded no reliable information as to the amount of taxable property in the state, for the 1843 tax act had been even less effective than earlier territorial laws. The cost of the state government would be a matter of guess work until it was actually in operation. The Senate Committee on Taxation and Revenue, composed of three East Florida men, therefore reported in favor of deferring consideration of a revenue bill until the November session.⁴¹ The House Committee on Finance and Public Accounts, composed of four members from Middle Florida and one from West Florida, with Thomas Brown as chairman, took a different view of the matter. "Should the General Assembly adjourn without passing a revenue bill," their report said, "confidence will be lost in the Government, and its Treasury Certificates will be hawked about at a ruinous depreciation, while a mass of debt will be accumulating against the State, blighting its credit and corrupting the people." Referring, doubtless, to the condition of the territorial treasury, which was then some \$19,000 in the red, the report continued, "we have examples before us which should admonish us, in the most solemn manner to avoid every thing that would be calculated to lead us into the creation of any thing like a *State debt*."⁴² Estimating the probable expenses of the state government at \$41,500, the committee reported a bill designed to raise that amount mainly by taxes on land, slaves, stocks of merchandise, and auction sales.

When the bill came up for consideration, "there was *'all sorts'* of warm work upon it, in consequence of the clashing of the different interests," reported the Tallahassee correspondent of the *News*; "every influence that could be imagined was brought to bear to effect sectional interest, with regard to particular items."⁴³ The resulting measure, which was passed by the House by a vote of 25 to 11,

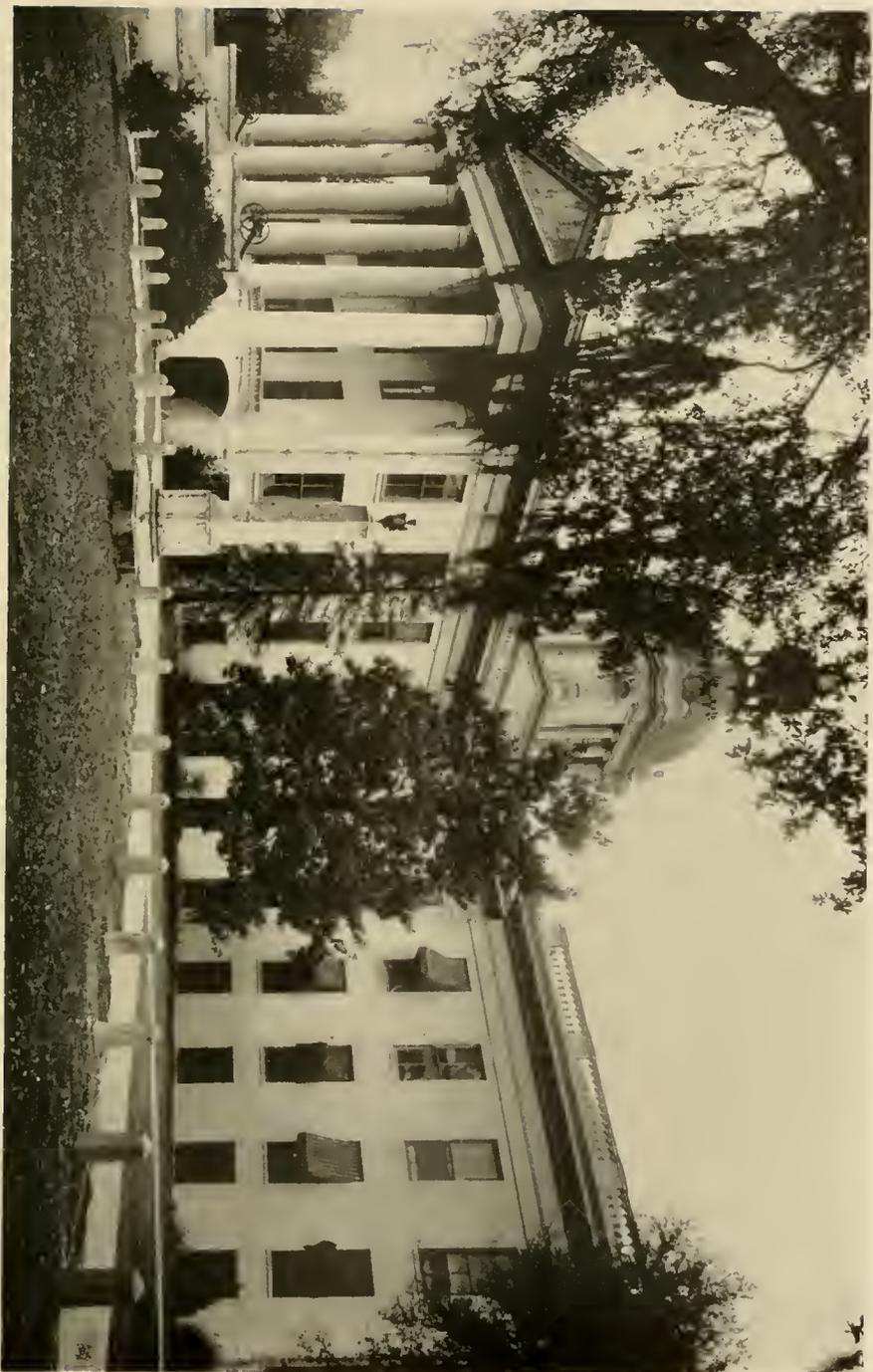
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placed about one-half the burden of state taxation on Middle Florida.⁴⁴ The Senate accepted the bill without material change by a vote of 9 to 8, after rejecting an amendment that would have deferred collection of taxes until after the adjourned session of the assembly. The act, which provided that assessments should be made and returned by October 1, 1845, also placed upon the tax assessors the duty of taking the state census.⁴⁵

Members grew restive as the session lengthened, but the assembly rejected all motions for an early adjournment. "It is no easy matter to organize a State Government," wrote an East Florida representative,⁴⁶ while the assembly resolutely plodded through bills for the organization of the several executive departments, the judicial system, and the new constitutional county offices. Adhering to their pre-election promises, the Democratic majority fixed salaries on a scale so moderate as to be termed by some "niggardly and penurious."⁴⁷ Although the governor of the territory had received \$2,500 a year, the Senate proposed for the governor a salary of \$1,200. It reluctantly concurred in a House amendment raising the stipend to \$1,500 only after a conference committee reported that, "A judicious economy requires that the State should secure to its officers and servants a compensation commensurate with the services required of them."⁴⁸ The secretary of state was given a salary of \$600, as contrasted with the \$1,500 received by the secretary of the territory; the salaries of the comptroller and treasurer were fixed at \$800, and that of the attorney general at \$500. Salaries of circuit judges, who were also to constitute the Supreme Court, were placed at the constitutional minimum of \$2,000. The assemblymen voted themselves \$3.00 a day and 10 cent mileage instead of the \$4.00 *per diem* and 20 cent mileage allowed territorial legislators.

When the political "loaves and fishes" had been finally parceled out, the roster of state officers—all good Democrats—read as follows: secretary of state, James T. Archer; comptroller, Nathaniel P. Bemis; treasurer, Benjamin Bird; attorney general, Joseph H. Branch; circuit judges, George S. Hawkins, Thomas Baltzell, Isaac H. Bronson, and William Marvin; solicitors, Caraway Smith, Thomas Jefferson Heir, Felix Livingston, and R. F. Brantley; clerk of the supreme court, Mariano D. Papy.

The day before the assembly was to adjourn, A. M. Alexander, of Leon, discovered that the constitutional provision requiring the General Assembly to accede to any conditions made by Congress in ad-



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mitting Florida had not been complied with. Hurriedly he introduced into the House a bill formally assenting "to the terms of admission of this State into the confederacy and Union of the United States."⁴⁹ Under a waiver of the rules, the bill was passed by both houses that day and signed by Governor Moseley. With its passage, the last formality in connection with the admission of Florida had been observed. When the General Assembly adjourned on July 26, 1845, Florida at last, after a quarter century of territorial dependence, was a fully functioning state within the Union.

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**NO. 1. EXTRACTS FROM THE TREATY OF AMITY,
SETTLEMENT, AND LIMITS¹**

[February 22, 1819]

ART. 2.

His Catholic Majesty cedes to the United-States, in full property and sovereignty, all the territories which belong to him, situated to the Eastward of the Mississippi, known by the name of East and West Florida. The adjacent Islands dependent on said Provinces, all public lots and Squares, vacant Lands, public Edifices, Fortifications, Barracks and other Buildings, which are not private property, Archives and Documents, which relate directly to the property and sovereignty of said Provinces, are included in this Article. The said Archives and Documents shall be left in possession of the Commissaries, or Officers of the United-States, duly authorized to receive them.

ART. 5.

The Inhabitants of the ceded Territories shall be secured in the free exercise of their Religion, without any restriction, and all those who may desire to remove to the Spanish Dominions shall be permitted to sell, or export their Effects at any time whatever, without being subject, in either case, to duties.

ART. 6.

The Inhabitants of the Territories which His Catholic Majesty cedes to the United-States by this Treaty, shall be incorporated in the Union of the United-States, as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights and immunities of the Citizens of the United-States.

* * *

NO. 2. RESOLUTION OF THE LEGISLATIVE COUNCIL²

[January 12, 1827]

Resolved as the opinion of this Legislative council, that the Territory of Floridie ought to be indivisible, and that our delegate in

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congress be requested to exert him self to resist any attempts which may be made in that body, to annex any part of the Territory to any of the adjoining states as thy consider that such a measure if carriet in to effect, woul be with out the concent, and against the expreset will, of thire consturtes [i. e., constituents], and completely calculated to destroy that which is their best hopes, that of becoming a state government

* * *

NO. 3. EXTRACT FROM A MESSAGE OF ACTING GOVERNOR WESTCOTT³

[*January 3, 1832*]

The time when our Territory will become a state, and admitted an equal member of the great confederacy, of which we are now but a humble and dependent province, is looked to by our citizens with considerable interest. The probability of this event, occurring within the next ten years, is I think doubtful, and consulting the true interests of the mass of the people, and of the country, the postponement should not be regretted. The U. S. now defray nearly all of the expenses of the Territorial Government and their expenditures have been exceedingly liberal. The disbursements of the Federal Government, within the Territory, distributed among our citizens, in payment of their services as judges, marshals, deputy marshals, clerks, attorneys and jurors and including the salaries of the Governor and Secretary, and the anual appropriations for the pay and expenses of the Council, and other expenses incident to the government, do not, it is estimated fall short of \$47,000 annually. The Territory pays the salaries of but two officers, the Treasurer and Auditor, both amounting to only \$800. It has assumed by law, the payment of the postage, of the Governor & Secretary, on public business, the expense of criminal prosecutions and keeping of prisoners amounting in the aggregate to about \$8,000 annually. We have hitherto been unable to collect, and retain sufficient, to meet these comparatively trifling charges, although nearly all the monies accruing, from fines and forfeitures, given by law to the education fund, and which should have been sacredly preserved for that fund have been appropriated to the aid of the Treasury, in making these payments. The Territory is now several thousand dollars in debt, without means of payment. It is notorious that our Treasury notes, but a short time since, would bring but sixty cents for a dollar in this

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city, and they are now valued at 25 per cent below par. These are painful Truthes, staring those who contend for our ability to support an independant government directly in the face, and overturning at once all their splendid speculations. I am deeply mortified, that in performing a duty I owe to the people of Florida of exhibiting faithfully, a true condition of the Territorial Government, our insolvency and bad credit, is eposed to our fellow citizens of the states, but it cannot be avoided. If we cannot manage to pay these triffling charges, how can we support a State government, the annual expinses of which for Florida (conducted on the most economical plan) would amount to \$50.000 per annum? But by far the most injurious effects of this charge, would be found in the fact, that with our creation as a State, ceases the aid of the General Government, in the construction of those works of internal improvement so essential to the prosperity of our Territory. Calling to aid the most liberal principles, there are but one or two works, which after we become a state under the true principles of the Constitution (as set forth in the Presidents Message, on the rejection of the Maysville road bill)⁴ could be constructed at the national expense. We shall then have to rely upon the state, or on private enterprise and capital. The taxes for the support of a State government, besides the county taxes, would at this time, equal at least a dollar for each person, of every age and colour in the Territory. It is believed, that when the subject is fully placed before the people, and the plain common sense of the mass of our citizens appealed to, when they reflect upon the heavy taxes they will have to pay, and the deleterious effects upon the interests and prospects of the country, as I have stated, a majority will be found content to remain as we now are. Much as I should prefer a state government, I hope no application for admission will be made till the Territory is unincumbered by debt, till we have got a decent Capitol built, till a Penitentiary is erected, and till some of our most important internal improvements are completed, or fully under way, for not till then, can Florida reap any benefit from the change.

* * *

NO. 4. REPORT OF THE COMMITTEE ON THE STATE OF THE TERRITORY⁵

[February 13, 1834]

The committee on the state of the Territory in conformity with a resolution adopted on the 23d ult⁶ having had under consideration

the matters therein contained have the Hon to Report—That they consider the subject of the adoption of a state government as of primary importance as involving deeply the interests of the Territory and as proper at the time to be submitted to the serious consideration of the people of Florida. That while on the one hand it would be unwise and imprudent rashly and without resources to precipitate an event of this character, we shall on the other be no less culpable, wanting to ourselves if we remain insensible to the disadvantages of our present state of provincial vassalage.—The responsibility of the individuals indued with the power of enacting and administering the law to those whose interests are effected by their operation is a principle upon which is based the whole system of republican institutions. And however much the general government may be actuated by a desire to promote the views and foster the interests of our country it is impossible that those views and interests can be as well understood as by the people themselves or if understood that they will meet with due consideration amid the pressure of the many important and conflicting interests which occupy the attention of Congress and of the Federal Executive.—We are placed at an immense distance from the center of our governmental system. We are liable to have sent among us by appointment of the Government officers unacquainted with the policy and interests of the Territory destitute of those claims upon the confidence of the people which are acquired by residence intercourse and community of sentiment and above all irresponsible to those who are to be vitally effected by their official acts nor is this irresponsibility confined to themselves alone it extends itself to those offices of which the creation has been imparted to the people. It is easy for the Legislature to attribute to the executive judicial or ministerial government officers the faults of improvident or corrupt Legislation and it is as easy for the other to disguise or avoid the responsibility of malfeasance or neglect of duty by the real or imputed dereliction of those holding offices from the people another baneful effect of the present system of appointments is felt in the enervating influence upon the character and energies of a country having no rewards to hold out to tried and faithful services. So much is this the case that it is believed the policy of the government has been to appoint to office strangers to the Territory and its citizens in preference to residents of equal talents and abilities and who added to these those claims which are derived from a long intercourse with the people of the Territory and character and integrity appreciated by them. In the absence of the

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high and animating inducements which are held out to talent virtue and patriotism in the grateful confidence of a free people the population of our country is retarded its energies repressed and enterprise and public spirit paralyzed. Another consideration connected with the moral and intellectual advancement of the country strongly urges the adoption of a government of our own as soon as it may be in our power. Throughout our widely extended Territory the want of some system which will bring education within reach of the yeoman and mechanic is already sensibly felt. With all the natural advantages which we possess with a soil as fertile and a climate as propitious as ours and with a population which for enterprise and intelligence is without a parallel in a frontier country we shall still fall short of the destiny which would seem to await us if we fail to provide means of education for the generation who are to succeed us. To effect this object the care of the general government has made inadequate⁷ provision in the sixteenth sections of land reserved for the use of schools and two townships to be devolved to the endowment of a university but these means are withheld by the prudent policy of the government until we become a state. In no point of view does perhaps the urgent expediency of the step now under consideration present itself more strongly. But the enquiry must first be made are we competent to the effort? What are our resources when the support of the general government shall have been withdrawn? Is our population such as to render a movement upon the subject feasible? or to give assurance of a capability on our part to sustain the incurred expenditure. By the sixth article of the treaty of cession it is guaranteed that the inhabitants of the Territory of Florida shall be incorporated in the Union as soon as may be consistent with the principles of the Federal constitution. It is believed that there is nothing in that instrument prohibitory of the accomplishment of this guarantee. The third section of the 4th article of the constitution gives to congress power to admit new states into the Union and the 3d section of the 1st article which establishes the ratio of representation also provides that each state shall have at least one representative clearly recognizing the principle that a state may exist or consequently be created although not having the number of inhabitants which constitutes the basis of the ratio. But even supposing that a different construction shall be put upon the last cited section still it is believed that we may as matter of right demand admission. The population of Florida by the last census amounted to 34500 and presuming upon a probably ratio of

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increase since that period the Territory must now contain near 45000 inhabitants when we take into consideration further that the portion of the Territory hitherto occupied by the Siminole indians is about to insite a numerous population and that before another census can be taken or even the measures now considered of carried into effect the place of those savages will be doubly supplied from the adjoining states. Your committee feel themselves justified in the conclusion that no obstacle on the score of population will oppose the proposed change in the form of our government. Assuming then the fact of our right to ask of the Congress of the United States a fulfilment of the stipulation in the treaty of cession above referred to let us enquire into the condition in which we shall be placed in respect of our internal resources. There are annually expended by the United States in the support of the Territorial government perhaps \$40,000 of this sum however by far the greater part consists of the saleries of officers which would still subsist after the establishment of a state government the United States Courts would still be maintained the Custom Houses Land offices &c would still be continued. We already pay the saleries of officers of the Territorial Treasury the only additional expenses therefore for which we should have to provide would be the saleries of the two Executive offices of a state Judiciary and the expenses of the Legislative Department. Of these taking the present saleries and pay under each of the two first heads as a sufficiently liberal criterion and allowing for the latter double the amount now appropriated by Government, the gross amount it may be safely affirmed will not exceed annually twenty thousand dollars. To this sum add ten thousand dollars for contingencies and occasional appropriations and it will appear that thirty thousand dollars will afford the requisite annual revenue. It remains now to Enquire whether we may safely incur such an annual Expenditure with an assurance of deriving the moneys to meet it, from any moderated system of taxation.

The amount of revenue payable annually into the Territorial Treasury, according to the assessments under our present system, is perhaps equal to between ten & twelve thousand dollars. But it is confidently beleived that under a more strict & vigilant care it would amount to at least one third more without any increase in the rate of taxes. If the revenue bill now pending in the House should pass into a Law it is probable that fifteen thousand will be annually raised, the taxes remaining at their present standard. Upon a comparison of our revenue laws, with those of the States it will be found

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that the Territorial taxes are not more than one third in proportion to those which are levied in the States, and that in many instances we fail to Exact any tax from many species of property which are there legitimate & lucrative sources of revenue. Our taxes upon land are almost nominal and are so estimated that the true taxable value of the land is not justly ascertained. The tax upon Town property is notoriously so low as to make it impossible to be collected the amount due from a large portion of proprietors not reaching to more than fractions of cents. Again, in many if not all of the States the list of taxable property is given in on the oath of the owner and adequate pecuniary penalties imposed for fraudulent concealments of taxable property. The want of such provisions in our revenue system tends materially to diminish the revenue.

From all this it is beleived it may with safety be assumed, that without raising the rates of taxation above the standard, common to most of the States, it is in our power to provide means for maintaining a State Government.

There is still another view of this subject to which your committee will briefly allude. It is beleived that the mere fact of being a Territory has the effect to repress emigration. The idea always prevails that in frontiers a *territory* the laws are weak & inefficient and the people demi-barbarous. Individuals possessed of wealth, are in many instances deterred from embarking their fortunes in a *Territory*, having no settled form of Government, and where future prosperity depends upon the problematical issue of becoming a State or not, and in becoming a State, of the character of the Constitution & Laws which she may adopt. This impediment removed there can be no doubt, that wealth Enterprise, intelligence & talent will flow into our country, increasing and placing beyond the possibility of doubt, its resources for a State revenue.

Entertaining & Beleiving it proper to Elicit an expression of public opinion upon the subject the committee have reported a Bill in conformity with the terms of the Resolution refered to them and pray to be discharged from further consideration of the subject.

Respectfully Submitted

GEO. T. WARD chairman

* * *

NO. 5. RESOLUTION OF THE LEGISLATIVE COUNCIL^s

[January 23, 1836]

Resolved that at the next General election, for members of the Leg-

FLORIDA BECOMES A STATE

islative Council, the vote of the people of the Territory in each and every County thereof, shall be taken upon the subject of changing our form of Government, and that each voter be permitted to write on his ballot "State" or "no State," in order that the will, and wishes of the people may be fully known upon this important Subject and that the Inspectors of elections in each and every County, and precinct in this Territory shall cause due notice to be given to the electors of their right of voting upon said Subject.

Passed Jan'y 23d 1836

R. FITZPATRICK

JOS. B. LANCASTER Clerk

Presd of the Legislative Council

* * *

NO. 6. EXTRACT FROM A MESSAGE OF GOVERNOR CALL^o

[*January 3, 1837*]

The responsibility of public officers to the people who are immediately interested in the manner in which their official duties are performed, constitutes one of the first principles of Republican Government, and cannot be parted from without danger of an abuse of power. In our Territorial Government, Congress has conferred on the people the right of electing their representatives in the Legislative Council, and in some other instances of less consequence. But there are other high and important officers, who hold their places under the authority of the General Government, and who feel no responsibility whatever to the people, over whose interests they preside. Such is particularly, the situation of the Governor; the Secretary of the Territory: the Judges of the Superior Court, and the District Attorneys. Neglect in the performance of public duties, will generally be found in proportion to the absence of responsibility, and the distance at which the officer is placed from the power by which he is controlled. It would be, perhaps, unjust to say, that the evil which I intend to represent to your consideration, arises from negligence, and a disregard of duty; but I feel constrained to call your attention to a palpable instance in which from some cause the most important interests of many of our citizens are sacrificed by the want of punctuality and attention in some of our public functionaries. The several acts of Congress, organising our Judicial system, provides, that the four Judges of the Superior Courts, or a majority of them, should hold annually, at the Seat of Government, an appellate Court, to which writs of error and appeals may be taken and prosecuted from the several Superior Courts. In most cases involving claims to valuable property, or for the recovery of large sums of money; the right of appeal is exercised by the unsuccessful party in

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the Court below. Hence, it becomes a subject of deep interest to the community, that every term of the appellate Court should be promptly and punctually held. Such, I regret to say, has not been the case, and a session of this high and important tribunal, owing to the absence of some one of its members, has not been held for the last three years.¹⁰ the presiding Judge of this Court has been regular in his attendance, and occasionally some one of the associate Judges have been present, but not a sufficient number to constitute a quorum. These officers being beyond the controll of the Legislative Council, I am unable to recommend to you an appropriate remedy against this evil, so deeply felt by the whole Community. But after passing through a period of fifteen years of Territorial Government, I am persuaded that the intelligence, the wealth and number, of our inhabitants, is now sufficient to enable us to assume a State Government, under which all public officers may be held mediately, or immediately, responsible to the people. If I am correct in the estimate I had formed of the capacity of the Territory, it is a duty which we owe ourselves as American citizens, justly proud of our Republican Institutions, to claim the right of self Government in preference to remaining longer in a state of Territorial vassalage under the absolute domion of the General Government. The only argument which can be offered in behalf of a continuation of the present state of things, is, that the expenses of the Territorial Government are defrayed by the United States. But this I regard as a trifling consideration, when compared with the sacrifice of Independence, and the rights and privileges incident to a state government. In a few years, Florida will abound in wealth, and will contain a numerous population. If we cannot at the commencement sustain the Splendor of other State Governments, which have been long in the confederacy of the Union, let us be contented with a more humble display, until time shall ripened our resources to maturity. I would, therefore, recommend to the Legislative Council the adoption of the preparatory measures for an application to be admitted in to the Union.

* * *

NO. 7. AN ACT TO TAKE A VOTE ON STATEHOOD¹¹

[February 12, 1837]

An Act to take the sense of the people of this Territory on the policy and propriety of becoming a State

Section 1 Be it enacted by the Governor and Legislative Council of the Territory of Florida, That at the next election for Delegate to Congress for this Territory, it shall be the duty of the Judges, or in-

FLORIDA BECOMES A STATE

spectors of the election aforesaid at every place or precinct, where any such election may be held, to put the question to every voter, who may present himself to vote, whether said voter wishes a "State" or Territorial Government, and the Judges aforesaid if he shall answer, shall before any ballot is put into the Box, write on the back of every ballot the answer of the voter presenting the same, "State" or "Territory," as his answer may be after which the ballot shall be put into the Box; and the Judges of any such election shall when they count over the votes specify and setforth in their certificate of the election held by them, to the Governor, how many votes were given for a "State"—and how many for a "Territory," and the Governor shall in his proclamation of the election, declare how many votes were for "State" and how many were for a "Territory."

Section 2 Be it further enacted, That it shall be the duty of the sheriff of every County in this Territory, to ascertain by the first day of June next, the number of inhabitants male, and female, white, black, and colored which may be in the several Counties; and the Sheriff of every County, aforesaid, shall immediately thereafter transmit in triplicate to the Treasurer of the Territory a certified copy of the number of persons found in the several Counties, in the manner before mentioned; and the Treasurer shall report to the next Legislative Council in the first week of its session, the number of inhabitants in this Territory, male and female, white, black, and Colored, according to the certificates of the sheriffs of the several Counties in the Territory; and the Legislative Council shall order such compensation to the sheriffs of the several counties for performing the services hereby prescribed to be performed by them, as the council may deem reasonable and just; not exceeding three quarters of one cent per head, and if the Sheriff of any County shall fail to perform the duties herein prescribed for them to perform any such Sheriff and his securities shall forfeit and pay the sum of one Thousand Dollars, for the use of the Territory, to be recovered at the first term of any Court of competent jurisdiction; and said sheriff shall be permitted to employ in the execution of the duties herein before prescribed for them, their deputies legally sworn, according to the laws of this Territory.

Passed February 12th 1837

JOS. B. LANCASTER Clerk

JACKSON MORTON

President of the Legislative Council

Approved 12 Feb 1837

R K CALL

D O C U M E N T S

NO. 8. PROCLAMATION OF GOVERNOR CALL AND RETURNS
OF THE 1837 ELECTION¹²

[July 27, 1837]

Proclamation,

By R. K. Call Governor of the Territory of Florida

Whereas, an election was held on the 1st Monday in May, 1837, for the election of a Delegate from this Territory to the next Congress of the United States, and to take the sense of the people on the policy and propriety of this Territory becoming a State:

And Whereas, Charles Downing, of St Johns County, received a greater number of votes than any other candidate for Delegate, and there was given a greater number of votes for a State than a Territorial Government, as appears by the returns legally made to me:

Now, Therefore, in pursuance of law, I do proclaim the said Charles Downing, duly elected Delegate from the Territory of Florida to the next Congress of the United States, and I do further proclaim, that there was given a *majority* of 1005 votes for a State Government.

Given under my hand at Tallahassee, this 27th day of July, 1837.

(signed)

R. K. CALL
Governor of Florida

Votes, at the Delegate's election for State and no State, in May 1837

	State	No State
Escambia County.		
Pensacola	59	147
2d Precinct	0	30
5th Precinct	26	2
Beach Water	1	10
Keyzers	0	0
Calhoun & Franklin Counties	0	0
Washington Co.		
Hickory Hill	1	5
Merletts Bluff	0	0
Econfenee	0	0
Holmes Creek	0	0
Walton Co.		
Davis'	0	0
Euclidean	8	46
Maltese	0	0

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	State	No State
Jackson County		
McNealey	14	0
Marianna	104	12
Bluntstown	0	0
Campbellton	35	31
Browns Ferry	18	0
Webbville	4	13
Ocheesee	0	0
Franklin County		
Apalachicola	217	17
St. Joseph	245	11
	732	324
Whole vote W. District		
Gadsden County		
Sadburys'	9	0
Chattahoochee	15	42
Aspalaga	0	0
Quincy	223	13
Morgans	27	33
Thomas	14	22
Leon County		
Tallahassee	302	49
Stewarts	15	1
Hairs	0	0
Miccosukie	124	19
Magnolia	0	0
St. Marks	57	8
Jefferson County		
4th Precinct	41	1
Monticello	163	8
Ocilla	7	45
Ulmer	32	16
Madison County		
Townsend's	14	0
San Pedro	72	1
Atkins	0	0
Hamilton County		
4th Precinct	17	3
Court House	20	6
	1152	266
Whole vote M. District		

D O C U M E N T S

	State	No State
Columbia County		
Mineral Springs	31	21
Palmetto	17	3
Sapps	13	1
Carvers	0	25
Fort Mills	13	12
Fort Lancaster	11	20
Leas'	0	6
Nassau County		
Fernandino	0	17
Court House	0	14
Kirklands	1	9
Vaughans'	0	0
Sparkmans'	0	0
Alachua County		
Newnansville	72	2
Santaffee	54	2
Tarvers	10	0
Duval County		
Jacksonville	6	156
St. Johns Bluff	2	0
Mandarin	23	18
Whitesville	0	0
St Johns County		
St Augustine	1	220
Anastasia	0	6
Weedman's	0	6
Harrisons	0	10
Ft. Matanzas	0	4
Mosquito County		
New Smyrna	1	62
Whole vote E. Dist.	255	614
Dade County		
Key vacas	0	0
Indian Key	70	0
Monroe Co.		
Key West	0	0
Hillsborough Co.		
Palm Island	0	21

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	State	No State
Tampa	5	49
	<hr style="width: 50%; margin: 0 auto;"/>	<hr style="width: 50%; margin: 0 auto;"/>
Whole vote S. Dist.	75	70
	<hr style="width: 50%; margin: 0 auto;"/>	<hr style="width: 50%; margin: 0 auto;"/>
	2214	1274
	<hr style="width: 50%; margin: 0 auto;"/>	
Majority for State	940	

N. B. In the above statement, the votes given for "Territory," although not conformable to the act, are counted as for "no State," which it is presumed, makes the majority stated in the Proclamation above, of 1005.¹³

* * *

NO. 9. EXTRACT FROM A MESSAGE OF GOVERNOR CALL¹⁴

[January 2, 1838]

At the last session of the Legislative Council, an Act was passed to provide for taking the census of the people of this Territory, on the policy and propriety of assuming a State Government, at the election held for a Delegate to represent this Territory in Congress the vote was taken on this subject and resulted in a majority of one thousand and five votes, in favor of State Government. The same act required the sheriffs to take the the census of their respective Counties by the first day of June last, and to make a return of the number of inhabitants in each county to the Treasurer of the Territory who was required to make a report thereof to the Legislative Council during the first week of its present session. These officers not having been required to report to the Executive, I have no official information reletive to the manner in which their duties have been performed. But I have learned unofficially, that, with few exceptions¹⁵ the Sheriffs have not complied with the law, and that they are subject to the penalty prescribed by the act, for their delinquency in office. It remains for the Legislature to determine, whether or not the penalty they have incurred shall be enforced, the decided expression of public opinion in favor of the adoption of a State Government renderes it a subject of deep interest. But the preliminary measures not having been pursued, it appears to me that all further proceedings must necessarily be suspended, until the census shall have been taken, in order to ascertain whether we have by our numbers, according to the ratio established, a right to de-

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mand admission into the National confederacy in accordance with the desire of a large majority of the people. We have no reason to believe that Florida will be permitted to become one of the sovreign States of the Union, without encountering all the delays, and opposition, which arise from a struggle for power, between the Northern and Southern States of our country. If we have not the necessary population, to enable us to make a successful demand for admission. It appears to me that it would be unwise to incur the expence, and inconvenience of calling a Convention for the purpose of adopting a constitution. It is believed however, that notwithstanding the embarrassments we have encountered, and the check which has been given to emigration by the events of the last two years, that our numbers will be found sufficient to sustain our claims, to a State Government. I would therefore, earnestly recommend to the Legislative Council, to provide by law for having the census taken at an early day, and if it should be found, that the number of our inhabitants entitles us to be received into the Union consistently with the provisions of the constitution, and the Treaty of Cession between the United States and Spain, that the Executive be authorized to issue a proclamation for an election of Delegates to assemble in convention and frame a Constitution for a State Government, to be submitted for approval at the next Session of Congress should this measure be adopted by the Legislative Council, it will be necessary at the same time to provide for an equitable appointment of the Delegates from the different sections of the country according to the number of inhabitants.

* * *

NO. 10. REPORT OF A SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL¹⁶

[*January 15, 1838*]

The Select Committee to whom was refered so much of the Governor's message, as relates to organization of the people of Florida, as an independent State, and its becoming a member of the national Confederacy, have had the same under consideration and beg leave to

REPORT,

That the recent decided expression of public sentiment, by a large majority of votes in favour of a State Government, have made it their duty, favorably, yet dispassionately, to consider the proposi-

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tion submitted to their action, and in arriving at conclusions according with the popular will, they cannot but congratulate the people of the Territory on the harmony of their views and the cheering prospect, of a speedy consummation, of their wishes. The Fertility of our soil, the Salubrity of the climate, the social enterprise, and character of our citizens, notwithstanding the disheartening incidents of the Indian war, have contributed to a steady increase of our population, and a developement of the resources, in which Florida so richly abounds. The arguments mainly urged [by] the opponents of a State government, are based upon a supposed increase of the taxes, of the inability and unwillingness, of our people to meet them, and the withdrawal of national appropriations from objects of internal improvement in the Territory. Your Committee however, cannot but regard these objections as untenable.

Other Territories, under circumstances far less auspicious, have creditably assumed the responsibilities of a State Government, and confirm your Committee in the opinion that [the difficulties anticipated] by those who differ from us, may be met and resisted by prudence, Economy and a vigilant and faithful use of the means, within our control.

The Examples set by the States of Michigan and Arkansas,¹⁷ should not be lost upon us. Those States although having perhaps a greater population, are wanting in the inexhaustible resources which open to us a field of wealth, enterprise and the prospects of a bright future,—and which properly directed, will make Florida as noted for her canals, her Rail Roads, her manufactories, and her Cities, as she now is for her genial climate, and fruitful soil. If Michigan, a region fettered in chains of ice, almost a moiety of each season, without a direct foreign Commerce, isolated in her position, and restricted to the less productive culture of the north, has assumed the responsibilities, of a State Government:—If Arkansas, with[out] a Seaport, located on the utmost bounds of civilization, surrounded on her extreme frontier, by hoards of savage tribes, a boundless extent of trackless, and unknown forests, which for centuries hence, cannot be the abode of civilized man, much less the source of prosperity and trade, can assume the proud station of a sovereign State and support its expenses, why should Florida, with a seaboard of more than fifteen hundred miles in extent, with a climate and soil adapted to the cultivation of the vine, the sugar Cane, sea Island Cotton, and many of the tropical fruits,—with many noble Rivers and harbors, suited to the Commerce of the interior and oc-

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cupying a favorable position to the west India Islands, and central to the carrying trade, between the North and the South, be denounced as unfit and incompetent to [the] task. To doubt it, is to doubt the patriotism, the Energy and the spirit of her people. The revenue to be derived from a moderate Tax on the productive classes of Society, on the various chartered privileges, granted to individuals and institutions, on the extensive fisheries on our Seaboard, and the prospect of an increasing population, brought into the Territory by a change in our condition, warrant the belief, that the fiscal concerns of the Government, could be creditably managed, and without extraordinary taxation.

That the munificent aid of Congress will be withheld from works of National concern in our limits, is an assumption not warranted by the history of the past. the peculiar local position of Florida, whether as a State or a Territory, has and will ever command the fostering care of the General Government,—and a change in our relations as a co-ordinate member of the great family of American States, will rather add to than diminish our claims to its consideration and bounty. The commerce of the Union, the transportation of the mails, and the free communication in time of war between the Northern and Southern portions of the Republic, will much depend upon the protection and aid extended to Florida, and in the anticipation of a liberal Legislation by congress, your Committee rely as well on their motives of interest, as of Justice and enlightened policy.

Among the many advantages arising from a change in our Territorial condition, your Committee recognize as one of inestimable value, the right of selecting their own officers. The free and full exercise of this privilege in all time and by every people, has been highly prized; and its denial by arbitrary power has frequently been followed by discontent and revolution. The appointing power of the crown, and the irresponsible acts of its agents led to the declaration of Independence, as it now has to the war like movements in Canada. The people of Florida coming from all parts of the Union, nursed in the lap of liberty, and taught to consider their safety and well being as connected with a direct responsibility in their offices, may well be excused for claiming the exercise of a right endeared to them by the history of their fathers, and inseperable from their notions of freedom. And shall this privilege, so sacred to others, be waved through a paltry consideration of dollars and cents? shall this argument lead us to the abandonment of a right which may be had for the asking, and which the subjects of other Countries are de-

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manding at the point of the bayonet? We trust not. Our constituents have spoken on this matter; we are bound as their representatives to carry out their will; and feel assured from the experience of the past, that in the utterance of every honorable sentiment, and in the adoption of every measure adding to the dignity, the power, the influence of the people, this Legislation will be responded to by a generous and enlightened constituency.

It is acknowledged that a direct accountability to the people, will insure from their public servants a more diligent discharge of their duties; the responsibility imposed on the constituent in the selection of the most important agents would be felt in the improved intelligence of the Country. There would be between them a mutual stimulous for exertion to the propagation of liberal principles, and the enlightenment of the public mind; so long as our highest officers, Judicial and Executive are appointed by a distant and irresponsible power, their accountability to those whom they Govern is indirect, unfelt and at war with the spirit of [our] institutions, persons holding office by this tenure can have but little community of feeling with the people. Just opposition to their reappointment, when the period arrives is stifled by official, party and personal combinations; offices are awarded by coalitions of men in power and claims and recommendations sent abroad as the voice of the people which at home would be stamped with derision and contempt, places of responsibility and trust are exchanged, bartered and transferred at the will of the incumbents; and some have descended to nominees in successive order, and favoritism has been more the standard for promotion, than qualifications or worth.

The Committee anticipate from Congress, on the admission of Florida into the Union that liberal legislation which has prompted them to make to many of the new States, extensive grants of the Public domain.

The unappropriated lands from private entry, are daily becoming, less valuable and by unnecessary delay, our interest in them may be seriously lessened; and when it is known and acknowledged that to this source we must look to the completion of those splendid works of internal improvement, which are to give new impulse to the industry of the Country, and to make our Rail Roads the thoroughfare of the nation, the motive for immediate action is obvious and urgent. In addition to these anticipated donations, an act of Congress to appropriate to the several States five per cent of the money arising from sales of Public lands in their respective boundaries.¹⁸ This would

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secure to the State of Florida, embracing in its limits so large a portion of public land, a revenue of no inconsiderable value.

An other inducement to our speedy admission into the Union may be urged from the precedent set by Congress of refunding to the new States of Michigan and Arkansas, their distributive share of the surplus revenue.¹⁹ This act of injustice to the people of the Territory, who settled and paid for the public domain, will bear oppressively upon the citizens of Florida, who have contributed their full share to the public coffers, unless we speedily assume a position, that will enable us to demand what is due. Congress could not refuse what she has so lately granted to the States named; and the judicious investment of that fund would be followed, by beneficial results, far out weighing the temporary inconveniences of setting up for ourselves.—Florida has paid large sums into the public Treasury, a partial return of which, under the distribution law, as a Territory, she may ask as a boon, but which as a State, she may demand as a right.

A further argument showing the necessity of a change in our political condition is to be found in the unproductive state of the School and College lands. These munificent grants, made by Congress for purposes of Education, have been so far valueless to the pioneers of the Country. The early settlers for Florida, of all others, had stronger claims upon the liberality of Government for aid in the Education of their Youth, and yet such is the condition of these grants, that they have proved as “a promise made to the ear but broken to the sense.”

Our Colleges and our academies exist only in the Statute Books, and the common Schools with a dormant capital of more than an hundred thousand dollars, are supported solely by individual contributions.

As a State we shall have the entire control of these lands, and the result will be felt in the erection of Colleges and Seminaries of learning, imparting the blessings of Education alike to the rich and the poor. The improvement, the moral and social condition of any people, depend upon the public intelligence, and the physical as well as intellectual character of our Territory, will rapidly advance from a judicious application of the means of education, thus placed at our disposal.

There is another view of this subject, which appears to your committee as one of high importance, and it is approached with a decent regard to the opinions of our northern brethren, but with a firm and manly resolve, that when the time comes as come it must, Florida will

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be found under the banner which maintains the Sovereignty with the Union of the States. The sectional jealousies, the fanatic and incendiary movements, which have made the Halls of Congress, a scene of confusion outrage and violence, though smothered for a time, will again burst forth with increased vigor and more relentless purpose. Florida should then be in the Councils as she will ever be in the field, by the side of her sisters.—Her influence, moral, intellectual, and physical, small though it be, thrown into the scale of Southern interests, may be felt at a time when the destinies of this empire hang upon a single vote. There is a voice too loud to be unanswered calling to Florida to take her stand in the ranks of the Union—Sovereign and independent—that voice is heard in the mutterings of the Abolitionist; in the deep low curses of our enemies, and the Shout of defiance from our friends. Shall we on to the rescue, bear with our brethren a part in the contest, or tamely and penuriously cling close to the fetters, of a colonial vassalage? Duty, patriotism, our social and political relations all demand that we should promptly and boldly assume our [rightful station in] the Confederacy, and if, with our Southern brethren, we fail in preserving the national Compact, from pollution and disruption, strong considerations still urge us to the measure, as we shall retire from the old to the new confederacy, with rights, privileges and immunities co-extensive with our Sister States.

Your Committee believe, and that opinion is confirmed by the concurrence of intelligent Statesmen, that our right to become a State, does not depend on population; it is granted to us by the treaty of cession and depends alone on our ability to meet a state government.—Without yielding the principle that our right of admission is clear, undoubted, and distinct from the question of population as fixed by the present ratio of representation, a Bill providing for the census of the people of Florida, has been heretofore submitted by the Committee, who present herewith to the action of the Council A bill to provide for the calling of a convention, & &c.

All of which is respectfully submitted.

PETER W. GAUTIER Jr Chairman.

* * *

NO. 11. AN ACT TO TAKE A CENSUS²⁰

[*January 26, 1838*]

An Act for the taking of a Census of Florida

Be it enacted by the Governor and Legislative Council of the Ter-

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ritory of Florida, That the Governor is hereby authorized and directed immediately after the final passage of this act, to appoint any number of persons he may think expedient, in the several Counties of this Territory, whose duty it shall be, on or before the first day of April next, to take a Census of the inhabitants, including and setting forth the number of white persons, slaves and free persons of colour, in their respective Counties, and the persons so appointed, before entering on the duties contemplated by this act, shall make oath before a Judge, or Justice of the Peace, faithfully, diligently, and truly, to take the Census in their respective limits: and the said persons thus appointed, are authorized to appoint one or more deputies, who shall also be sworn to a like performance of their duties, and it is hereby required that certified returns of the Census as taken shall be made to the Governor and Secretary of the Territory, on or before the first day of May next, and a certified copy thereof be filed in the County Court Clerks office of the County where the Census is taken.

Sec. 2. Be it further enacted, That the persons in each County, whose returns of the census shall be received at the Executive office, on or before the first day of May next, shall receive as compensation for the duties herein required, five cents per head on each inhabitant in their respective limits

Sec. 3. Be it further enacted, That the Treasurer of the Territory is hereby authorized, and directed, to pay to the several persons appointed under this act, the amount due to each for the services rendered as herein required, upon the certificate of the Governor, that the services have been performed.

Passed 22nd. Jay 1838

J. S. ROBINSON Clerk

THO: BROWN

President of the Legislative Council

Approved 26 Jany 1838

R K CALL

Gr of Florida

* * *

NO. 12. AN ACT TO CALL A CONVENTION²¹

[February 2, 1838]

An Act to call a Convention for the purpose of organizing a State Government

Sec 1. Be it enacted by the Governor and Legislative Council of

FLORIDA BECOMES A STATE

the Territory of Florida, That an election shall be held in the several Counties of This Territory, on the second Monday of October next, under the regulations and restrictions herein after imposed, for members of a Convention, to devise and adopt the most efficient, speedy and proper measures for the formation and establishment of an independent State Government for the people of Florida, and to form and adopt a bill of rights and Constitution for the same, and all needful measures preparatory to the admission of Florida into the national Confederacy.

Sec 2. Be it further enacted, That the apportionment of members to the said Convention, shall be as follows; in the Middle District the County of Leon shall be entitled to eight members, the County of Gadsden to four members, the County of Jefferson to four members the County of Madison to two members, the County of Hamilton to two members. In the Eastern District, the County of St Johns shall be entitled to four members, the County of Duval to three members, the County of Columbia to three members, the County of Alachua to three members, the County of Nassau to two members; the County of Musquito to one member and the County of Hillsborough to one member. In the Southern District the County of Monroe shall be entitled to two members, the County of Dade to one member. In the Western District the County of Jackson shall be entitled to four members, the County of Escambia to four members, the County of Walton to two members; the County of Washington to two members; the County of Franklin to two members and the County of Calhoun to two members.

Sec. 3. Be it further enacted, That it shall be [the] duty of the Judges or Clerks of the County Courts of the several Counties to advertise said election at least thirty days before the second Monday in October next and to appoint Inspectors thereof, who shall be sworn to conduct said election in the manner and form as prescribed for members to the Legislative Council, not contrary to the provisions of this act; and the Inspectors so appointed shall seal up and transmit the returns of said election within ten days thereafter to the Governor of the Territory at Tallahassee to be laid before the Convention, and that they shall within thirty days file with the Clerks of their respective Counties a copy thereof.

Sec. 4. Be it further enacted, That the Governor of the Territory shall announce by proclamation the names of the persons elected to said Convention, and in case the returns from any County shall not be completed by that day, as soon thereafter as practicable, and in

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case of a tie a new election is to be ordered by the Judges or Clerks of the County Court giving five days notice thereof, under qualified Inspectors appointed for said special election.

Sec. 5. Be it further enacted, That said Convention shall be held on the first Monday of December next at the City of St. Joseph.

Sec 6. Be it further enacted, That two thirds of said Convention shall be necessary to constitute a quorum and that the said Convention shall determine upon the returns and qualifications of its members, and shall have and exercise all the rights, privileges and immunities incident to such bodies, and may adopt such rules and regulations for its government as a majority thereof may direct, and provided two thirds of said Convention do not assemble on the day appointed therefor, a less number is authorized to adjourn from day to day.

Sec 7. Be it further enacted, That in case of the death resignation or non-attendance of any delegate chosen from any District of the Territory that the Delegation present from such District thus partially represented shall be entitled to elect from their own number a proxy to vote in the place of such absent member.

Sec 8. Be it further enacted, That all white male inhabitants, citizens of the United States, above the age of twenty one years, who have resided in the Territory of Florida for the space of six months immediately preceding the day of election shall be entitled to vote for Delegates to said Convention.—And all white male inhabitants citizens of the United States above the age of twenty one years, who have resided in the Territory of Florida for the space of twelve months immediately preceding the day of election, shall be eligible as Delegates to said body.

Sec. 9. Be it further enacted, That on the adoption of a constitution for the State of Florida, the Convention shall transmit an authenticated Copy thereof to the President of the United States to the presiding officers of both houses of Congress, and to the Delegate from Florida, and adopt such other measures as will secure to the people of Florida the rights and privileges of a sovereign State.

Sec 10. Be it further enacted, That the members of the Convention shall receive as compensation, the same rates as then allowed to members of the Legislative Council, and that the expenses of the Convention shall be paid out of the Territorial Treasury if no appropriation be made by Congress for that purpose.

F L O R I D A B E C O M E S A S T A T E

Sec 11. Be it further enacted, That if at the time of giving notice of said election or of holding the same it shall be inconvenient on account of Indian hostilities or other cause, to hold an election in any County, the County Judge or Clerk as the case may be shall order said election to be held at the most convenient place in an adjoining County, and all persons who have been residents of such County for the space of three months at one time, or who are at the time of election proprietors of legal or equitable titles to lands in said County shall have the right to vote at said election.

Passed 30th January 1838.

J S ROBINSON Clerk L. C.

THO: BROWN
President of the Legislative Council

Approved 2d Feb 1838

R K CALL Gr of Florida

* * *

NO. 13. MEMORIAL TO CONGRESS OF INHABITANTS
OF ST. AUGUSTINE²²

[February 5, 1838]

ANTI-STATE MEETING,

OR, EAST-FLORIDA A DISTRICT TERRITORIAL
GOVERNMENT

At a Meeting of the inhabitants of the city of St. Augustine, in East Florida, convened pursuant to notice by the Mayor, given on the application of a number of the citizens, Dr. ANDREW ANDERSON was appointed *Chairman*, and Capt. D. W. WHITEHURST, *Secretary*.

It having been stated that the meeting was called in consequence of information from Tallahassee that the Legislative Council of this Territory are now debating the subject of calling a Convention to form a Constitution preparatory to an application for the admission of the three Districts of East, West, and Middle Florida, as a State.

On motion *Resolved*, That a Committee be appointed to draft resolutions expressive of the sense of this meeting.

Whereupon, Peter Sken Smith, W. G. Davis, John M. Hanson, F. L.

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Dancy, Jos. S. Sanchez, and B. Segui, Esquires, were appointed that Committee.

The Committee reported the following Resolutions, which were adopted without a dissenting voice.

Resolved, That from the geographical position and lineal extent of this Territory, following a demarcation of more than two thousand miles in circumference, embracing an area of near forty millions of acres,—it is inexpedient that it should be erected into a State—that it never can locate its centre to prevent great inconvenience and expense to the extremes, and that the delay in transacting its business would almost exclude them from a participation of the benefits of Government.

Resolved, That the precipitation with which the people were urged into a vote on this subject, without previous discussion and without time to deliberate, while the country was engaged in a war which engrossed nearly its whole attention, in the opinion of the meeting, prevented a fair, deliberate expression of the wishes of the people, and that with a fair, full examination the result would be otherwise.

Resolved, That we are one and all opposed to being erected into a State with Middle and West Florida, and we are one and all in favor of separating East Florida from Middle and West Florida, making the Suwanee the dividing line.

Resolved, That the recent interesting discoveries of immense tracts of the finest soil, parallel to our extended sea coast, and in the interior of East Florida, renders its immediate settlement certain, when the war shall have terminated; and possessing in an eminent degree the natural elements for a State our inhabitants would prefer a distinct Territory, until East Florida, in right of her own numerical force, can take her place in the Union.

Resolved, That John M. Hanson, J. S. Sanchez and B. Segui, be a committee to draw up and circulate a memorial to Congress to correspond with other counties of East Florida, and with our delegate in Congress on the subject, and that our Representatives in the Territorial Council be instructed to oppose the call of a Convention.

Resolved, That application be made to the Congress of the United States to erect all that country in East Florida lying East and South of Suwanee river into a Territory separate and apart by itself from the other parts of the Territory of Florida.

Resolved, That the proceedings of this meeting, as well as the me-

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morial to be circulated among the citizens of East Florida, be published in the Florida Herald and Jacksonville Courier.

ANDREW ANDERSON, Chairman.

D. W. WHITEHURST, Secretary.

St. Augustine, February 5, 1838.

MEMORIAL.

To the Honorable the Senate and House of Representatives of the United States in Congress assembled:

YOUR petitioners, citizens of East Florida, beg leave most respectfully to represent to your Honorable body, that a law has been introduced, and is likely to pass through the Legislative Council of this Territory, calling a convention to form a State Constitution, preparatory to the admission of the entire Territory into the Union as an independent State Government.

Against this measure your petitioners beg leave to enter their most solemn protest.

Under the Spanish dominion, East and West Florida were governed as separate and different Provinces, and Pensacola and St. Augustine were the Capitals. One situated on the Gulph of Mexico, and the other on the Atlantic, the points to which the business and intercourse of the respective Provinces tended.

When they were organized by our National Government, they were both included in one Territory, and the Capitol was established at Tallahassee, a distance of 250 miles from the extreme of West Florida: about 750 from the extreme of East Florida, and 200 miles from the nearest point on the Atlantic shore.

To East Florida, this organization has been most peculiarly harassing and vexatious. Our people have been connected with and in part governed by, a territory of country possessing a large majority in numerical strength, and with which they had no association or business connexion, and have been so disconnected from the Legislature, and remote from its place of session as to be nearly excluded from all its benefits.

The Territory that is now attempted to be forced into a State against our best interests is about 900 miles long, varying in breadth from 30 to 160 miles; a line drawn through the interior of the country, equidistant from each border, would exceed 1000 miles in length.

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In a new and partially settled country as this is, destitute of roads and facilities of communication, it is easy to see the immense expense, trouble and inconvenience which a large portion of the population must suffer in their business connected with legislation and the administration of a State Government. The burthens that will be cast upon our people, are truly alarming, and we cannot forbear our remonstrance in the most unequivocal terms.

Nature never intended that East Florida should be formed into a State with Middle and West Florida.—Its geographical position presents an insuperable objection. It is only necessary to cast the eye over the Map, to see that at no distant day a separation must from necessity take place.

At this time, and while we remain a Territory, the process is simple; erect the whole into a State and the fabric is more intricate, critical and dangerous, and its accomplishment more tardy and troublesome.

Suwanee River, situated about one hundred and fifty miles East of the former line between the two provinces, presents a good and natural boundary.

It leaves both in the best possible form for States, and would leave in East Florida about five thousand of the present population of the Territory.

East Florida would then be about 700 miles long, and its mean breadth, one hundred and fifty miles. West Florida would then have about 500, and East Florida 1000 miles of sea coast.

Let it not be supposed that our numbers are too diminutive for notice. The best and by far the richest portion of this country, has been under the dominion of the sons of the forest. Their proximity to other lands not actually occupied by them, made settlements too dangerous to be multiplied. Remove them, and our numerous harbours and rivers, the climate, products, and other advantages, will present too many inducements for this region to remain desolate. No doubt remains among the intelligent, that in three years our population would entitle us to a place in the Union.

Neither do we see that Middle or West Florida will have any good cause to complain. Our population forms at this time so inconsiderable a portion of the whole, that it cannot very much retard the attainment of their darling object of becoming a State. By the time

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this Constitution shall have been formed, their census taken and their scheme ready for execution, their increase will probably exceed our present numbers.

Your petitioners, therefore, humbly pray your Honorable body to pass a law erecting and organizing that portion of Florida which lies East of the Suwanee River, into a Territory, separate and distinct from the other parts of the Territory of Florida—and your petitioners, as in duty bound, will ever pray.

St. Augustine, February 5th, 1838.

ANDW ANDERSON [*and 288 others*]

* * *

NO. 14. AN ENABLING BILL²³

H. R. 887. (No Report.)

July 7, 1838.

Read twice, and committed to the Committee of the Whole House on the state of the Union.

Mr. BRONSON, from the Committee on the Territories, to which the subject had been referred, reported the following bill:

A BILL To authorize the people of Florida to form a constitution and State Government, and to provide for the admission of said State into the Union.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of the Territory of Florida be, and they are hereby, authorized to form for themselves a constitution and State Government, and to assume such name as they may deem proper; and the said State, when formed in the manner hereinafter provided, shall be admitted into the Union upon an equal footing with the original States, in all respects whatsoever: Provided, That the constitution and State Government so to be formed shall be republican, and in conformity to the principles contained in the constitution of the United States.

SEC. 2. *And be it further enacted, That said State shall comprise all that territory usually known as East and West Florida, and which was ceded to the United States by Spain, by treaty between the United States and his Catholic Majesty, bearing date twenty-second February, eighteen hundred and nineteen.*

SEC. 3. *And be it further enacted, That, whenever it shall appear by a census to be taken by authority and direction of the Legislative*

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Council of said Territory, (the taking of which census shall be paid for by the United States, at the same rate heretofore allowed by law,) that the population of said Territory amounts to forty-seven thousand seven hundred, federal numbers, computed according to the rule prescribed in the constitution of the United States for the ratio of representation, then, upon the returns of such census, it shall be lawful for the Governor of said Territory to issue his proclamation certifying that fact, and directing an election to be held, in the manner hereinafter prescribed, for the purpose of electing delegates to a convention, and fixing the time of holding said election, which shall not be over three months and not less than one month from the first publication of said proclamation, as hereinafter directed; and the said proclamation shall be published in all of the newspapers in said Territory, or in as many as will publish the same, and in such other way as the Governor may deem proper; and, thereupon, an election shall be held, in the manner hereinafter prescribed, to devise and adopt proper measures for the formation and establishment of an independent State Government for the people of Florida, and to form and adopt a bill of rights and constitution for the same, and all needful measures preparatory to the admission of Florida into the national confederacy.

SEC. 4. *And be it further enacted*, That, the apportionment of members to the said convention shall be as follows: In the middle district, the county of Leon shall be entitled to eight members; the county of Gadsden to four members; the county of Jefferson to four members; the county of Madison to two members; the county of Hamilton to two members. In the eastern district, the county of St. John's shall be entitled to four members; the county of Duval to three members; the county of Columbia to three members; the county of Alachua to three members; the county of Nassau to two members; the county of Musquito to one member, and the county of Hillsborough to one member. In the southern district, the county of Monroe shall be entitled to two members; the county of Dade to one member. In the western district, the county of Jackson shall be entitled to four members; the county of Escambia to four members; the county of Walton to two members; the county of Washington to two members; the county of Franklin to two members, and the county of Calhoun to two members.

SEC. 5. *And be it further enacted*, That it shall be the duty of the judges or clerks of the county court of the several counties to advertise said election at least thirty days before the day fixed by the proc-

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clamation of the Governor for holding the same, and to appoint inspectors thereof, who shall be sworn to conduct said election in the manner and form as prescribed for members to the Legislative Council, not contrary to the provisions of this act; and the inspectors so appointed shall seal up and transmit the returns of said election, within ten days thereafter, to the Governor of the Territory, at Tallahassee, to be laid before the convention; and they shall, within thirty days, file with the clerks of their respective counties a copy thereof.

SEC. 6. *And be it further enacted*, That the Governor of the Territory shall announce by proclamation the names of the persons elected to said convention, and in case the returns from any county shall not be completed by that day, as soon thereafter as practicable; and in case of a tie, a new election is to be ordered by the judges or clerks of the county court, giving five days' notice thereof, under qualified inspectors, appointed for said special election; and that said convention shall be held at the city of St. Joseph, on such day as the Governor shall by proclamation appoint, not exceeding three months after the said election; and the said convention, after they shall be duly organized and ready to proceed to business, shall first determine, by vote to be duly taken, whether it is or is not expedient to form a constitution and State Government for the people of Florida aforesaid; and if, by a majority of the votes of all the members elected to said convention, they shall determine that it is expedient to form such constitution and State Government for the people of Florida, then the said convention shall be, and are hereby, authorized to form such constitution and State Government.

SEC. 7. *And be it further enacted*, That two-thirds of said convention shall be necessary to constitute a quorum; and that the said convention shall determine upon the returns and qualifications of its members, and shall have and exercise all the rights, privileges, and immunities incident to such bodies, and may adopt such rules and regulations for its government as a majority thereof may direct: and provided two-thirds of said convention do not assemble on the day appointed therefor, a less number is authorized to adjourn from day to day.

SEC. 8. *And be it further enacted*, That, in case of the death, resignation, or non-attendance of any delegate chosen from any district of the Territory, the delegation present from such district thus partially represented shall be entitled to elect from their own number a proxy to vote in the place of such absent member; and that all white

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male inhabitants, citizens of the United States, above the age of twenty-one years, who have resided in the Territory of Florida for the space of six months immediately preceding the day of election, shall be entitled to vote for delegates to said convention; and all white male inhabitants, citizens of the United States, above the age of twenty-one years, who have resided in the Territory of Florida for the space of twelve months immediately preceding the day of election, shall be eligible as delegates to said body.

SEC. 9. *And be it further enacted*, That, on the adoption of a constitution for the State of Florida, the convention shall transmit an authenticated copy thereof to the President of the United States, to the presiding officers of both Houses of Congress, and to the delegate from Florida; and, if the same be ratified and approved by Congress, the said State shall then be admitted into the Union, upon an equal footing with the original States.

SEC. 10. *And be it further enacted*, That the members of the convention shall receive as compensation the same rates as are allowed to members of the Legislative Council.

SEC. 11. *And be it further enacted*, That if, at the time of giving notice of said election, or of holding the same, it shall be inconvenient, on account of Indian hostilities or other cause, to hold an election in any county, the county judge or clerk, as the case may be, shall order said election to be held at the most convenient place in an adjoining county; and all persons who have been residents of such county for the space of three months at one time, or who are, at the time of the election, proprietors of legal or equitable titles to lands in said county, shall have the right to vote at said election.

SEC. 12. *And be it further enacted*, That, until the next general census of the United States shall be taken, the said State shall be entitled to one representative in the House of Representatives of the United States.

SEC. 13. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said convention of the Territory of Florida, when formed, for their free acceptance or rejection, and which, if accepted by the said convention, shall be obligatory upon the United States, and also upon the said State, when formed, and the people thereof, to wit:

First. Section numbered sixteen in every township of the public lands within said State; and when such section has been sold, or

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otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, to be selected by the President of the United States, shall be granted to the State for the use of schools.

Second. That the two townships of land, one in East Florida and the other in West Florida, which have been heretofore set apart and reserved for the use and support of a university, by the eleventh section of an act of Congress passed March third, eighteen hundred and twenty-three, shall be granted and conveyed to said State, to be appropriated solely for the use and support of such university, in such manner as the Legislature of said State shall prescribe.

Third. That five per cent. of the nett proceeds of the sales of all public lands belonging to the United States, lying within said State, which shall be sold by the United States, from and after the time when the said State shall be finally admitted into the Union, after deducting all expenses incident to the same, shall be appropriated by Congress for making such public roads and canals, or other internal improvements within said State, as the Legislature thereof may direct.

Fourth. That all salt-springs in said State, not exceeding, however, twelve in number, with six sections of land adjoining, or as contiguous as may be, to each, shall be granted to the said State for its use; the same to be selected within four years after the said State shall have been finally admitted into the Union; and the same, when so selected, to be used on such terms and conditions, and under such regulations, as the Legislature of said State shall provide: *Provided, however,* That the said Legislature shall never sell or lease the same for a longer period than ten years without the consent of Congress: *And provided, further,* That no salt-spring, the right whereof is vested in any individual or individuals, shall, by this section, be granted to said State: *And provided, further,* That the four foregoing propositions herein offered are upon the condition that the Legislature of said State, by virtue of powers to be conferred upon it by the aforesaid convention, shall provide, by an ordinance which shall be irrevocable without the consent of the United States, that the people inhabiting said Territory of Florida do agree and declare that they forever disclaim all right and title to the waste or unappropriated lands lying within said Territory or contemplated State, and that the same shall be and remain at the sole and entire disposal of the United States; and that the said State shall never interfere with the primary disposal of the soil within the same by the United States,

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nor with any regulations which Congress may see fit to make for securing the title in such soil to the bona-fide purchasers thereof; that no tax shall be imposed on the lands or soil the property of the United States; that in no case shall non-resident proprietors be taxed higher than residents; and that bounty lands granted, or hereafter to be granted, by the United States, for military services, shall, while they continue to be held by the patentees, or their heirs, remain exempt from any tax to be laid by order or under authority of the State Government, for any purpose whatever, for the term of three years from and after the date of the patents respectively.

* * *

NO. 15. CENSUS OF THE TERRITORY OF FLORIDA²⁴

ST. JOSEPH, *December 10, 1838.*

SIR: I have the honor to transmit to the convention an abstract of the census returns of the Territory of Florida, in pursuance of the resolution passed on the 7th instant.

Respectfully yours, &c.,

JOHN P. DUVAL,
Secretary and acting Governor

To the Hon. ROBERT RAYMOND REID,
President of the Convention of Florida.

*Census of the Territory of Florida, 1838.*²⁵

Counties.	Whites.	Slaves.	Free Blacks.	Total.
St. John's	1,330	820	152	2,293
Duval	1,536	1,564	181	3,281
Alachua	594	316	0	910
Columbia	2,486	132	0	2,618
Dade	263	29	22	314
Monroe	452	93	73	618
Hillsborough	77	13	5	95
Nassau, (no returns.)				
Mosquito, (no returns.)				
Leon	3,916	6,083	32	10,031
Jefferson	2,113	3,140	11	5,264
Gadsden	2,351	3,180	11	5,542
Madison	986	701	8	1,695
Hamilton, (no returns.)				

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Counties.	Whites.	Slaves.	Free Blacks.	Total.
Escambia	2,703	1,458	388	4,549
Walton	961	171	22	1,154
Washington	352	335	1	688
Jackson	2,020	2,400	40	4,460
Franklin	1,890	169	7	2,066
Calhoun	1,113	527	5	1,645
Total	25,143	21,132	958	48,223

I certify that the above is a true copy of the census returns in the Executive and Secretary's offices.

JOHN P. DUVAL,
Secretary and acting Governor of Florida.

* * *

[NO. 16.] JOURNAL AND PROCEEDINGS.²⁶

PROCEEDINGS of a Convention, held at the City of Saint Joseph, in the Territory of Florida, on Monday the third day of December, 1838, "to devise and adopt the most efficient, speedy, and proper measures for the formation and establishment of an independent State Government for the people of Florida, and to form and adopt a Bill of Rights, and a Constitution for the same, and all needful measures preparatory to the admission of Florida into the National Confederacy," in pursuance of an act of the Legislative Council of Florida, passed at their session of 1838.

The Convention met at 12 o'clock, M. On motion of Thomas Brown of Leon county, Jackson Morton, of Escambia county, was called to the Chair, and Richard Fitzpatrick, of Dade county, was selected to act as Secretary *pro tem*.

The Rev. Peter W. Gautier, was requested to open the Convention with prayer; which was done in an appropriate manner.

On motion of Mr. Brown of Leon, it was

Resolved, That a committee of one member from each judicial district, be appointed to wait on the acting Governor of the Territory of Florida, and request him to furnish the Convention with a copy of his Proclamation, and the election returns for the several counties: Whereupon Messrs. Brown, of Leon, Marvin, Levy, Long, and McKinnon, were appointed.

The committee reported by their chairman, Mr. Brown, that they had performed the duty assigned them, and submitted a communica-

JOURNAL
OF THE
PROCEEDINGS
OF A
CONVENTION OF DELEGATES
TO FORM
A CONSTITUTION FOR THE PEOPLE OF FLORIDA,
HELD AT ST. JOSEPH,
DECEMBER,
1838.

ST. JOSEPH:
PRINTED AT THE "TIMES" OFFICE,
1839.

TITLE PAGE OF JOURNAL OF THE CONVENTION

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tion from the acting Governor, together with the election returns, which communication was read.

To the Honorable Convention of Florida:

Gentlemen— In pursuance of the act of the Legislative Council, calling a Convention for organizing a State Government, I have the honor to transmit to your body the original election returns for members of the Convention. I have also deemed it proper to transmit at the same time the returns of the census of Florida. Believing that it was the intention of the Legislative Council, that you should be the judges of the returns of elections, I shall wait your decision before proclamation shall be made.

JOHN P. DUVAL, Acting Gov'r of Florida.
St. Joseph, Dec. 3, 1838.

[4] On motion of Mr. Marvin of Monroe, it was

Resolved, That a committee be appointed, to consist of one member from each judicial district, to examine the returns for delegates to this Convention.

The committee appointed to examine into the returns of the election of members to this Convention, and report who are elected, respectfully report:

That they have performed the duty assigned them, and that they find the returns of elections of members in many cases deficient and imperfect. But from the returns before them, and other evidences of the elections, they report that the following persons are duly elected from the following counties:

From Leon—George T. Ward, John Taylor, Thomas Brown, Samuel Parkhill, James D. Westcott, Jr., Leigh Read, Leslie A. Thompson, William Wyatt.

Gadsden—Banks Meacham, John W. Malone, John M. G. Hunter, Samuel B. Stephens,

Jefferson—Abraham Bellamy, John M. Partridge, Joseph McCants, E. Carrington Cabell.

Madison—John C. McGehee, Richard J. Mays.

Hamilton—Joseph B. Watts, William B. Hooker.

St. Johns—Joseph S. Sanchez, Robert Raymond Reid, David Levy, Edwin T. Jencks.

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Duval—A. W. Crichton, Oliver Wood, Samuel T. Garey.

Alachua—Isaac Garrison, E. K. White E. Bird.

Columbia—John F. Webb, Wilson Brooks, George E. McClellan.

Nassau—James G. Cooper, William Haddock.

Musquito—William H. Williams.

Hillsborough—no returns.

Monroe—William Marvin, Joseph B. Brown.

Dade—Richard Fitzpatrick.

Jackson—Thomas Baltzell, Samuel C. Bellamy, Alfred L. Woodward, Richard H. Long.

Escambia—Jackson Morton, Benjamin D. Wright, Thomas M. Blount, Walker Anderson.

Walton—John L. McKinnon, Daniel G. McLean.

Washington—Stephen J. Roche, E. Robbins.

Franklin—A. G. Semmes, C. E. Bartlett.

Calhoun—William P. Duval, Richard C. Allen.

In examining the returns, the committee have been assisted in their labors by the Proclamation of the Governor, made in pursuance of the act of the Legislative Council, authorizing the election of members to this Convention, and which is herewith respectfully submitted.

WM. MARVIN, Chairman.

PROCLAMATION

By John P. Duval, Secretary and acting Governor of the Territory of Florida.

In pursuance of an act of the Governor and Legislative Council of the Territory of Florida, entitled "An act to call a Convention for the purpose of organizing a State Government," passed 30th January, 1838, and approved 2d February, 1838, I, John P. Duval, Secretary and Acting Governor of the Territory of Florida, hereby proclaim and make known, that the following [5] are the names of the persons elected to the Convention, to be held on the first Monday of December, 1838, at the city of St. Joseph, as provided by the said act, viz:

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MIDDLE DISTRICT.

County of Leon, George T. Ward, John Taylor, Samuel Parkhill, Thomas Brown, James D. Westcott, Jr., Leigh Read, Leslie A. Thompson, William Wyatt; county of Gadsden, Banks Meacham, Samuel B. Stephens, John W. Malone, John M. G. Hunter; county of Jefferson, Abraham Bellamy, Joseph McCants, John M. Partridge, Edward Carrington Cabell; county of Madison, John C. McGehee, Richard J. Mays; county of Hamilton, Joseph B. Watts, William B. Hooker.

EASTERN DISTRICT.

County of St. Johns, Robert Raymond Reid, Joseph S. Sanchez, David Levy, Edwin T. Jenckes; county of Duval, A. W. Crichton, Oliver Wood, Samuel T. Garey; county of Columbia, George E. McClellan, John F. Webb, Wilson Brooks; county of Alachua, Isaac Garrison, E. K. White, E. Bird; county of Nassau, William Haddock, James G. Cooper; county of Musquito, William H. Williams; county of Hillsborough, (no returns.)

SOUTHERN DISTRICT.

County of Monroe, William Marvin, Joseph B. Brown; county of Dade, Richard Fitzpatrick.

WESTERN DISTRICT.

County of Jackson, Thomas Baltzell, Richard H. Long, Alfred L. Woodward, Samuel C. Bellamy; county of Escambia, Jackson Morton, Thomas M. Blount, Benjamin D. Wright, Walker Anderson; county of Walton, John L. McKinnon, Daniel G. McLean; county of Washington, Stephen J. Roche, E. Robbins; county of Franklin, A. G. Semmes, Cosam E. Bartlett; county of Calhoun, William P. Duval, Richard C. Allen.

The counties of Jackson, Calhoun, Franklin, and Washington, now being in the Apalachicola Judicial District.

In witness whereof I have hereunto set my hand this 3d day of December, 1838, and of the Independence of the United States the 63d year.

JOHN P. DUVAL.

TUESDAY, December 4th, 1838.

The Convention met according to adjournment.

Mr. Baltzell presented the report of the western delegates, appoint-

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ing Jackson Morton proxy to vote for the absent members from that district.

Mr. Sanchez presented the report of the eastern delegation, appointing Edwin T. Jenckes proxy to vote for absent members from that district.

Mr. Brown, from the middle district reported, that the delegates had not agreed upon the proxy to vote for the absent members from that district.

On motion of Mr. Read of Leon, the delegation from the middle district, had leave granted them to retire a second time, for the purpose of electing a proxy, to vote for the absent members from that district.

On motion of Mr. Baltzell, the convention took a recess.

When the convention again met, Mr. Brown from the middle district, reported that the delegation had agreed to appoint himself as a proxy to act in place of Mr. Wyatt, Mr. Partridge as proxy to act in the place of the absent members from Madison county.

[6] On motion of Mr. Bellamy of Jackson, it was

Resolved, That this convention proceed to elect, *viva voce*, a President to preside over the deliberations of this convention, and that a majority of the votes of all the members, be necessary to a choice.

Mr. Parkhill of Leon, nominated Wm. P. Duval, Esq. as a candidate.

Mr. Read of Leon, nominated Robert Raymond Reid, Esq.

Messrs. Ward and Read of Leon, were appointed tellers.

On the first ballot, Robert Raymond Reid received twenty-seven votes; William P. Duval received twenty-six votes.

Whereupon Mr. Baltzell introduced the following resolution:

Resolved, That Robert Raymond Reid is duly elected President of this Convention.

Messrs. Westcott, Read of Leon, and Thompson, were appointed a committee to notify Mr. Reid of his election, who, upon taking the chair, addressed the Convention nearly as follows:

Fellow-Citizens: The honor you have just conferred upon me awakens all my sensibilities and demands a warmer expression of gratitude, than I have the power to convey. To have been selected

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to preside over an assembly representing the sovereignty of the people, and convened for the purpose of forming the Constitution of a new State, is a distinction for which I stand indebted to no merit of my own, but to your generosity and kindness towards East Florida, one of whose representatives I am. East Florida has suffered almost to extremity, and she is still suffering, from the horrors and barbarities of Indian warfare; she is not well prepared for the measure which, in obedience to the view of the people, we have assembled here, to consummate. You, fellow-citizens, have chosen this occasion, for the purpose of manifesting your sympathies and your regard for East Florida, by conferring an honor upon her, in the person of her Representative. For the District to which I belong—for my humble self—I offer you sincere and grateful thanks.

The duties, which at your bidding, I am to attempt to perform, fill me, in prospect, with apprehension. Many years have elapsed since I have been conversant with the proceedings of a deliberative body, and I am not skilled in the law and usage of Parliament. A reliance upon your constant indulgence, the hope of your continued favor, constitute my only relief, from the painful conviction of inability and inexperience.

It is not perhaps improper, that I should allude for a moment, to the labors which lie before us, and which we are required to perform; and yet, you know and appreciate them perfectly well. We stand here, fellow-citizens, upon an eminence, and the eyes of men are upon us. I am sure you will bring to your deliberations candor, calmness, and an enlightened intelligence. I trust this place will be considered too holy for the introduction of party, or partizan politics; and I indulge the hope, that the result of your labors—the Constitution of the State of Florida, will remain to late posterity, a monument of your wisdom and patriotism.

On motion of Mr. Morton,

Resolved, That the convention go into the election of Secretary of the convention, and that the vote be taken *viva voce*.

Mr. Morton nominated James S. Robinson for that office, and Mr. Westcott nominated Joshua Knowles.

[7] Messrs. Long and Marvin were appointed tellers.

On counting the votes, there were given, for J. Knowles, thirty-three votes, for J. S. Robinson, twenty-two votes. Mr. Knowles was thereupon declared duly elected.

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On motion of Mr. Westcott, the Convention went into an election of Serjeant at Arms, and Alexander Stuart was duly elected.

On motion of Mr. Morton:

Resolved, That the rules of the Legislative Council be adopted by this convention, as rules to govern its proceedings and deliberations, so far as they apply, until further ordered, which was adopted.

On Motion of Mr. Morton:

Resolved, That a committee of seven members be appointed by the chair, to prepare rules to govern the proceedings and deliberations of the convention, and that said committee be instructed to report tomorrow, which was also adopted.

The following members were appointed, Messrs., Morton, Duval, Allen, Read of Leon, Westcott, Levy, and Ward.

Mr. Westcott presented the following resolution:

Resolved, That a committee of seven be appointed, to enquire and report what matters will be most expedient, to bring before the convention the several articles of a Constitution for the State of Florida; and that they make report by resolutions as soon as practicable.

Mr. Fitzpatrick presented the following resolution:

Resolved, That the Secretary of this convention, be authorised and requested to provide the same with stationary, and that he be also authorised to contract for the printing, which shall be ordered by this convention, on the most reasonable terms, and that it shall be his duty to superintend the same.

Mr. Fitzpatrick offered the following resolutions:

1st. *Resolved*, That a committee be appointed to take into consideration, the Bill or Declaration of Rights proper to be adopted by this convention.

2nd. *Resolved*, That a committee be appointed to take into consideration, the Legislative Department, to be established by this convention.

3rd. *Resolved*, That a committee be appointed to take into consideration, the Executive Department of Government, to be established by this convention.

4th. *Resolved*, That a committee be appointed to take into consideration, the Judicial Department of Government, to be established by this convention.

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5th. *Resolved*, That a committee be appointed to take into consideration, the General Provisions of the Government, to be established by this convention.

6th. *Resolved*, That each committee appointed under these resolutions, shall consist of six members, and that they report upon the several matters, submitted for their consideration, at as an early a day as practicable.

WEDNESDAY, December 5th 1838.

The convention met pursuant to adjournment.

Mr. Fitzpatrick offered the following preamble and resolutions,

Whereas, the people of all that territory or country ceded to the United [8] States, under the name of East and west Florida, by the treaty made at Washington, on the 22d of February 1819, between the United States and Spain, in which, it is set forth in the sixth article of said treaty of session, that "the inhabitants of the territories, which his Catholic Majesty ceded to the United States by this treaty, shall be incorporated into the Union of the United States, as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights and immunities of the citizens of the United States," and whereas there is no principle of the Federal Constitution, which forbids the incorporation of Florida into the Union of the United States; and "whereas the people of the territories, ceded to the United States, by his Catholic Majesty," did on the day of October, 1838, elect Delegates from the several counties of the aforesaid territories, to assemble at the city of St. Joseph, on the first Monday in December, 1838, to form a Constitution and State Government:

Be it therefore *Resolved*, by the Delegates of the Territories aforesaid now in convention assembled, that the people of the ceded territories have the right, in virtue of the before recited sixth article of the said treaty, to be "incorporated into the Union of the United States," and admitted into the general Government, on an equal footing with the original States.

Resolved further, That it is expedient and necessary that the Delegates here assembled, do forthwith proceed to the formation of a constitution and State Government.

The following resolution was offered by Mr. Woodward:

Resolved, That the President be authorised to invite a clergyman,

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to officiate as chaplain to this convention, by opening the convention every morning with prayer.

Mr. Ward offered the following resolution.

Resolved, That a committee be appointed of five members, to whom shall be referred such parts of the treaty of 1819, as relate to the admission of Florida into the Union—the ordinance of 1787, respecting the admission of territories, and the law of the last session of the Legislative council, providing for this convention, and that they be instructed to report thereon to this house.

Mr Ward, from the committee appointed to draft rules for the Government of this convention, presented a code of rules, which after sundry amendments, were adopted.

1. The President shall take the Chair every day at the hour, to which the House shall have adjourned on the preceding day; shall immediately call the members to order. The roll shall then be called, and on the appearance of a quorum, the journal of the preceding day to be read.

2. He shall preserve order and decorum; may speak to points of order in preference to other members, rising from his seat for that purpose; and shall decide questions of order, subject to an appeal to the House by any two members; on which appeal no member shall speak more than once, unless by leave of the House.

3. He shall rise to put the question, but may state it sitting

4. No member shall speak to another, or otherwise interrupt the business of the Convention, or read any newspaper, while the journals or public papers are reading, or when any member is speaking in debate.

[9] 5. Every member when he speaks shall address the Chair, standing in his place, and when he has finished shall sit down.

6. No member shall speak more than twice in any one debate on the same day, without leave of the House.

7. When two or more members shall rise at the same time, the President shall name the person entitled to proceed.

8. When a member shall be called to order, he shall sit down until the President shall have determined whether he is in order or not; and every question of order shall be decided by the President without debate; subject to an appeal to the House; and every mem-

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ber shall confine himself strictly to the point in debate, avoiding all personal, indecorous, or disrespectful language.

9. If the member be called to order for words spoken, the exceptional words shall immediately be taken down in writing by the President.

10. No motion shall be debated until the same shall be seconded.

11. When a motion shall be made and seconded, it shall be reduced to writing, if desired by the President or any member, delivered in at the table, and read before the same shall be debated.

12. When a question is under debate, no motion shall be received but to adjourn, to lie on the table, to postpone indefinitely, to postpone to-day certain, to commit, or to amend; which several motions shall have precedence in the order in which they stand arranged, and the motion for adjournment shall be in order, and be decided without debate.

13. If the question in debate contain several points, any member may have the same divided.

14. In filling up blanks, the largest sum and longest time shall be first put.

15. When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by vote of the Convention, and without debate.

16. When the yeas and nays shall be called for by two of the members present, each member called upon shall, unless for special reasons, he be excused by the House, declare openly, and without debate, his assent or dissent to the question. In taking the yeas and nays, and upon the call of the House, the names of the members shall be taken alphabetically.

17. The following order shall be observed in taking up the business of the Convention, viz: motions, petitions, resolutions, reports of standing committees, reports of select committees, orders of the day.

18. When a question has been once made and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof; nor shall any motion for reconsideration be in order, unless made on the same day on which the vote was taken, or within the two next days of the actual session of the Convention.

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19. On a question when the ayes and noes are called for, in the event of a tie, the question shall be decided in the negative.

20. All questions shall be put by the President, and the members shall signify their assent or dissent, by answering viva voce, aye or no.

21. The President of the Convention, or President pro tempore, shall have the right to name a member to perform the duties of the chair; but such substitute shall not extend beyond an adjournment.

[10] 22. Before any petition or memorial, addressed to the Convention, shall be received and read at the table, whether the same be introduced by the President or a member, a brief statement of the contents of the petition or memorial shall verbally be made by the introducer.

23. Every section of the constitution shall receive three readings previous to its being adopted; the President shall give notice at each, whether it be the first, second, or third; which readings shall be on three different days, unless two thirds of the House declare otherwise.

24. All committees shall consist of not more than seven members, nor less than five, and be appointed by the President.

25. The proceedings of the Convention shall be entered on the journals concisely.

26. The Governor and Secretary of the Territory, and the present and former Delegates to Congress from this Territory, and Judges of the Supreme Courts, shall be admitted to a seat within the bar of this house, upon being invited by any member of the Convention.

27. The Secretary of the Convention, and the Sergeant at Arms, shall severally be sworn by the President of the Convention, well and faithfully to discharge their respective duties.

28. All resolutions presented to this House, shall lie on the table one day, before any vote shall be taken on the adoption of the same, unless by unanimous consent of the House, this rule be waived.

29. If any person shall commit any contempt of this Convention, or breach of privilege, he shall be punished therefor as the House may direct, and the President shall have power to order the Sergeant at Arms to take into custody, and bring before the Bar of the House, any person guilty of such contempt or breach of privilege.

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And, on motion of Mr. Ward, two hundred copies were ordered to be printed.

The following resolution, offered by Mr. Westcott on a former day, was read a second time, and adopted:

Resolved, That a committee of seven be appointed to enquire, and report, what method will be most expedient to bring before the convention the several articles of a constitution, for the State of Florida, and that they make report by resolution, as soon as practicable.

The following gentlemen were appointed that committee: messrs. Westcott, Bellamy of Jefferson, Duval, Baltzell, Levy, Fitzpatrick and Marvin.

Mr. Bellamy of Jefferson, offered the following resolution:

Resolved, That said committee be instructed to enquire into the expediency of reporting for the consideration of the convention, the constitution of the State of Alabama, which when thus reported, may be taken up and considered article after article, and altered and modified to suit the State of Florida.

A resolution by Mr. Bartlett was read a second time, and adopted.

Resolved, That Editors of the different newspaper establishments in this Territory and elsewhere, be provided with seats in this house, and facilities for reporting the proceedings of this convention, on their applying to the President for that purpose.

Mr. Baltzell offered the following resolution:

Resolved, That a committee of five be appointed to bargain for, and provide a suitable house for the Convention during the present session.

[11] Mr. Marvin offered the the following resolution, and the rule being waived, it was adopted.

Resolved, That the President of the Convention be authorized to administer an oath to the members of this convention, that they will faithfully discharge their respective duties, according to the best of their abilities, and that each member be at liberty to take said oath, or decline it, according to his own conscience or opinion of its propriety, and that each member be at liberty to swear, affirm, or declare, in such mode or manner as he shall deem right and proper, or decline to do either.

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The members of the convention then came forward and were respectively sworn.

A letter was received by the President from the Rev. Peter W. Gautier, which was read and laid on the table.

On motion of Mr. Marvin, the convention adjourned till ten o'clock tomorrow.

THURSDAY, December 6th, 1838.

The convention met pursuant to adjournment.

Mr. Westcott, from the committee appointed to report what method would be most expedient to bring before the convention the several articles of a constitution for the State of Florida, submitted the following report and resolutions, which were read and adopted.

1. *Resolved*, That the following committees be appointed to draft for the consideration of the convention, separate articles of a constitution for the State of Florida :

- A Committee on the Preamble, Declaration and Bill of Rights.
- ” on the Executive Department.
- ” on the Legislative Department.
- ” on the Judicial Department.
- ” on the Right of Suffrage and Qualifications of Officers.
- ” on Civil Offices, Officers, and Impeachments and Removals from Office.
- ” on the Militia.
- ” on Taxation and Revenue.
- ” on the Census and the Apportionment of Representation.
- ” on Education.
- ” on Public Domain and Property, and Internal Improvements.
- ” on Banking and other Incorporations.
- ” on Boundaries
- ” on Amendments and Revision of the Constitution.
- ” on General Provisions, including the subject of Domestic Slavery.
- ” on the Seat of Government.
- ” on Relations with the National Government and the right of the people of Florida to claim Admission into the National Confederacy as a State, and the mode, form, and time of application.

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And that each of said committees respectively be instructed to make report by Monday next.

[12] 2. *Resolved*, That a committee be appointed to draft and report by Wednesday next, such regulation and ordinance as may be proper to be adopted by this convention, in the establishment of a State Government.

In order to ensure the proper and correct entry of the proceedings of the convention in a permanent record, the following resolution is submitted:

Resolved, That a committee be appointed to revise and superintend the recording of the Journal of this convention.

All of which is respectfully submitted.

JAMES D. WESTCOTT, Jr., Chairman.

Agreeably to the last resolution, the following gentlemen were appointed a committee to superintend the recording of the journal of the convention—Messrs. Baltzell, Marvin, McClellan, Bartlett and Cabell.

The convention then proceeded to take up the orders of the day.

The resolution of Mr. Woodward, authorising the appointment of a Chaplain, was read a second time and adopted.

The resolution offered by Mr Ward, on a former day, was read, and on motion, ordered to lie on the table till to-morrow.

The following resolution, offered by Mr. Baltzell, was read a second time, and adopted:

Resolved, That a committee of five be appointed to bargain for, and provide a suitable house for the convention during its present session.

Messrs. Baltzell, Brown of Leon, Sanchez, Allen and White, were appointed that committee; and, on motion of Mr. Baltzell, the letter of the Rev. Mr. Gautier, proffering in behalf of the stewards and members of the Methodist Church, their house of worship for the use of the convention, was referred to said committee.

On motion, the Convention then adjourned until to-morrow at ten o'clock.

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FRIDAY, December 7th, 1838.

The convention met pursuant to adjournment, and was opened with prayer by the Rev. Mr. Gautier

Messrs. Wright and Anderson, of Escambia, and McGehee from Madison, appeared, were sworn, and took their seats.

The President, in conformity with a resolution offered by Mr. Westcott on yesterday, announced the following Committees:

On the Preamble, Declaration and Bill of Rights.—Messrs. Bellamy, of Jefferson, Thompson, Morton, McKinnon, and Woodward.

On the Executive Department.—Messrs. Duval, Stephens, Crichton, Bird, Meacham and McGehee.

On the Legislative Department.—Messrs. Brown, of Leon, Bellamy, of Jefferson Sanchez, Wyatt and Robbins.

On the Judicial Department.—Messrs. Allen, Westcott, Baltzell, Ward and Partridge.

On the Right of Suffrage and Qualifications of Officers.—Messrs. Jenckes, Read of Leon, Garrison, Hooker and McLean.

On Civil Offices and Officers, and Impeachments and Removals from Office.—Messrs. Parkhill, Long, Fitzpatrick, Hunter and Bird.

On the Militia.—Messrs. Read of Leon, Parkhill, Crichton, Brooks and McLean.

[13] *On Taxation and Revenue.*—Messrs. Thompson, Hunter, Haddock, Webb and Roche.

On the Census and Apportionment of Representation.—Messrs. Bartlett, Woodward, Williams, Watts and Malone.

On Education.—Messrs. Ward, Marvin, Semmes, White and Wood.

On Public Domain, and Property, and Internal Improvements.—Messrs. Marvin, Cabell, Roche, Watts and Haddock.

On Banking and other Corporations.—Messrs. Westcott, Bellamy, of Jackson, Brown, of Leon, Long, Levy, and Anderson

On Boundaries.—Messrs. Baltzell, Wyatt, Taylor, McClellan and White.

On Amendments and Revision of the Constitution.—Messrs. McCants, Stephens, Cabell, McKinnon and Garrison.

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On General Provisions, including the subject of Domestic Slavery.—Messrs. Partridge, Malone, Bellamy, of Jackson, Wood and Sanchez.

On the Seat of Government.—Messrs. Taylor, Jenckes, Allen, Semmes and McClellan.

On Relations with the General Government, and the Right of the People of Florida to claim admission into the National Confederacy as a State, and the mode, form, and time of Application. — Messrs. Fitzpatrick, Bartlett, Webb, Williams, McCants, Wright and Ward.

A Committee to draught and report such Regulations and Ordinances as may be proper to be adopted by this Convention in the establishment of a State Government. — Messrs. Morton, Duval, Meacham, Brooks and Levy.

On motion of Mr. Fitzpatrick, Mr. Wright was added to the committee on the Relations with the National Government, &c.

On motion of Mr. Duval, Mr. McGehee was added to the Executive committee.

On motion of Mr. Morton, Mr. Anderson was added to the committee on Banks and other Corporations.

On motion of Mr. Baltzell, one hundred copies of the list of committees were ordered to be printed.

Mr. Cabell moved that one hundred copies of so much of the treaty of the United States with Spain, as relates to the admission of the Floridas into the Union, and their boundaries, be printed.

Mr. Bellamy of Jackson, offered the following resolution, which, on the rule being waived, was read and passed.

Resolved, That the acting Governor of this Territory be respectfully requested to lay before this convention, an abstract of the returns of the census from the different counties of the Territory, so far as heard from, and naming the counties from which returns have not been received.

Mr. Semmes offered the following resolution:

Resolved, That the committee to whom was referred the subject of Banking and other Incorporations, be instructed to enquire—

1st, Into the expediency of limiting by constitutional provisions the power of the State Legislature of the State, in granting powers of incorporation.

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2d, Into the expediency of restricting the power of the Legislature of the State to the incorporation of one State Bank, with branches, and no more.

3d, Into the policy of adopting one of the existing Banking institutions, as the State Bank, or of incorporating a new institution specially for that purpose.

[14] 4th, Into the expediency of authorising the Legislature to commute the bonuses secured by existing charters, to the end that the same may be available to the State as an immediate and permanent source of revenue, and thereby lessen the taxes necessary to be levied on the people.

Mr. Fitzpatrick moved the following resolution:

Resolved, That the Secretary of the convention be instructed to contract for the printing of one thousand copies of the Journals of this convention.

Mr. Baltzell from the committee appointed to obtain a room for the use of the convention, presented the following report and resolution, which were read and adopted:

The committee appointed to provide and bargain for a suitable house for the convention, in which to hold its sittings, have had the same under consideration and report, that they have agreed with a committee of the citizens of St. Joseph, for the use of the building now occupied by the convention, for such time as it may be needed by them, at the price of one thousand dollars. They therefore propose the following resolution:

Resolved, That the sum of one thousand dollars be allowed the committee of the citizens of St. Joseph, for the use of the building now in the occupancy of the convention, for such time as may be required for their session.

The convention then proceeded to take up the orders of the day.

On motion of Mr. Bellamy of Jefferson, the convention went into a committee of the whole, (Mr Brown of Leon in the chair) on the preamble and resolutions offered by Mr. Fitzpatrick, on the propriety and utility of incorporating Florida into the national confederacy.

After some time spent in the consideration of said resolutions, the committee rose, reported progress, and asked leave to be discharged from the further consideration of the subject.

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On the motion to adopt the report of the committee, Mr. Fitzpatrick called for the ayes and nays, which were ordered.

AYES—Mr. President, Messrs. Anderson, Baltzell, Bartlett, Bird, Brooks, Cooley, Cooper, Crighton, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Long, Malone, Marvin, Mays, McClellen, McKinnon, McLean, McGehee, McCants, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Taylor, Wright, Watts, Webb, White, Williams, Wood, Woodward,—38.

NAYS—Allen, Bellamy, of Jefferson, Bellamy, of Jackson, Blount, Brown, of Leon, Cabell, Duval, Fitzpatrick, Meacham, Morton, Parkhill, Stephens, Thompson, Ward, Westcott, Wyatt,—16.

A resolution read by Mr. Ward on a former day, was read and referred to the committee on federal relations; and on motion of Mr. Brown of Leon, Mr. Ward was added to that committee.

On motion of Mr. Westcott, the convention then adjourned until Monday, at 12 o'clock M.

MONDAY, December 10th, 1838.

The convention met at 12 o'clock, and was opened with prayer, by the Rev. Mr. Gautier.

The President rose and in a short and appropriate address, tendered his resignation as presiding officer of the convention. This address is as follows:

Gentlemen, I am constrained to trespass upon your indulgence, for a few [15] moments. It is known to you, that the late election of the president of this body, resulted in a majority of *one*. Since that election, and since the adjournment of the House on Friday last, it has been intimated to me, that Mr. Cooley, supposed to have been elected from the county of Hillsborough, and whose vote was given by proxy in my favor, was *not* chosen a Delegate to this convention, but that another gentleman, (Mr. Bunce,) was in fact elected. I am aware that under the resolution of the House, appointing the member from St. Johns, (Mr. Jencks) the proxy for the absent member from Hillsborough,) it makes perhaps no difference, which of the persons mentioned, was elected; but doubts have been suggested, whether any election was held at all for the convention in the county of Hillsborough, and it is obvious, if there was no election—there can be no absent member—no proxy. Under such circumstances, I

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experience great embarrassment, in continuing to discharge the duties of the chair. I feel that there should be no doubt, or question as to the title of him, who presides over this assembly, and therefore thanking you for the support you have given to the chair, during the brief interval it has been occupied by me, I respectfully restore the presidency to the hands of the convention. The chair, Gentlemen, is vacant.

The chair being vacant, Mr. Brown of Leon, was called to preside as President *pro tem*.

Mr. Baltzell moved that the convention proceed to the election of President, *viva voce*.

Mr. Duval nominated the Hon Robert Raymond Reid for that office; and on the votes being counted, Mr. Reid was declared unanimously elected.

Mr. Ward offered the following resolution, which was adopted:

Resolved, That the convention entertain a high sense of the delicacy evinced by the President of this convention, in resigning the chair, by reason of a supposed informality of the election; that it is hereby declared, as the unanimous sense of this House, that Robert Raymond Reid was duly elected President of this House, and that the seat has been legally filled by him in conformity thereto.

The chair appointed Messrs. Duval, Ward, and McGehee, to wait upon the President and notify him of his election, and conduct him to the chair.

The President, on resuming his seat, returned his thanks to the convention.

Mr. Brown of Monroe, appeared, was sworn, and took his seat.

The President read a communication from the acting Governor, enclosing an abstract of the census returns,²⁷ which was read and referred to the committee on the census and apportionment of representation.

The Committee on Preamble, Declaration, and Bill of Rights, made the following

REPORT:

We, the People of the Territory of Florida, by our Delegates in Convention assembled, at the city of St. Joseph, on Monday the third day of December, Anno Domini, 1838, and of the Independence of the

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United States the sixty-third year, having and claiming the right of admission into the Union as one of the United States of America, consistent with the principles of the Federal Constitution, and by virtue of the treaty of cession by Spain to the United States, of Provinces of East and West Florida, in order to secure to ourselves and our posterity, the enjoyment of all the rights of life, liberty, and [16] property, and the pursuit of happiness, do mutually agree each with the other, to form ourselves into a free and independent State, by the name of the State of Florida.

Declaration of Rights.

That the great and essential principles of liberty and free government may be recognized and established, we Declare:

1. That all freemen, when they form a social compact are equal, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty; of acquiring, possessing, and protecting property and reputation; and of pursuing their own happiness.

2. That all political power is inherent in the people, and all free governments are founded on their authority and established for their benefit, and therefore, they have at all times an unalienable and indefeasible right to alter or abolish their form of government in such manner as they may think expedient.

3. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own conscience; and that no preference shall ever be given by law to any religious establishment or mode of worship in this State.

4. That all elections shall be free and equal; and that all men having sufficient evidence of common interest with, and attachment to the State, have the right of suffrage, and may be eligible to any office of honor, trust, or emolument, under the State Government.

5. Every citizen may freely speak, write, and publish his sentiments on all subjects; being responsible for the abuse of that liberty: and no law shall ever be passed to curtail, abridge, or restrain the liberty of speech or of the press.

6. That the right of trial by Jury, shall forever remain inviolate.

7. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures and searches; and that no warrant to search any place, or to seize any person or thing, shall

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issue without describing the place to be searched, and the person or thing to be seized, as nearly as may be, nor without probable cause, supported by oath or affirmation.

8. That no freeman ought to be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the law of the land.

9. That all courts shall be open, and every person for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered, without sale, denial or delay.

10. That in all criminal prosecutions the accused hath a right to be heard, by himself or counsel, or both; to demand the nature and cause of the accusation; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and in all prosecutions by indictment, a speedy and public trial by an impartial jury of the county or district where the offence was committed: and shall not be compelled to give evidence against himself.

11. That all persons shall be bailable by sufficient securities, unless in capital offences, where the proof is evident, or the presumption great; and the privilege of the Habeas Corpus shall not be suspended unless where, in case of rebellion or invasion, the public safety may require it.

[17] 12. That excessive bail shall in no case be required, nor excessive fines be imposed; nor cruel or unusual punishments be inflicted.

13. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

14. That private property shall not be taken or applied to public use, unless just compensation be made therefor.

15. That in all prosecutions or indictments for libels, the truth may be given in evidence, and the jury shall have the right to determine the law and the facts.

16. That no person shall be put to answer any criminal charge but by presentment, indictment or impeachment.

17. That no conviction shall work corruption of blood or forfeiture of estate.

18. That retrospective laws, punishing acts committed before the

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existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty: Wherefore no *ex post facto* law, ought to be made.

19 That the people have a right, in a peaceable manner, to assemble together, to consult for the common good, and to apply to those invested with powers of government for redress of grievances, or other proper purposes by petition, address or remonstrance.

20. That the free white men of this State shall have a right to keep and to bear arms for their common defence.

21. That no soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war, but in a manner prescribed by law.

22. No standing army shall be kept up without the consent of the Legislature; and the military shall in all cases, and at all times, be in strict subordination to the civil power.

23. That perpetuities and monopolies, are contrary to the genius of a free State, and ought not to be allowed.

24 That no hereditary emoluments, privileges or honors shall ever be granted or conferred in this State.

25. That a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

ABRAM BELLAMY, Chairman.

Report of the Committee on the Executive Department.

The Committee to whom was referred the Executive Department of the proposed Constitution for the State of Florida, report the following provisions, as the result of their deliberations, to the action of the Convention:—

SEC. 1st. The Supreme Executive power shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of Florida.

2nd. The Governor shall be elected for three years by the qualified Electors, at the time and places where they shall respectively vote for representatives, and shall remain in office until a successor be chosen and qualified, and shall not be eligible to the said office, more than six years in a term of nine years.

3rd. He shall be at least thirty years of age, shall be a native citi-

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zen of [18] the United States, and have been a resident of this state at least five years next, preceeding the day of his election.

4th. The returns of every election for Governor, shall be sealed up, and transmitted to the seat of Government, directed to the Speaker of the House of Representatives, who shall during the first week of the session, open, and publish them in the presence of both Houses of the General Assembly, the person having a majority of all the votes, shall be Governor, but if no one person shall have received a majority of all the votes, then the General Assembly, by joint vote, shall elect the Governor from the three highest candidates.

5th. He shall at stated times receive a compensation for his services, which shall not be increased or diminished during the term for which he shall have been elected.

6th. He shall be Commander-in-Chief of the Army and Navy of this State, and of the militia thereof; except when they shall be called into the service of the United States, and when acting in the service of the United States, the general assembly shall fix his rank.

7th. He may require information in writing from the officers in the Executive Department on any subject relating to the duties of their respective Departments.

8th. He may by proclamation on extraordinary occasions, convene the General Assembly at the seat of government, or at a different place if that shall have become dangerous from an enemy, or from disease, and in case of disagreement, between the two houses, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next meeting, designated in the Constitution.

9th. He shall from time to time, give to the General Assembly information of the state of the Government, and recommend to their consideration such measures as he may deem expedient.

10th. He shall take care, that the laws be faithfully executed.

11th. In all criminal and penal cases, except in those of treason and impeachment, after conviction, he shall have power to grant reprieves and pardons, and remit fines and forfeitures under such rules and regulations as shall be prescribed by law. In cases of treason, he shall have power, by and with the advice and consent of the Senate, to grant reprieves and pardons, and he may in the recess of the Senate, respite the sentence, until the end of the next session of the general assembly.

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12th. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, with such device as the Governor first elected, may direct, and the present seal of the Territory, shall be the seal of the State, until otherwise directed by the General Assembly.

13th. All commissions shall be in the name, and by the authority of the State of Florida, be sealed with the State seal, and signed by the Governor, and attested by the Secretary of State.

14th. There shall be a Secretary of State, appointed by joint ballot of both Houses of the General Assembly, who shall continue in office during the term of three years, he shall keep a fair register of the official acts and proceedings of the Governor, and shall when required, lay the same and all papers, minutes, and vouchers, relative thereto, before the General Assembly, and shall perform such other duties as may be required of him by law.

[19] 15th. Vacancies that may happen in offices, the appointment of which, is vested in the General Assembly, or given to the Governor, with the advice and consent of the Senate, shall be filled by the Governor during the recess of the General Assembly, by granting Commissions, which shall expire at the end of the next session.

16th. Every bill which shall have passed both houses of the General Assembly, shall be presented to the Governor, if he approve, he shall sign it, but if not, he shall return it with his objections to the house in which it shall have originated, who shall enter the objections at large upon the journals, and proceed to re-consider it. If after such reconsideration, a majority of the whole number elected to that House, shall agree to pass the bill, it shall be sent with the objections to the other House, by which it shall be likewise re-considered, if approved by a majority of the whole number elected to that House, it shall become a law. But in such cases, the votes of both Houses, shall be determined by yeas and nays, and the names of the members voting for, or against the Bill, shall be entered on the journals of each House respectively. If any Bill shall not be returned by the Governor, within five days, (Sundays excepted,) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the General Assembly by their adjournment, prevent its return, in which case it shall not be a law.

17th. Every order, resolution, or veto, to which the concurrence of both Houses may be necessary, except on questions of adjournment, shall be presented to the Governor, and before it shall take effect, be

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approved by him, or being disapproved, shall be re-passed by both Houses, according to the rules and limitations prescribed in case of a bill.

18th. In case of the impeachment of the Governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the President of the Senate shall exercise all the power and authority appertaining to the office of Governor, until the time pointed out by this Constitution for the election of Governor shall arrive, unless the General Assembly shall provide by law for the election of a Governor to fill such vacancy, or until the Governor absent, or impeached, shall return or be acquitted.

19th. If during the vacancy of the office of Governor, the President of the Senate shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the Speaker of the House of Representatives shall, in like manner, administer the Government.

20th. The President of the Senate, the Speaker of the House of Representatives, during the time they administer the Government, shall receive the same compensation which the Governor would have received had he been employed in the duties of his office.

21st. The Governor shall always reside during the session of the General Assembly, at the place where their session may be held, and all other times, wherever in their opinion the public good may require.

22nd. No person shall hold the office of Governor, or any other office or commission, civil or military, either in this state or under any other state, or the United States, or any other power, at one and the same time.

23rd. A State Treasurer and Comptroller of public accounts shall be elected by joint vote of both Houses of the General Assembly.

WILLIAM P. DUVAL, Chairman.

[20] *Report of the Committee on the Legislative Department.*

The Committee to whom was referred the Legislative Department of the proposed Constitution for the State of Florida, Report:—

Sec. 1st. The Legislative power of this State shall be vested in two distinct branches; the one to be styled the Senate, and the other the House of Representatives, and both together, “the General Assembly of the State of Florida;” and the style of the laws shall be—

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“Be it enacted by the Senate and House of Representatives of the State of Florida in General Assembly convened.”

2d. The members of the House of Representatives shall be chosen by the qualified voters, and shall serve for the term of two years from the day of the commencement of the general election, and no longer

3d. The Representatives shall be chosen every second year, on the first Monday and the day following, in the month of August, until otherwise directed by law.

4th. No person shall be a Representative, unless he be a white man, a citizen of the United States, and shall have been an inhabitant of the State two years next preceding his election, and the last year thereof a resident of the county, city, or town for which he shall be chosen, and shall have attained the age of twenty-one years.

5th. Every white male person of the age of twenty-one years or upwards, who shall be a citizen of the United States, and shall have resided in this State one year next preceding an election, and the last six months within the county, city, or town in which he offers to vote, and shall have paid his taxes assessed by law, shall be deemed a qualified elector: Provided, that no soldier, seaman, or marine, in the regular army or navy of the United States, shall be entitled to vote at any election in this State: and provided also, that no elector shall be entitled to vote, except in the county, city, or town, (entitled to separate representation) in which he may reside at the time of the election.

6th. Electors shall, in all cases, except in those of treason, felony, or breach of the peace, be privileged from arrest, during their attendance at elections, and in going to, and returning from the same.

7th. In all elections in this State to any office or place of trust, honor or profit, the votes shall be given openly or *viva voce*, and not by ballot.

8th. Elections for Representatives for the several counties, shall be held at the place of holding their respective courts, and at such other places as may be prescribed by law: Provided that when it shall appear to the General Assembly, that any city or town shall have a number of white inhabitants equal to the ratio then fixed, such city or town shall have a separate representation, according to the number of white inhabitants therein, which shall be retained so long as such city or town shall contain a number of white inhabitants, equal to the ratio which may from time to time be fixed by law; and

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thereafter, and during the existence of the right of separate representation in such city or town, elections for the county in which such city or town (entitled to such separate representation) is situated, shall not be held in such city or town; but it is understood and declared, that no city or town shall be entitled to separate representation, unless the number of white inhabitants in the county in which such city or town is situated, residing out [21] of the limits of such city or town, be equal to the existing ratio; or unless the residuum or fraction of such city or town shall, when added to the white inhabitants of the county, residing out of the limits of such city or town, be equal to the ratio fixed by law for one Representative; and provided, that if the residuum, or fraction of any city or town, entitled to separate representation, shall, when added to the residuum of the county in which it may lie, be equal to the ratio fixed by law for one Representative, then such county, city, or town, having the largest residuum, shall be entitled to representation; and provided also, that when there are two or more counties adjoining, which have residuums or fractions, over and above the ratio then fixed by law, if said residuums or fractions, when added together, will amount to such ratio, in that case, one Representative shall be added to that county having the largest residuum.

9th. The General Assembly shall at their first meeting, and every ten years thereafter, cause an enumeration to be made of all the inhabitants of the State, and the whole number of the Representatives shall, at the first session held after making every such enumeration, be fixed by the General Assembly, and apportioned among the several counties; and the cities and towns entitled to separate representation, according to their respective numbers of white inhabitants; and the said apportionment when made, shall not be subject to alteration, until after the next enumeration or census shall be taken. The House of Representatives shall not consist of less than sixty, nor more than one hundred members.

10th. The General Assembly shall, at the first session, after making every enumeration or census, fix by law the whole number of Senators, and shall divide the State into districts, as nearly equal in the number of white inhabitants as may be, each of which districts shall be entitled to one or more Senators: Provided, that the whole number of Senators shall never be less than one-fourth, nor more than one-third of the whole number of Representatives. When a Senatorial District shall be composed of two or more counties, the counties of which such district consists, shall not be entirely represented

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by any county belonging to another district, and no county shall be divided in forming a district.

11th. The Senators shall be chosen by the qualified electors, for the term of three years, at the same time, in the same manner, and in the same places, where they vote for members of the House of Representatives; and no man shall be a Senator, unless he be a white man, a citizen of the United States, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof, a resident of the district or county for which he shall be chosen, and shall have attained the age of thirty years.

12th. The Senators chosen according to the census first ordered to be taken, when convened, shall be divided by lot into three classes, as nearly equal as may be, the seats of the Senators of the first class shall be vacated at the expiration of the first year, those of the second class at the expiration of the second year, and those of the third class at the expiration of the third year, so that one third may be annually chosen thereafter, and a rotation thereby be kept up perpetually.

13th. The House of Representatives, when assembled, shall choose a Speaker, and its other officers; and the Senate a President, and other offi-[22]cers; and each House shall be judge of the qualifications, elections, and returns of its own members; but a contested election shall be determined in such manner as shall be directed by law.

14th. A majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner, and under such penalties as each House may provide.

15th. Each House may determine the rules of its own proceedings, punish its members for disorderly behaviour, and, with the consent of two-thirds, expel a member, but not the second time for the same cause; and shall have all other powers necessary for a breach of the legislature of a free and independent State.

16th. Each House, during the session, may punish by imprisonment, any person, not a member, for disrespectful or disorderly behaviour, in its presence, or for obstructing any of its proceedings: Provided, that such imprisonment shall not, at any one time, exceed forty-eight hours.

17th. Each House shall keep a Journal of its proceedings and cause the same to be published immediately after its adjournment, ex-

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cepting such parts as, in its judgment, may require secrecy; and the yeas and nays of the members of either House, on any question, shall, at the desire of two members present, be entered on the Journals; and any member of either House shall have liberty to dissent from, or protest against, any act or resolution, which he may think injurious to the public or an individual, and have the reasons of his dissent entered on the Journals.

18th. Senators and Representatives shall, in all cases, except treason, felony, or breach of peace, be privileged from arrest, during the session of the General Assembly, and in going to, or returning from the same; allowing one day for every twenty miles, such members may reside from the place at which the General Assembly is convened; nor shall any member be liable to answer any thing spoken in debate in either House, in any court, or place elsewhere.

19th. When vacancies happen in either House, the Governor or the person exercising the powers of Governor, shall issue writs of election to fill such vacancy.

20th. The doors of each House shall be open, except on such occasions as in the opinion of the House, may require secrecy.

21st. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place, than that in which it may be sitting.

22d. All laws shall originate in the House of Representatives, to be approved or rejected by the Senate or to be amended, with the consent of the House of Representatives, but no bill shall have the force of law, until, on three several days, it be read in each house, and free discussion be allowed thereon, unless in cases of urgency, four-fifths of the house in which the same shall be depending, may deem it expedient to dispense with the rule; and every bill having passed both houses, shall be signed by the Speaker and President of the respective houses.

23d. Each member of the General Assembly shall receive from the public treasury, such compensation for his services, as may be fixed by law, but [23] no increase of compensation shall take effect during the session at which such increase shall have been made.

24th. The Governor, the Judges of Court of Appeals and Superior Courts, and all others offending against the State, either by maladministration, corruption, neglect of duty, or any other high crime or misdemeanor, shall be impeachable by the House of Representatives,

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and such impeachment to be prosecuted before the Senate, which shall have the sole power to try all impeachments; when sitting for that purpose, the Senate shall be under oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgments in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the commonwealth, but the party convicted, shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

25th. No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit, under this State, which shall have been created, or the emoluments of which shall have been increased during such term; except such offices as may be filled by elections by the people.

26th. No person holding any lucrative office under the United States, this State, or any other power, shall be eligible to the General Assembly: Provided, that officers in the militia, to which there is attached no annual salary, or the office of Justice of the Peace, or that of the Quorum of the County Court, while it has no salary, shall not be deemed lucrative, nor shall any minister of the Gospel be eligible to a seat in the General Assembly. Nor shall any person holding any office under the government of the United States, be eligible to any office under this State government.

27th. No person who may hereafter be a collector or holder of public moneys, shall have a seat in either House of the General Assembly, or be eligible to any office of trust, or profit, under this State, until he shall have accounted for, and paid into the Treasury, all sums for which he may be accountable.

28th. No petition, or application, for change of roads, county lines, or the erection of bridges or ferries, or for the granting of incorporations of any kind, or for any law affecting the rights of individuals, shall be granted by the General Assembly, unless three months public notice of such intended application be previously given in some Gazette or newspaper, printed in this State, or posted up at three public places, at least, in the neighborhood.

29th. No law shall ever be passed by the General Assembly, authorising imprisonment for debt in this State.

30th. The first election for Senators and Representatives shall

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be general throughout the State; and shall be held on the first Monday and Tuesday of August.

31st. The first session of the General Assembly of the State, shall be on the first Monday of 18 and be held at the city of Tallahassee, and all subsequent sessions, shall be held at the same place, until the end of the session of the General Assembly, to be held in the year one thousand eight hundred and during that session, the [24] General Assembly shall have power to designate by law, the permanent seat of government, which shall not thereafter be changed: Provided however, that unless such designation be then made by law, the government shall continue permanently at Tallahassee.

THOMAS BROWN, Chairman.

Report of the Committee on the Judiciary Department.

Sec. 1. The Judiciary power of this State, both as to matters of law and equity, shall be vested in a Supreme Court, Circuit Courts, and Justices of the Peace: Provided the General Assembly may also vest such criminal jurisdiction as may be deemed necessary, in Corporation Courts, and in the magistrates, who may belong to the corporate body.

2d. The supreme court, except in casses otherwise directed in this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may from time to time, be prescribed by law: Provided, that the supreme court, shall have power to issue writs of injunction, mandamus, quo warranto, habeas corpus, and such other remedial writs as may be necessary to give it a general superintendance and control of all other courts.

3d. For the term of five years from the election of the Judges of the supreme court, and thereafter, until the General Assembly shall otherwise provide, the powers of the supreme court, shall be vested in, and its duties performed by the Judges of the several circuit courts within this State; and they, or a majority of them, shall hold such sessions of the supreme court, and at such times as may be directed by law.

4th. The supreme court shall be holden at the seat of government, but may be adjourned to a different place, if that shall become dangerous from an enemy or from disease.

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5th. The State shall be divided into at least four convenient circuits, and for each circuit, there shall be appointed a Judge, who shall, after his appointment, reside in the circuit for which he has been appointed, and shall at stated times, receive for his services, a salary of not less than two thousand dollars per annum, which shall not be diminished during the continuance of such Judge in office, but the Judges shall receive no fees or perquisites of office, nor hold any office of profit, under this State, the United States, or any other power.

6th. The circuit courts shall have original jurisdiction in all matters, civil and criminal, within this State, not otherwise excepted in this constitution, but in civil cases, only where the matter or sum in controversy exceeds twenty dollars.

7th. The circuit court shall be held in such counties, and at such times and places therein, as may be prescribed by law, and the Judges of the several circuit courts, may hold courts for each other, when they may deem it expedient, and shall do so, when directed by law.

8th. The General Assembly shall have power to establish and organise separate court or courts, of original equity jurisdiction, but until such court or courts shall be established and organised, the circuit courts shall exercise such jurisdiction.

9th. The General Assembly shall provide by law, for the appointment in [25] each county, of an officer to take probate of wills, to grant letters testamentary, administration, and guardianship, and to attend to the settlement of the estates of decedants and of minors, subject to the revision of the court of chancery, as may be provided for by law.

10th. A competent number of Justices of the Peace shall be from time to time appointed in, and for each county, in such mode, and for such term of office as the General Assembly may direct. Their jurisdiction in civil cases, shall be limited to causes in which the amount in controversy shall not exceed twenty dollars; and in all cases, tried by a Justice of the Peace, right of appeal shall be secured, under such rules and regulations as may be prescribed by law.

11th. Chancellors, Judges of the supreme court, and Judges of the circuit courts, shall be elected by the concurrent vote of a majority of both houses of the General Assembly.

12th. The Judges of the supreme and circuit courts, shall, at the

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first session of the General Assembly, to be holden under this constitution, be elected for the term of five years, and shall hold their offices for that period, if they so long behave well, and forever thereafter the Judges of the several courts in this State, shall be elected in the manner herein before provided, for the term and time of fifteen years, and shall hold their offices for that period, if they so long behave well; and for wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment, the Governor shall remove any of them on the address of two-thirds of each house of the general assembly: Provided however, that the cause or causes shall be stated at length in such address, and entered on the journals of each house, and provided further, that the cause or causes, shall be notified to the Judge, so intended to be removed, and he shall be admitted to a hearing in his own defence, before any vote for such address shall pass, and in all such cases, the vote shall be taken by yeas and nays, and entered on the journals of each house respectively.

13th. The clerk of the superior court, and the clerks of the circuit courts, in this State, shall be appointed by the Judges thereof, and to hold the office at the will of the court.

14th. The Judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the State; as also, the Judges of the circuit courts in their respective circuits, and Justices of the Peace in their respective counties.

15th. The style of all processes shall be, "the State of Florida," and all prosecutions shall be carried on in the name, and by the authority of the State of Florida, and shall conclude, "against the peace and dignity of the same."

16th. There shall be an Attorney General for the State, who shall reside at the seat of government. It shall be his duty to attend all sessions of the General Assembly, and upon the passage of any act, to draft and submit to the General Assembly at the same session, all necessary forms of proceedings under such laws, which, when approved, shall be published therewith, and shall perform such other duties as may be prescribed by law. He shall be elected by joint vote of the two houses of the General Assembly, and shall [26] hold his office for four years, but may be removed by the Governor, on the address of two-thirds of the two houses of the general assembly, and shall receive for his services, a compensation to be fixed by law.

17. There shall be one solicitor for each circuit, who shall reside

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therein, to be elected by joint vote of the general assembly, who shall hold their offices for the term of four years, and shall receive for their services a compensation to be fixed by law.

18. No Judge shall sit in the appellate court on the trial or hearing of any case, which shall have been decided by him in the court below.

19. The general assembly shall have power to establish in each county, a board of commissioners, for the regulation of the county business therein.

R. C. ALLEN, Chairman.

Report of the Committee on Civil Offices and Officers, and Impeachments and Removals from Office.

1. Members of the general assembly, and all officers, civil and military, before they enter upon the execution of their respective offices, shall take the following oath or affirmation—"I (A. B.) do swear or affirm, that I am duly qualified, according to the constitution of this state, to exercise the office to which I have been appointed, and will, to the best of my abilities, discharge the duties thereof, and preserve, protect, and defend the constitution of this State, and of the United States."

2. Every person shall be disqualified from serving as Governor, Senator, Representative, or other office of honor or profit, in this state, for the term for which he shall have been elected, who shall have been convicted of having given, or offered any bribe, to procure his election

3. Laws shall be made by the general assembly to exclude from office, and from suffrage, those who shall have been, or may hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practices.

4. All civil officers of the state at large, shall reside within the state; and all district or county officers, within their respective districts or counties, and shall keep within their respective offices at such places therein as may be required by law.

5. The Legislature shall determine the time of duration of the

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several offices, when such time shall not have been fixed by the constitution, and all civil offices, except the Governor, and Judges of the superior and inferior courts, shall be removable by an address of two-thirds of the members of both houses, except those, the removal of whom has been otherwise provided for by this constitution.

6. It shall be the duty of the general assembly to regulate by law in what cases, and what deduction from the salaries of the public officers shall be made for neglect of duty in their official capacity.

7. Return of all elections for members of the general assembly shall be made to the Secretary of State, for the time being; and the general assembly shall prescribe in what manner he shall give notice of the same.

[27] 8. In all elections by the people, and also by the Senate and House of Representatives, jointly or separately, the vote shall be given by ballot.

9. No member of Congress, nor person holding or exercising any office of trust or profit under the United States, or either of them, or under any foreign powers, shall be eligible as a member of the general Assembly of this state, or hold or exercise any office of trust or profit under the same; and no person in this state shall ever hold two offices of trust or profit at the same time.

10. The General Assembly shall direct by law how persons who now are or may hereafter become securities for public officers, may be released or discharged on account of such securities.

11. No person shall be appointed or elected to any office in this state for a longer time than good behaviour.

12. The General assembly shall by law provide for the appointment or election, and the removal from office, of all officers, civil and military in this state, which has not been provided for in this constitution.

Concerning Impeachments.

1. The power of impeachment shall be vested in the House of Representatives.

2. All impeachments shall be tried by the Senate, and when sitting for that purpose, the Senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present.

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3. The Governor and all civil officers, shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit, under this state; but the parties shall, nevertheless, be liable to indictment, trial, and punishment, according to law.

SAMUEL PARKHILL, Chairman.

Report of the Committee on the Militia.

The committee on the Militia beg leave to make the following Report which they recommend to the Convention, as an article of the Constitution proper to be adopted on the subject of the Militia:—

SEC. 1st. All military officers shall be elected by persons subject to military duty within the bounds of their several companies, battalions, regiments, brigades and divisions, under such rules and regulations as the Legislature may, from time to time, direct and establish.

2d. The Governor shall appoint the Adjutant General and such other staff officers; and the majors general and brigadiers general, and commanding officers of regiments shall have the appointment of such staff officers as may by law be allowed to each respectively.

LEIGH READ, Chairman.

Report of the Committee on Public Domain, and Property, and Internal Improvement.

The committee on Public Domain, Property, and Internal Improvements, [28] ask leave respectfully to submit the following articles for the consideration of the Convention.

Public Domain.

1. It shall be the duty of the Legislature to provide for the prevention of waste and damage of the public lands now possessed, or that may hereafter be ceded to the Territory or State of Florida. It may pass laws for the letting or sale of any part or portion thereof; and, in such case, provide for the safety, security, or appropriation of the proceeds.

Piscary.

1. The right of Piscary upon the coast of Florida, and within the

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Bays, Harbors, and Inlets, shall forever be and remain a common right, to be exercised and enjoyed in common by the citizens of said state, subject to such regulations of the Legislature may from time to time ordain.

Internal Improvements.

1. A liberal system of internal improvements be essential to the developement of the resources of the country, shall be encouraged by the government of this state. It shall be the duty of the Legislature, as soon as practicable, to ascertain by law proper objects of improvement in relation to roads, canals, and navigable streams, and to provide for a suitable application of such funds as may be appropriated for such improvements.

E. CARRINGTON CABELL, Chairman.

Report of the Committee on Amendments and Revision of the Constitution.

The committee to whom was referred the subject of Amendments and Revision of the Constitution, beg leave to report, that they have considered this subject, and recommend that the following provisions be incorporated in the Constitution as an article.

1. No convention of the people shall be called, unless by the concurrence of two-thirds of both branches of the whole representatives.

2. No part of this constitution shall be altered, unless a bill to alter the same shall have been read three times in the House of Representatives, and three times in the Senate, and agreed to by two-thirds of both branches of whole representation; neither shall any alteration take place until the bill so agreed to, be published six months previous to a new election for members to the House of Representatives; and if the alteration proposed by the Legislature shall be agreed to in their first session by two thirds of the whole representation in both branches of the Legislature, after the same shall have been read three times in three several days in each house, then, and not otherwise, the same shall become a part of the constitution.

J. McCANTS, Chairman.

Which were read and one hundred copies of each order to be printed.

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The convention then proceeded to take up the orders of the day.

A resolution offered by Mr. Read of Leon, prohibiting imprisonment for debt, was read and laid on the table.

The resolutions of Mr. Semmes, on the subject of banks, were read and laid on the table.

Mr. Fitzpatrick's resolution, authorising the printing of one thousand copies of the journals of the convention, was read a second time and passed.

[29] Mr. Brown of Leon, moved that the reports of the several committees presented to-day, be made the order of the day for to-morrow.

On motion of Mr. Allen, the following gentlemen were added to the Judicial committee—Messrs. Wright, Marvin, Levy, Duval.

On motion of Mr. Westcott, Mr. Brown of Leon was added to the committee on Banking and other Incorporations.

On motion of Mr. Brown of Leon, the convention adjourned till to-morrow ten o'clock, A. M.

TUESDAY, December 11th, 1838.

The convention met pursuant to adjournment.

Reports were received from the following Standing Committees:

Report of the Committee on Taxation and Revenue.

The committee on Taxation and Revenue, ask leave to present to the consideration of the convention the following articles, viz:

1. That all revenue shall be raised by taxation to be fixed by law.
2. That all property subject to taxation, shall be taxed according to its value; that value to be ascertained in such manner as the Legislature may direct, making the same equal and uniform throughout the state.
3. That no one species of property from which a tax may be collected, shall be taxed higher than another species of property of equal value: Provided however, the Legislature shall have power to tax merchants, hawkers, and pedlers, and privileges including the use of the right of piscary on our coasts, in such manner as may, from time to time, be prescribed by law.

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4. That a tax on free polls shall be levied in such manner, and of such an amount as may be prescribed by law.

5. That no other or greater amount of tax or revenue shall at any time be levied than may be required for the necessary current expenses of Government.

6. That no money shall be drawn from the Treasury but in consequence of an appropriation by law; and a regular statement of the receipts and the expenditures of all public moneys, shall be published and promulgated annually with the laws of the Legislature.

7. That the Legislature shall have power to authorise the several counties and incorporated towns in this state, to impose taxes for county and corporation purposes respectively; and all property shall be taxed according to its value upon the principles established in regard to state taxation.

L. A. THOMPSON, Chairman.

Report of the Committee on General Provisions, including the subject of Domestic Slavery.

The committee on General Provisions, including the subject of Domestic Slavery, beg leave in part to report, that they have had under consideration the subject of Domestic Slavery, and recommend that the following provision be incorporated into the Constitution as a part thereof.

[30] *On Domestic Slavery.*

1. The General Assembly shall have no power to pass laws for emancipation of slaves.

2. They shall have no power to prevent emigrants to this state, from bringing with them such persons as may be deemed slaves by the laws of any one of the United States: Provided, they shall have power to enact laws to prevent the introduction of any slave who may have committed high crimes in other States.

3. They shall have full power to prevent slaves from being brought into this state as merchandise, and also to oblige the owner of slaves to treat them with humanity, to provide for them necessary food and clothing, to abstain from all injuries to them extending to life or limb: and in case of their neglect, or refusal to comply with the directions of such laws, to have such slave or slaves sold for the benefit of the owner or owners.



ROBERT RAYMOND REID



WILLIAM P. DUVAL

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4. In the prosecution of slaves for crimes of higher grade than petit larceny, the general assembly shall have no power to deprive them of an impartial trial by a petit jury.

5. Any person who shall maliciously dismember or deprive a slave of life, shall suffer such punishment as would be inflicted, in case the like offence had been committed on a free white person, and on the like proof, except in case of insurrection of such slave.

6. It shall be the duty of the general assembly to enact laws to prevent free negroes and mulattoes from emigrating to this state.

On General Provisions.

1. All persons who shall be chosen or appointed to any office of profit or trust, before entering on the execution thereof, shall take the following oath: "I do swear (or affirm) that I am duly qualified according to the constitution of this state, to exercise the office to which I have been appointed, and will, to the best of my abilities, discharge the duties thereof, and preserve, protect and defend the constitution of this State and the United States.

2. Treason against the State shall consist only in levying war against, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act or his confession in open court.

3. No money shall be drawn from the treasury but in pursuance of appropriations by law; and an accurate statement and account of the receipts and expenditures of all public moneys, shall be published annually; nor shall any appropriation, for the support of an army, be made for a longer term than one year.

4. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties who may choose that summary mode of adjustment.

5. No member of Congress, nor person holding or exercising any office of trust or profit under the United States, or either of them, or under any foreign power, shall be eligible as a member of the general assembly of this state, or hold or exercise any office of trust or profit in the same.

6. All civil officers for the state at large, shall reside within the state, and all district or county officers within their respective dis-

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tricts or counties, [31] and shall keep their respective offices at such place as shall be required by law.

7. Return of all elections for members of the general assembly shall be made to the Secretary of State for the time being.

8. In all elections in this state by the people, the votes shall be given by ballot.

9. The general assembly shall prescribe by law the manner in which a man emigrating to the state shall declare his residence.

10. Citizenship once obtained, shall not be forfeited by absence on business of the state or of the United States, or on a visit or necessary private business.

11. Divorces from the bonds of matrimony shall not be granted, but in cases provided for by law by suit in chancery.

12. The general assembly of this state shall regulate entails, in such a manner as to prevent perpetuities.

13. The general Assembly shall prescribe by law, how persons who are, or may hereafter become securities for public officers, may be relieved or discharged on account of such securityship.

14. The general assembly shall enact all necessary laws providing for the establishment in each county of this state, of a registry of births, marriages, and death.

15. The general assembly shall not have power to pledge the faith and credit of the state to raise funds, carry into operation any incorporations whatsoever.

16. The general assembly shall fix the rate of interest; and the rate so established shall be equal and uniform throughout the state.

JOHN N. PARTRIDGE, Chairman.

Report of the Committee on Education.

The committee on Education ask leave to report the following general provisions which they deem proper to be adopted by this convention:

1. The proceeds of all lands that have been or may hereafter be granted by the United States for the use of schools and a seminary or seminaries of learning, shall be and remain a perpetual fund, the interest of which together with all moneys derived from any other

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source, applicable to the same object, shall be inviolably appropriated to the use of schools and seminaries of learning respectively, and to no other purpose.

2. The general assembly shall take such measures as may be necessary to preserve from waste or damage, all land so granted and appropriated to the purposes of education.

3. The Judges of the supreme court of this state shall be ex officio members of any board or body which the general assembly may create for the administration and management of the education funds.

4. It shall be the duty of the general assembly to provide by law, a general system of education, and for disposing of the lands granted for that purpose, and investing the proceeds of the same so as to constitute a permanent fund, the interest of which shall be applicable to the respective purposes for which such lands have been granted: Provided that no such lands shall be sold sooner than the year 18

[32] 5. If any state bank be chartered by the state of Florida, prior to the permanent investment of these funds, the general assembly shall provide for the investment of the same in the stock of said bank, and such number of shares as may be necessary, shall be held subject to this investment, and if said bank be based upon real estate, the stock may be secured upon the unsold lands granted for the purpose of education as aforesaid.

GEO. T. WARD, Chairman.

On motion, the Convention then adjourned until to-morrow at ten o'clock.

WEDNESDAY, December 12th, 1838.

The convention met pursuant to adjournment, and was opened with prayer by the chaplain.

The committee on the rights of suffrage and qualifications of officers, presented their report, which was read and laid on the table.

*Report of the Committee on the Right of Suffrage and
Qualifications of Officers.*

The committee on the right of suffrage and qualification of officers, beg leave to report the following articles:

1. That every white male person of the age of twenty-one years

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and upwards, who shall be a citizen of the United States, and who shall have resided in this State two years next preceding an election, and the last six months within the county, city, or town in which he offers to vote, and shall be enrolled in the militia thereof, (except exempted by law from military service,) shall be deemed a qualified elector: Provided, that no soldier, seaman, or marine, in the regular army or navy of the United States, shall be entitled to vote at any election in this State; and provided also, that no elector shall be entitled to vote except in the county, city, or town (entitled to separate representation,) in which he may reside at the time of the election.

And to remove all doubts concerning the meaning of the word 'Resident,' in this article, every person shall be considered a resident of that county, city or town, where he actually dwells and has his habitation, home, and permanent abode.

2. The Legislature, at their first session, after the adoption of this constitution, shall by law, provide for the registering of all the legal voters in this State.

3. The Governor of this State shall be at least thirty years of age, a citizen of the United States, and a resident of this State at least five years next preceding his election.

4. No person shall be a Senator who shall not have attained the age of thirty years, who shall not have been a citizen of the United States, and a resident in this State at least three years next preceding his election, and the last year thereof a resident in the district for which he is elected.

5. No person shall be a Representative, who shall not have attained the age of twenty-one years, who shall not have been a citizen of the United States, and resident in this State, at least two years next preceding his election, and the last six months thereof, a resident of the county, city, or town, for which he shall be chosen.

[33] 6. No president, director, or cashier of any bank in this state, or any minister of the Gospel, shall be eligible to the office of Governor, Senator, or member of the House of Representatives.

7. The Legislature shall have power to exclude from every office of honor, trust, or profit, within this state, and from the right of suffrage, all persons convicted of bribery, perjury, or other infamous crime.

EDWIN T. JENCKES, Chairman.

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On motion of Mr Bellamy of Jefferson, the orders of the day were suffered to remain on the table.

Mr. Duval moved the reports of all the standing committees, which lie on the table, remain there until all the committees shall have made their reports, which was adopted.

On motion of Mr. Brown of Leon, the standing committees which have not already reported, were required to report by to-morrow, at ten o'clock.

Mr. Semmes moved that the resolutions offered by him on a former day, on the subject of banks, be now called up and referred to the committee on Banking and other incorporations, which motion was lost, and said resolutions were ordered to lay on the table

On motion the convention the adjourned until to-morrow, at ten o'clock, A. M.

THURSDAY, December 13th, 1838.

The convention met pursuant to adjournment.

Mr. Long moved, that a committee be appointed to be composed of the chairman of the several standing committees, to consolidate the reports of their respective committees, which was adopted.

Mr. Ward moved, that the report of the committee on the Preamble and Declaration and Bill of Rights, be taken up and made the order of the day for to-day, which was adopted.

Reports were received from the following standing committees:

*Report of the Committee on Census and Apportionment
of Representation.*

The Committee on the Census and Apportionment of Representation, report:

1. The Legislature shall at their first session under this constitution, and on every tenth year thereafter, cause an enumeration to be made of all the inhabitants of the state, and to the whole number of free white inhabitants, shall be added three-fifths of the whole number of slaves, and they shall then proceed to apportion the representation equally among the different counties, according to such enumeration, giving however one representative to every county, and

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increasing the number of representatives on a uniform ratio, of population, and which ratio, shall not be changed until a new census shall have been taken.

2. The Legislature shall also, after every such enumeration, proceed to fix by law the number of Senators which shall constitute the Senate of the State of Florida, and which shall never be less than one-fourth nor more than one-third of the whole number of the House of Representatives. And they shall [34] lay off the state into the same number of senatorial districts, as nearly equal in the number of inhabitants as may be, each of which districts shall be entitled to one Senator and no more.

3. When any senatorial district shall be composed of two or more counties, the counties of which such district consists, shall not be entirely separated by any county belonging to another district, and no county shall be divided in forming a district.

4. Until the apportionment of representation by the Legislature, under the census which shall be ordered at their first session, the representation of the several counties shall be the same as is allowed in the organization of this convention, to wit:

5. The county of Leon shall be allowed eight members; the county of Gadsden four members; the county of Jefferson four members; the county of Madison two members; the county of Hamilton two members; the county of St. Johns four members; the county of Duval three members; the county of Columbia three members; the county of Alachua three members; the county of Nassau two members; the county of Musquito one member; the county of Hillsborough one member; the county of Monroe two members; the county of Dade one member; the county of Jackson four members; the county of Escambia four members; the county of Walton two members; the county of Washington two members; the county of Calhoun two members; the county of Franklin two members. And until the apportionment under the census as aforesaid, the state shall consist of eleven Senatorial Districts, as follows, to wit:—The counties of Nassau and Duval shall form one district; the counties of St. Johns and Musquito shall form one district; the counties of Dade, Monroe and Hillsborough shall form one district; the counties of Columbia and Alachua shall form one district; the counties of Madison and Hamilton shall form one district; the county of Jefferson shall form one district; the county of Leon shall form one district; the county of Gadsden shall form one district; the counties of Franklin and Cal-

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houn shall form one district; the counties of Washington and Jackson shall form one district; the counties of Escambia and Walton shall form one district: and each of said districts shall be entitled to one Senator.

C. E. BARTLETT, Chairman.

Report of the Committee on Banking and other Incorporations.

The Committee to whom was referred the subject of Banking and other Incorporations, and to report articles of a Constitution for the State of Florida in relation to said subjects, for the consideration of the Convention, have instructed the following Report to be made:

1. The General Assembly shall pass a general law for the incorporation of all such churches or religious societies, as may accept thereof, but no special act of incorporation thereof shall be passed.

2. The General Assembly shall pass no act of incorporation or make any alteration therein, unless with the assent of at least two-thirds of each house, and unless public notice in one or more newspapers in the state, shall have been given for at least three months immediately preceding the session at which the same may be applied for.

3. No incorporation of any kind shall be created or continue, which is com[35]posed of a less number than twenty individuals, ten of whom at least shall be citizens and residents of the state.

4. No act of incorporation whatever shall be granted for a longer period than twenty years, and no bank charter shall ever be extended or renewed.

5. The charters of banks granted by the general assembly shall restrict such banks to the business of exchange, discount, and deposit, and they shall not speculate or deal in real estate, or the stock of other incorporations, or associations, or in merchandise or chattels, or be concerned in insurance, manufacturing, exportation or importation, except of bullion or specie—shall not act as trustee in anywise, nor shall they own real estate or chattels, except such as shall be necessary for their actual use, in the transaction of business, which may be pledged as further security, or received towards, or in satisfaction of previously contracted debts, or purchased at legal sales to satisfy such debts, of which they shall be required to make sale of within two years after the acquisition thereof.

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6. The capital stock of any bank shall not exceed \$1,000,000, or be less than \$100,000, and shall be created only by the actual payment of specie therein, and no bank shall borrow money to create or add to its capital, or to conduct its business, and no loans shall be made on stock, nor shall any stock be hypothecated for any purpose whatever, and no sale or transfer of stock of any bank shall be made without at least three months public notice thereof, as shall be prescribed by law.

7. All liabilities of such banks shall be payable in specie, and the aggregate of the liabilities and issues of a bank shall at no time exceed double the amount of its capital stock paid in.

8. No bank shall make a note or security of any kind for a smaller sum than \$10.

9. At least one-tenth of the capital stock of every bank and of the profits thereof, shall belong to the State of Florida, as a bonus for the charter, and the general assembly shall elect at least two directors in each bank, but the state shall not be liable as a stockholder for the payment of the debts of a bank on its failure.

10. No dividends of profits exceeding ten per centum per annum on the capital stock paid in shall be made, but all profits over ten per centum per annum, shall be set apart and retained as a safety fund.

11. Stockholders in a bank, when an act of forfeiture of its charter is committed, or when it is dissolved or expires, shall be individually, jointly, and severally, liable for the payment of all its debts.

12. Banks shall be public offices, open to the inspection of any citizen, under such regulations as may be prescribed by law, and it shall be the duty of the Governor to appoint a person or persons at least once a year, to examine into their state and condition, and the officers of every bank shall make quarterly returns to the Governor, of its state and condition, and the names of stockholders, and shares held by each.

13. Non user for the space of one year, or any act of a corporation or those having the control and management thereof, or entrusted therewith, inconsistent with, or in violation of the provisions of this constitution, or of its charter, shall cause its forfeiture, and the general assembly shall by general law provide a summary process for the sequestration of its effects and assets, [36] the appointment of officers to settle its affairs, and no forfeited charter shall be restored.

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14. The general assembly may by law establish one or more state banks, the whole of the capital stock in which shall be owned by the state, and the profits thereof to be received by the state, and the general assembly may authorize the guarantee by the state of the bonds of such banks to raise a capital therefor, the payment of such bonds to be secured by the pledge of real estate within this state, by citizens to whom said bank may make loans on such terms as may be prescribed by law.

JAMES D. WESTCOTT, Jr., Chairman.

The undersigned agreeing to said Report, also report the following additional Articles for the consideration of the Convention.

1. The General Assembly at its first session may assume for the State of Florida, the obligations of the Territory of Florida, created by the charters of the Union Bank of Florida, and the Bank of Pensacola, and the proceedings already had under said charters, upon condition however, that said banks respectively submit their charters to the control, supervision and amendment of said general assembly, and if the same shall not be assumed and the Territorial bonds, or guarantees, provided in said charters respectively, shall be discharged and cancelled by substitution of the bonds of said banks, without guarantee thereof or otherwise, or if the state shall be fully indemnified against the same, within one year after the commencement of the first general assembly, then the charters of either or both of said banks, which may comply herewith, so modified as to conform to such change, shall be confirmed.

2. The charters of all other banks incorporated by the Territory of Florida, shall be subject to the control and supervision of the first general assembly of the State of Florida.

J. D. WESTCOTT,
D. LEVY.

Report of the Committee on the Seat of Government

The Committee on the Seat of Government, having had the subject under consideration, beg leave to report the following:

1. The Seat of Government of the State of Florida, shall be and remain permanent at the city of Tallahassee, for the term and time of five years, from and after the end of the first session of the gen-

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eral assembly, to be holden under this constitution; and after the expiration of the said five years the general assembly shall have power to remove the Seat of Government from Tallahassee, and fix the same at any other point: Provided, that the general assembly shall, before the expiration of ten years from the end of the said first session thereof, fix permanently the Seat of Government.

JOHN TAYLOR, Chairman.

Report of the Committee on Relations with the General Government, and the Right of the People of Florida to claim admission into the National Confederacy as a State, and the mode, form, and time of Application.

The Committee on relations with the General Government, and the right [37] of the people of Florida to claim admission into the National Confederacy as a State, and the mode, form, and time of application,—Report:

1. That they have examined the subject carefully and attentively, and the result of their enquiries has been sufficient to satisfy them, that the people of Florida have a *perfect* right to admission into the Union of the United States upon an equal footing with the original states. This right your committee believe grows out of the Treaty of Cession, made and concluded at Washington, on the 22d day of February, 1819. The sixth article of the Treaty declares—“that the inhabitants of the territories which his Catholic Majesty cedes to the United States by this treaty, shall be incorporated in the Union of the United States, as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities of the citizens of the United States.” The Royal order of the King of Spain, to the Captain General and Governor of the Island of Cuba and the Floridas, is clear, and positive on the subject of this right; and is sufficient evidence of the spirit and intention of the sixth article of the Treaty. The King says: “it being provided, at the same time, that the inhabitants of the Territories so ceded shall be secured in the free exercise of their religion, without restriction; and that those who may desire to remove to the Spanish dominions shall be permitted to sell or export their effects at any time whatever; in order that they may better effect their purpose, without being subject in either case to duties; and those who prefer remaining in the Floridas *shall* be admitted, *as soon as*

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possible to the enjoyment of *all* the *rights*, of citizens of the United States." The second section of the first article of the Constitution of the United States, provides, "that the number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative," and the third section of the fourth article declares, "that new states may be admitted by Congress into this Union;" and it is also declared in the constitution, that "all treaties made under the authority of the United States shall be the supreme law of the land." The obligations of the treaty, or contract between the United States and Spain, could have been carried into effect at any time heretofore if the people of Florida had considered themselves competent to assume all the responsibilities of a State government; and they may now, or at any time hereafter, carry it into effect, without reference to population: as a proof of their determination to set up for themselves and adopt such a form of government they have elected delegates from all the counties in the Territory to assemble here and make a Constitution. The treaty of 1819 guarrantees to them this right, and the King of Spain, one of the high contracting parties, whose duty it was to take care of their interests, assures them that they *shall* be admitted to the enjoyment of all the rights and privileges of citizens of the United States as soon as possible. This, he says, is secured to them by treaty. It may be said that Congress can refuse to admit Florida into the Union, with a less number of population than the present ratio, 47,700 inhabitants. Your committee deny the right of Congress to refuse admission to Florida, and keep her out of the Union, upon that or any other ground, which is based upon any act of that body, passed since 1819, at which time the treaty was made. Such an act would be contrary to the letter and spirit of the treaty, *ex post facto* when applied to Florida, and, consequently, unconstitutional, void, and [38] invalid. If any ratio of population is required by Congress upon the application of Florida for admission into the Union, your committee believe that they must go back to the federal constitution, which requires, "that the number of representatives shall not exceed one for every 30,000 and which must be the governing principle in this case. The treaty under which Florida claims admission into the Union, is silent on the subject of population and numbers; and so is the Royal order of the King; but if it is admitted, that it was the intention of the high contracting parties, that any ratio of population should be required of Florida whenever she applied for admission in the Union, (and this your committee will not by any means admit,) the utmost lati-

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tude of construction could not pretend to go, beyond 35,000, which was the ratio established after the census of 1819 was taken, and which was the basis of representation, when Florida was ceded to the United States. In the admission of new States into the Union, not within the limits of the North-western Territory, (in which, by the ordinance passed in 1787 by Congress, no new State could be formed with a population of less than 60,000 white inhabitants,) unless by the express assent of Congress, your committee believe, that the question of population was never formally raised in Congress, particularly on the admission of Louisiana, which being a Territory ceded by a foreign power to the United States, resembles in some respects the case of Florida. That learned and able writer on the law of nations, Vattel, says: "It is shewn by the law of nations that he who has made a promise to any one, has conferred upon him a true right to require the thing promised, and that, consequently, not to keep a promise, is to violate the right of another; and is as manifest an injustice as that of depriving a person of his property." Your committee believe that the engagements of the treaty of the 22d of February, 1819, between the United States and Spain, produces on the part of the people of the ceded Territories, a perfect right to be admitted into the Union of the United States; and that the same treaty imposes a perfect obligation on the United States to admit Florida into the Union on an equal footing with the original States, whenever the people thereof may ask for admission.

The committee recommend the following resolutions:

1. *Resolved*, That a memorial be prepared and signed by the members of this Convention, claiming admission into the Union of the United States, and that the memorial, together with a copy of the Constitution formed by this Convention, be sent to our Delegate, to be by him presented to Congress.

2. *Resolved*, That for the sure and speedy conveyance of the memorial and constitution, two members of this convention shall be delegated and immediately after the adoption of a constitution, sent on to Washington, to place those documents in the hands of the Delegate, and to aid in procuring the most favorable and speedy action of Congress thereon.

3. *Resolved*, That the Delegate in Congress be requested to urge and procure the admission of Florida as a State, in the Union of the United States, at the present session of Congress.

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The foregoing report and resolutions are respectfully submitted by the Committee to the Convention.

R. FITZPATRICK, Chairman.

[39] *Report of the Committee to draught and report such Regulations and Ordinances as may be proper to be adopted by this Convention in the establishment of a State Government.*

1. That no inconvenience may arise from a change of Territorial to a permanent State Government, it is declared, that all rights, actions, prosecutions, claims, and contracts, as well of individuals as of bodies corporate, shall continue as if no such change had taken place, and all processes which shall, before the day of next, be issued in the name of the Territory of Florida, shall be as valid as if issued in the name of the State.

2. All fines, penalties, forfeitures, and escheats, accruing to the Territory of Florida, shall accrue to the use of the State. The validity of all bonds and recognizances, executed in the name of the Territory of Florida, shall not be impaired by the change of government, but may be sued for and recovered in the name of the Governor of the State of Florida, and his successors in office, and all criminal or penal actions arising or now depending within the limits of this state, shall be prosecuted to judgment and execution, in the name of said state; all causes of action arising to individuals, and all suits at law, or in equity, now depending in the several courts within the limits of this state, and not already barred by law, may be commenced in, or transferred to such courts as may have jurisdiction thereof.

3. All officers, civil or military, now holding commissions under the authority of the United States, or of the Territory of Florida, within this state, shall continue to hold and exercise their respective offices under the authority of this state, until they shall be superseded under the authority of this constitution, and shall receive from the treasury of this state, the same compensation which they heretofore received, in proportion to the time they shall be so employed. The Governor shall have power to fill vacancies by commissions, to expire so soon as elections or appointments can be made to such offices, by authority of this constitution.

4. All laws and parts of laws, now in force in the Territory of Florida, which are not repugnant to the provisions of this constitution, shall continue and remain in force as the laws of this state, un-

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til they expire by their own limitation, or shall be altered or repealed by the Legislature thereof.

JACKSON MORTON, Chairman.

Mr. Bellamy of Jefferson, moved that the report of the committee on the Preamble, Declaration and Bill of Rights, be referred to the condensing and consolidating committee, which was adopted.

On motion, the Convention then adjourned until to-morrow at ten o'clock.

FRIDAY, December 14th, 1838.

The convention met pursuant to adjournment.

Mr. Bellamy of Jefferson offered the following resolutions:

1. *Resolved*, That the State of Florida is not bound for the payment of any bonds or guarranties signed by the Governor to certain incorporated companies, created during the Territorial Government.

2. *Resolved*, That the Legislature of this State shall never have the pow-[40]er to raise by taxation or otherwise, any revenue to pay any debts incurred by any banking or other company, chartered during the Territorial Government.

3. *Resolved*, That the Legislature of this State, shall never have power to pledge the public faith in aid of any banking or other company.

Mr. Marvin proposed the following sections, to be added to the Constitution:—

1. No part of this constitution, or act of this convention, shall be deemed a recognition, or admission of any right of the Governor and Legislative Council of the Territory of Florida, by any law or proceeding thereunder, to impose any obligation or duty upon the State of Florida to provide for the payment of any bonds or any guarrantee heretofore made; nor shall such right be now expressly denied, but the questions as to said right and liability or duty of the State of Florida, shall be left open and undecided.

2. No tax shall be levied, nor shall any of the revenues of the state be appropriated for the discharge of such bonds or guarrantee, by the general assembly; but, if the state shall be called upon therefor, the general assembly shall have power to call a convention of the

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people to decide as to such right, and also, as to said obligation or duty.

3. The general assembly shall have the power to pass laws to regulate, control, and restrain all banking and other corporations, for the advancement and preservation of the public good, and to prevent public mischief; and in case of extreme emergency, and when the public safety may require it, and for a violation of their charter, they may annul the same.

Mr. Baltzell offered the following resolutions:

1. *Resolved*, That a committee be appointed, to draw up a memorial to the Congress of the United States, requesting that honorable body to annul so much of any act of the Legislative Council, as authorises the issue of any further bonds for and in behalf of any banking, rail road, or other company, binding or pledging in any manner the public faith, and subjecting the people of Florida to liability for said banking, or other company.

2. *Resolved further*, That said committee, in said memorial, be instructed to assert the principle, that the General Assembly, having the power to arrest the evils proceeding from improvident legislation in this respect, by prohibiting the issue of farther bonds, in case of their omission to do so, that they, and not the people of Florida, are, and shall be held liable for the consequences.

Mr. Levy presented the following resolutions:

1. *Resolved*, That pledges of the public faith at any time made by the Governor and Legislative council of the Territory of Florida, are not binding upon the people of Florida.

2. *Resolved further*, That the charters to banking and other companies, granted by said Governor and Legislative Council, cannot, with due regard to the public good, be continued in force, in their present shape.

3. *Resolved*, That the subjects of the foregoing resolutions are proper for the consideration and action of this convention.

Mr. Bellamy of Jefferson, from the consolidating and condensing committee, made the following report, which was adopted:

The general committee appointed to consolidate all the reports of the [41] standing committees on the various departments of the constitution, recommend, that the reports of the several standing committees be taken up in the order of their arrangement, and acted on by the house.

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The convention then went into committee of the whole, Mr. Belamy of Jackson, in the chair, upon the report of the committee on the Preamble, Declaration, and Bill of Rights. After some time spent in its consideration, the committee rose, and presented the same, with sundry amendments, which on motion of Mr. Fitzpatrick, the committee adopted, as the first article of the constitution, and ordered to be engrossed for a third reading.

Mr. Fitzpatrick introduced the following, as an additional article, to those already offered, which was referred to the committee of the whole:

Resolved, That the Union Bank of Florida shall, with the consent of the stockholders in said bank, be adopted as the State Bank of Florida, upon the following terms, viz:

1. The present stockholders shall retain the whole of their stock according to the number of shares which each of them now hold, and shall have the benefit of the whole of the profits of the bank to the time of its adoption by the state, which profits shall be divided in such proportions as they may be entitled to from the number of shares which each stockholder owns; and no stockholder of the present bank, shall be permitted to subscribe for any more stock in the bank at any time hereafter.

2. The general assembly shall at its first session, provide by law, that books shall be opened in every county in the state, under the direction of proper persons, to receive subscriptions for five millions of stock in said bank which shall be secured upon real estate in this state, and owned by citizens resident therein, and no person shall ever own any stock in this bank, who is not a resident citizen of the state. The new stockholders shall have the same privileges as the old stockholders, and they shall secure their subscriptions on real estate in the same manner, and draw out of the bank the same proportion of money as is provided in the Union Bank charter; and if the subscriptions should exceed five millions of dollars, they shall be scaled down in the same manner as prescribed in said bank charter; and no new stockholder shall be entitled to more than one thousand shares in the bank.

3. The state shall own five million of the stock in said bank, and shall appoint by the general assembly five directors, and the other stockholders shall elect eight directors. The state, shall as soon as the whole of the stock is secured to her by mortgage, issue state bonds for ten millions of dollars, to be negotiated by the bank at such times

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as may be necessary for the increase of its funds. The bank shall establish branches at such places in the state as may be necessary for the benefit and convenience of the public when required by the general assembly, or without the requisition of the general assembly, if the president and directors of the bank may think proper to establish any branch.

4. The general assembly shall provide by law for carrying into effect the establishment of this state bank, and shall regulate the payment of interest on the state bonds, and the application of any surplus accruing to the state after payment of its interest, to internal improvements in the state.

On motion of Mr. Thompson, it was

Resolved, That an engrossing committee of five be appointed by the President.

[42] Messrs. Thompson, Anderson, Long, Partridge, and Semmes, were appointed said committee.

On motion of Mr. Marvin, the convention took a recess until half past 3 o'clock, P. M.

Evening Session.

The convention met at half past 3 o'clock.

On motion of Mr. Bellamy of Jefferson, the convention went into committee of the whole, on the report of the committee on the Executive Department, Mr. Bellamy in the chair.

After some time spent in consideration of the report, on motion of Mr. Woodward, the committee rose, reported progress, and asked leave to sit again.

On motion of Mr. Read of Leon, the convention adjourned till tomorrow, ten o'clock.

SATURDAY, December 15th, 1838.

The convention met pursuant to adjournment.

On motion of Mr. Anderson, the reading of the journal of yesterday was dispensed with.

On motion of Mr. Baltzell, the convention adjourned till Monday, 10 o'clock.

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MONDAY, December 17th, 1838.

The convention met pursuant to adjournment.

Mr. Read of Leon, moved that the resolutions offered by Messrs. Bellamy of Jefferson, Baltzell, and Levy, and also the articles submitted by Messrs. Marvin and Fitzpatrick, and the report of committee on banks, &c. be called up, and made the order of the day for Friday next, which was adopted.

On motion of Mr. Bellamy of Jefferson, the convention went into committee of the whole, on the report of the committee on the Executive Department, Mr. Bellamy of Jefferson, in the chair.

After some time spent in the consideration of said report, on motion of Mr. Anderson, the committee rose, reported progress, and asked leave to sit again.

On motion of Mr. Stephens, the convention took a recess until half past 3 o'clock, P. M.

Afternoon Session.

The convention met at half past 3 o'clock, P. M.

Mr. Bunce, the member from Hillsborough, appeared, was sworn, and took his seat.

The convention then, in committee of the whole, resumed the consideration of the report of the committee on the Executive Department.

After some time spent in its consideration, the committee rose, and presented the report of said committee, as amended, which was concurred in.

The convention then adjourned till to-morrow, 9 o'clock, A. M.

[43] TUESDAY, December 18th, 1839.

The Convention met pursuant to adjournment, and was opened with prayer by the Rev. D. L. White,

Mr. Baltzell, presented the following resolution, which was adopted.

Resolved, That the Secretary, record all the reports of the committees on the journal, as they are presented to this Convention.

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The Convention went into the consideration of the Report of the Committee on the Executive Department. When on motion, the third section of said Report was stricken out, and the following substitute offered by Mr. Anderson, was adopted.

“No person shall be eligible to the office of Governor, unless he shall have attained the age of thirty years, shall have been a citizen of the United States ten years, or an inhabitant of Florida, at the time of the adoption of this Constitution, (being a citizen of the United States,) and shall have been a resident of Florida, at least five years next preceeding the day of election.”

Mr. Fitzpatrick offered an addition to the 2d. section, which was read.

Mr. Ward offered the following section, as a substitute for the one proposed by the member from Escambia.

“No person shall be eligible to the office of Governor, unless a native citizen of the United States, or a citizen of Florida at the time of the treaty of session, and shall have been a resident of Florida at least five years preceding the day of election.” The vote being taken the substitute was lost.

On motion, the report of committee on the Executive Department, was taken up and read a second time by sections.

Mr. Cabell moved to strike out the fourth section, as amended by the Committee of the whole, and retain the one originally reported by the same committee on the Executive Department. And the yeas and nays being called for, were as follows:

AYES—Messrs. Allen, Anderson, Bartlett, Bellamy, of Jackson, Cabell, Fitzpatrick, McGehee, McCants, Semmes,—9.

NAYS—Mr. President, Messrs. Baltzell, Bellamy, of Jefferson, Blount, Brooks, Bird, Brown, of Monroe, Brown, of Leon, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Long, Malone, Marvin, Mays, McClellen, McKinnon, McLean, Meacham, Morton, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Sanchez, Stephens, Taylor, Thompson, Ward, Watts, Webb, Westcott, White, Wood, Woodward, Wright,—44.

So the motion was lost.

Mr. Levy moved to amend the fourth section, by inserting after the word “there” in the seventh line, the following: “The Governor in office, shall give notice, that there has been a failure to elect a

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Governor, and shall by his proclamation, order another election, within sixty days, from the date of such proclamation, and the election so-ordered, shall be from the two highest candidates in the preceding election.”

The ayes and nays being called, were as follows:

AYES—Mr. President, Messrs. Anderson, Bellamy, of Jackson, Bird, Brown, of Monroe, Cabell, Cooper, Fitzpartrick, Garey, Garrison, Jenckes, Levy, Sanchez, Semmes, Westcott, White,—16.

NAYS—Allen, Baltzell, Bartlett, Bellamy, of Jefferson, Blount, Brooks, Brown, of Leon, Bunce, Duval, Hooker, Hunter, Long, Malone, Marvin, Mays, McClellan, McKinnon, McLean, McGehee, McCants, Meachem, Morton, Partridge, Parkhill, Read, [44] of Leon, Roche, Robbins, Stephens, Taylor, Thompson, Ward, Watts, Webb, Williams, Wood, Woodward, Wright, Wyatt,—39.

So the motion was rejected.

Mr Partridge moved to strike out, in the sixth and ninth lines, the words “The whole number elected to” and the vote being taken the amendment was lost.

On motion of Mr. Fitzpatrick, the report of the committee on the Executive Department, was ordered to be engrossed for a third reading.

The Convention, then on motion of Mr. Brown, of Leon, went into committee of the whole, on the report of the committee on the Legislative Department, Mr Thompson in the Chair.

After some time spent in consideration of said report, the committee rose, reported progress, and asked leave to sit again.

The President read a letter from several citizens of St. Joseph, requesting the use of the Convention Hall, on Wednesday evening next, which was granted.

The Convention then took a recess till half past 3 o'clock P. M.

Evening Session.

The Convention met at half past 3 o'clock P. M., and in committee of the whole, resumed the consideration of the Report of the Committee on the Legislative Department.

After some time spent in its consideration, the committee rose, and presented, the report to the convention, with sundry amendments, which were concurred in.

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Mr. Blount, of Escambia appeared, was sworn and took his seat.

On motion of Mr. Baltzell, the Convention adjourned till quarter past nine o'clock to-morrow morning.

WEDNESDAY, December 19th, 1838.

The Convention met pursuant to adjournment.

Mr. Ward moved, that the following be adopted as the 30th rule of this convention. "All amendments, shall be offered in committee of the whole, no amendment, shall be brought forward in the convention, or the yeas and nays taken thereon, unless the same, shall have been offered in committee of the whole, in which case, there shall be no debate thereon."

And the yeas and nays being called for, were as follows:—

AYES—Messrs. Allen, Bartlett, Bellamy, of Jefferson, Bellamy, of Jackson, Brooks, Brown, of Leon, Bunce, Hunter, Levy, Malone, Mays, McKinnon, McLane, McCants McGehee, Meacham, Partridge, Parkhill, Roche, Robbins, Semmes, Stephens, Taylor Thompson, Ward, Webb, White, Wright.—28.

NAYS—Mr. President, Messrs. Anderson, Baltzell, Bird, Brown, of Monroe, Cabell, Cooper, Crichton, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Jenckes, Long, McClellan, Read, of Leon, Sanchez, Watts, Williams, Wood, Woodward, Wyatt—24.

So the rule was adopted.

Mr. Ward, moved that the vote of the convention, on the rule proposed by him, be re-considered, and that said rule, be laid on the table, which was concurred in.

The convention then proceeded to consider the orders of the day, and the report of the committee on the Legislative Department, was taken up, and read by sections.

[45] Mr. Duval, moved to strike out the last clause of the second section, and insert the following. "The two first sessions of the General Assembly, shall be held annually, and ever afterward, the same, shall be held every two years." And the yeas and nays, being called, were:

AYES—Messrs. Allen, Baltzell, Bellamy, of Jackson, Brooks, Brown, of Monroe, Cooper, Duval, Garey, Haddock, Hooker, Jenckes,

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Marvin, McClellan, McLane, Read, of Leon, Sanchez, Semmes, Stephens, Ward, Watts, Webb, Williams, Wood, and Wright.—24.

NAYS—Messrs. President, Anderson, Bartlett, Bellamy, of Jefferson, Bird, Blount, Brown, of Leon, Bunce, Cabell, Crichton, Fitzpatrick, Garrison, Hunter, Levy, Long, Malone, Mays, McKinnon, McGehee, McCants, Meacham, Partridge, Parkhill, Robbins, Roche, Taylor, Thompson, Westcott, White, Woodward, Wyatt.—32.

So the motion was lost.

Mr. Fitzpatrick, moved for a call of the convention, which was concurred in, and on calling the roll, it appeared, that only three members were absent.

When on motion of Mr. Allen, further proceedings under the motion of the gentleman from Dade, were suspended.

Mr. Woodward, moved to strike out the word "two," in the second section, and insert the word "one." The yeas and nays, being ordered, were:

AYES—Messrs. Baltzell, Bartlett, Bellamy, of Jackson, Brooks, Brown, of Monroe, Bunce, Cabell, Cooper, Crichton, Garey, Hooker, Jenckes, Levy, Long, Malone, McClellan, Marvin, McKinnon, McLane, Read, of Leon, Roche, Stephens, Ward, Webb, Westcott, Williams, Wood, Woodward, Wright.—29.

NAYS—Mr. President, Messrs. Allen, Anderson, Bellamy, of Jefferson, Bird, Blount, Brown, of Leon, Duval, Fitzpatrick, Garrison, Haddock, Hunter, Mays, McGehee, McCants, Meacham, Partridge, Parkhill, Robbins, Semmes, Taylor, Thompson, Watts, White, and Wyatt.—25.

And the amendment was accordingly made.

Mr. Allen, moved to amend the second section, by adding to said section, the words, "or at such other time as may be prescribed by law," which was concurred in.

Mr Baltzell, moved that the word "second," in the first line of the second section, be stricken out, which was adopted.

Mr. Westcott, moved that the words "second" and "fourth," in the sixth section, be stricken out, and the words "first" and "second," be inserted. The yeas and nays, being called, were:

AYES—Mr. President, Anderson, Bellamy, of Jefferson, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Garrison, Haddock,

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Hooker, Jenckes, Long, Malone, McClellan, McKinnon, Roche, Sanchez, Watts, Webb, Westcott, Williams, Woodward, Wood,—24.

NAYS Messrs. Allen, Baltzell, Bartlett, Bellamy, of Jackson, Bird, Blount, Brooks, Brown, of Leon, Cabell, Duval, Fitzpatrick, Hunter, Levy, Marvin, Mays, McLean, McGehee, McCants, Meacham, Partridge, Parkhill, Read, of Leon, Robbins, Semmes, Stephens, Taylor, Thompson, Ward, White, Wright, Wyatt,—30.

So the amendment was lost.

Mr. Brown, of Leon, moved, that the words, "twenty-five," in the eighth line of the fifth section, be stricken out, and the word "thirty" be inserted, on the vote being taken, the motion was lost.

Mr. Bellamy, of Jackson, moved that the word "two," in the second line, of the 5th section, be stricken out, and insert the word "three," the vote being taken, was lost.

[46] On motion of Mr. Fitzpatrick, the 6th section was stricken out.

Mr. Westcott, offered the following amendment to the 6th section:

"The Senators after their first election, shall be divided by lot, into two classes, and the seats of the Senators of the first class, shall be vacated at the expiration of the first year, and of the second class, at the expiration of the second year, so that one-half thereof, as near as possible, may be chosen for ever thereafter, annually, for the term of two years." The yeas and nays being called, were:

AYES—Messrs. Anderson, Baltzell, Brooks, Brown, of Monroe, Brown, of Leon, Bunce, Cabell, Cooper, Garey, Jenckes, Levy, Long, Malone, Mays, McKinnon, McLean, Meacham, Partridge, Parkhill, Roche, Sanchez, Semmes, Taylor, Ward, Webb, Westcott, Williams, Wood, Woodward,—29.

NAYS—Mr. President, Messrs. Allen, Bartlett, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Blount, Crichton, Duval, Fitzpatrick, Garrison, Haddock, Hooker, Hunter, Marvin, McClellan, McGehee, McCants, Read, of Leon, Robbins, Stephens, Thompson, Watts, White, Wright, Wyatt,—26.

So the amendment was adopted.

Mr. Bellamy, of Jackson, moved for a reconsideration of the vote, taken on the first section, for the purpose of introducing an amendment, which was lost.

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Mr. Thompson, moved that the 6th section, as reported by the committee of the whole, be adopted, which was concurred in.

Mr. Cabell, moved a reconsideration of the vote on the 2nd section, with a view to restore the section originally reported by the committee of the whole.

Mr. Marvin, offered a substitute, for the amendment of the gentleman from Jefferson.

After some little discussion, Mr. Cabell, withdrew his motion to strike out, and the same motion, was renewed by Mr. Bellamy, of Jefferson.

On motion of Mr. Westcott, the question upon the adoption of the second section, as amended by the convention, was divided, and the yeas and nays being ordered, were on the first division, as follows:

AYES—Mr. President, Allen, Baltzell, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Blount, Brown, of Monroe, Brown, of Leon, Cabell, Cooper, Duval, Fitzpatrick, Garey, Garrison, Hooker, Hunter, Jenckes, Levy, Marvin, Mays, McLean, McClellan, McKinnon, McGehee, McCants, Meacham, Partridge, Read, of Leon, Robbins, Sanchez, Taylor, Thompson, Watts, Webb, White, Williams, Wood, and Wyatt,—40.

NAYS—Messrs. Anderson, Bartlett, Brooks, Bunce, Crichton, Haddock, Long, Malone, Roche, Westcott, Woodward,—11.

On the second division, the yeas and nays, were:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bird, Blount, Brooks, Brown, of Leon, Bunce, Cabell, Cooper, Crichton, Duval, Fitzpatrick, Garey, Garrison, Haddock, Hunter, Jenckes, Levy, Long, Malone, Mays, McLean, McGehee, McCants, Meacham, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Taylor, Thompson, Watts, Westcott, White, Williams, Woodward, Wyatt,—42.

NAYS—Messrs. Bellamy, of Jackson, Brown, of Monroe, Hooker, Marvin, McClellan, McKinnon, Sanchez, Stephens, Webb, Wood, Wright,—11.

So the section was adopted.

Mr. Marvin, moved that the word "two" be stricken out, and the word [47] "one" be inserted in the second section, upon which the yeas and nays were ordered, and were:

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AYES—Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Blount, Brown, of Leon, Brown, of Monroe, Cabell, Cooper, Crichton, Haddock, Hooker, Hunter, Marvin, Morton, Partridge, Sanchez, Westcott, Wood, Wright,—19.

NAYS—Mr. President, Allen, Bartlett, Bird, Brooks, Bunce, Duval, Fitzpatrick, Garey, Garrison, Jenckes, Levy, Long, Malone, Mays, McClellan, McLean, McCants, McKinnon, McGehee, Meacham, Parkhill, Read, of Leon, Robbins, Semmes, Stephens, Taylor, Thompson, Watts, Webb, White, Woodward, Wyatt,—33.

So the motion was lost.

On motion of Mr. Levy, the convention adjourned, till ten o'clock, to-morrow morning.

THURSDAY, December 20th, 1838.

The convention met pursuant to adjournment, and was opened with prayer by the Rev. Mr. Warner.

Mr. Levy, moved that the hours of session hereafter, be from 10 o'clock, A. M., to 4, P. M., which was concurred in.

Mr. Bellamy, of Jefferson, offered the following, as an additional rule, for the government of this convention.

Mr. Anderson, moved that leave of absence be granted to Mr. Morton, from Escambia, which was concurred in.

Mr. Baltzell, moved for a reconsideration of the vote on granting leave of absence to Mr. Morton, which was lost.

The orders of the day were taken up and the convention resumed the consideration of the report of the committee on the Legislative Department.

Mr. Fitzpatrick, offered the following amendment, to the 14th section of said report, "But neither House of the General Assembly, shall go into secret session, except at such times, as the state shall be in danger from insurrection or invasion," which was decided by yeas and nays, in the negative as follows:

AYES—Mr. President, Messrs. Bellamy, of Jefferson, Bird, Blount, Brooks, Bunce, Cooper, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, Roche, Sanchez, Semmes, Watts, Westcott, Williams, Woodward, Wright,—23.

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NAYS—Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Brown, of Monroe, Brown, of Leon, Cabell, Crichton, Duval, Hunter, Malone, Marvin, Mays, McClellen, McKinnon, McLean, McGehee, McCants, Meacham, Partridge, Parkhill, Read, of Leon, Robbins, Stephens, Taylor, Ward, Webb, White, Wood, Wyatt,—31.

Mr. Brown, of Leon, offered the following amendment, as a substitute for the one offered by Mr. Fitzpatrick; to insert after the word "house," in the second line, the public safety may imperiously require secrecy, which was adopted.

Mr. Woodward offered the following amendment to the 16th. section—Bills may originate in either house of the General Assembly, and all bills passed by one house, may be discussed, amended or rejected by the other. And the ayes and nays being called for, were:

AYES—Mr. President, Messrs. Anderson, Bartlett, Baltzell, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Blount, Brooks, Brown, of Monroe, Bunce, Cabell, Cooper, Crichton, Garey, Garrison, Haddock, Hunter, Jenckes, Levy, Long, Malone, Marvin, Mays, McGehee, Meacham, Partridge, Roche, Sanchez, Taylor, Ward, Watts, Wood, Williams, Woodward, Wright, Wyatt,—37.

[48] NAYS—Messrs. Allen, Brown, of Leon, Duval, Fitzpatrick, Hooker, McLean, McClellan, McKinnon, McCants, Parkhill, Read, of Leon, Robbins, Semmes, Stephens, Webb, Westcott,—16.

So the amendment was concurred in.

Mr. Levy offered the following, as a proviso, to the 16th Section. "Provided all bills for raising revenue, or making appropriations of public money, shall originate in the House of Representatives, but the Senate may propose or concur with amendments, as on other Bills," which was adopted.

Mr. Bellamy of Jefferson, moved for a reconsideration of the vote on the 5th section, with a view to fix the term of service of Senators at two, instead of four years, and the yeas and nays being called, were:

AYES—Mr. President, Messrs. Bellamy, of Jefferson, Bird, Blount, Brown, of Monroe, Bunce, Cooper, Crichton, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, Malone, Marvin, McClellan, McKinnon, McLean, Roche, Sanchez, Watts, Webb, Williams, Wood, Woodward,—29.

NAYS—Messrs. Allen, Anderson, Bartlett, Bellamy, of Jackson,

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Brown, of Leon, Cabell, Duval, Hunter, Mays, McGehee, McCants, Meacham, Partridge, Parkhill, Read, of Leon, Robbins, Semmes, Stephens, Taylor, Thompson, Ward, Westcott, White, Wright, Wyatt,—25.

So a reconsideration was ordered.

Mr. Bellamy of Jefferson, moved to strike out the word "four" in the second line of the 5th. section, and insert the word two, and on motion, a division of the question was ordered.

On the adoption of the first division, the yeas and nays were as follows:*

AYES—Messrs, Allen, Anderson, Baltzell, Bartlett, Blount, Brown, of Leon, Cabell, Duval, Fitzpatrick, Hunter, Levy, Marvin, Mays, McGehee, Meacham, McCants, Partridge, Parkhill, Read, of Leon, Semmes, Stephens, Taylor, Ward, Westcott, Wright, Wyatt,—26.

NAYS—Mr. President, Messrs. Bellamy, of Jackson, Bellamy, of Jefferson, Bird, Brooks, Brown, of Monroe, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Long, Malone, McClellan, McKinnon, McLean, Roche, Robbins, Sanchez, Watts, Webb, White, Williams, Wood, Woodward,—27.

On the second division, the yeas and nays were:

AYES—Mr. President, Messrs. Bellamy, of Jefferson, Bird, Brooks, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, Malone, Marvin, McClellan, McKinnon, McLean, McCants, Meacham, Read, of Leon, Roche, Robbins, Sanchez, Watts, Webb, Westcott, Williams, Woodward, Wood, Wright,—33.

NAYS—Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Blount, Brown, of Leon, Cabell, Duval, Fitzpatrick, Hunter, Mays, McGehee, Partridge, Parkhill, Semmes, Stephens, Taylor, Ward, White, Wyatt,—21.

So the whole section as amended, was adopted.

On motion of Mr. McCants, the 6th. section was adopted.

Mr. Bellamy of Jefferson, moved that the report of the committee on the Legislative Department, be engrossed for a third reading, which was concurred in.

*Note by printer.—It is believed, the yeas and noes are transposed, but the copy is pursued.

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Mr. Parkhill, moved that the Convention adjourn till to-morrow ten o'clock, which was lost.

[49] Mr. Westcott, moved that the Convention now go into committee of the whole, on the report of the committee on the Judicial department, and Mr. Wright was called to the chair.

After some time spent in its consideration, the committee arose, reported progress, and asked leave to sit again, which was concurred in.

The Convention then adjourned till to-morrow ten o'clock.

FRIDAY, December 21th, 1838.

The Convention met pursuant to adjournment, and was opened with prayer, by the Chaplain.

Mr. Anderson gave notice that he had been selected by the Western delegation, to act as proxy for Mr. Morton, the absent member from Escambia. Objections were raised by several members, against Mr. Morton's being represented by proxy, and the ayes and nays being required on the question, were:

AYES—Mr. President, Messrs. Allen, Anderson, Bartlett, Bellamy, of Jackson, Bird, Blount, Brown, of Monroe, Brown, of Leon, Bunce, Cabell, Cooper, Duval, Fitzpatrick, Garey, Garrison, Had-dock, Hooker, Hunter, Jenckes, Long, Marvin, Mays, Malone, McClellan, McKinnon, McLean, McGehee, McCants, Meacham, Part-ridge, Parkhill, Robbins, Sanchez, Semmes, Stephens, Taylor, Ward, Watts, Woodward, Wright, Wyatt,—42.

NAYS—Messrs. Bellamy, of Jefferson, Brooks, Crichton, Levy, Read, of Leon, Webb, Westcott, White, Williams, Wood,—10.

So Mr. Anderson was allowed to act as Mr. Morton's proxy.

Mr. Read of Leon, moved that the rule adopted by this Convention on yesterday, concerning the absence of members, be rescinded, which was lost.

On motion of Mr. Woodward, sundry resolutions on the subject of Banks, which were made the special orders of the day, for to day, were ordered to remain on the table.

The Convention then in committee of the whole, resumed the con-sideration of the report of the committee on the Judicial department. Mr. Wright in the chair.

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After some time spent in its consideration, the committee rose and presented the report, as amended, which was concurred in.

On motion, the report of the committee on the Judicial department, was taken up, and read a second time by sections.

Mr. Read of Leon, moved to amend the 5th section, by striking out, in the first line the words, "at least from," and the yeas and nays being called, were:

AYES—Mr. President, Baltzell, Bartlett, Bellamy, of Jefferson, Brooks, Crichton, Malone, McKinnon, McLean, McGehee, Read, of Leon, Roche, Robbins, Woodward,—14.

NAYS—Messrs. Allen, Bird, Brown, of Leon, Bunce, Cooper, Duval, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Long, Marvin, Mays, McClellan, McCants, Meacham, Partridge, Parkhill, Sanchez, Stephens, Taylor, Ward, Watts, Webb, Westcott, White, Williams, Wood, Wright, Wyatt,—34.

So the motion was lost.

Mr Read of Leon, moved to strike out the words, "two thousand" in the fifth line of the 5th section and the ayes and nays being called were:

[50] AYES—Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Bellamy, of Jackson, Blount, Brown, of Monroe, Levy, Long, Malone, McLean, McGehee, Read, of Leon, Westcott, White, Woodward, Wright,—16.

NAYS—Mr. President, Messrs. Allen, Bartlett, Bird, Brooks, Brown, of Leon Bunce, Cooper, Crichton, Duval, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Marvin, Mays, McKinnon, McCants, Partridge, Parkhill, Roche Robbins, Sanchez, Taylor, Ward, Webb, Williams, Wood, Wyatt,—32.

So the motion was lost.

Mr. Westcott, moved to insert instead of "two thousand," twenty-five hundred; and the yeas and nays being called, were:

AYES—Mr. President, Messrs. Bartlett, Brown, of Leon, Parkhill, Read, of Leon, Sanchez, Westcott, White,—8.

NAYS—Messrs. Allen, Baltzell, Bellamy, of Jefferson, Bird, Brooks, Bunce, Cooper, Crichton, Duval, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Long, Malone, Marvin, Mays, McClellan, McKinnon, McLean, McGehee, McCants, Meacham,

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Partridge, Roche, Robbins, Stephens, Taylor, Ward, Watts, Webb, Williams, Wood, Woodward, Wright, Wyatt,—40.

So the motion was lost.

Mr. Fitzpatrick, moved to insert "two thousand," which was concurred in.

It was then moved that the 5th. section, as reported by the committee of the whole, be adopted; and the yeas and nays being ordered, were:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bird, Brooks, Brown, of Leon, Brown, of Monroe, Bunce, Cooper, Crichton, Duval, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Marvin, Mays, McKinnon, McGehee, McCants, Meacham, Morton, Partridge, Parkhill, Roche, Robbins, Sanchez, Semmes, Stephens, Taylor, Wood, Webb, Williams, Ward, Woodward, Wright, and Wyatt,—43.

NAYS—Messrs. Bellamy, of Jefferson, Bellamy, of Jackson, Blount, Long, Malone, McLean, Read, of Leon, Westcott, White,—9.

So the section was adopted.

Mr. Westcott, proposed to strike out in the 6th. section, all after the word "Constitution" in the third line, and insert "and appellate jurisdiction, in such cases as may be provided by law," which was concurred in.

Mr. Baltzell, moved to strike out the words, "when they may deem it expedient," in the 3d. and 4th. line of the 7th. section, which was lost.

Mr. Levy, moved to strike out all after the word "law" in the 7th. section, which was adopted.

Mr. Baltzell, moved to insert after the word "minor" in the 4th. line of the 9th. section, "and to discharge the duties usually pertaining to Courts of ordinary, which was concurred in.

Mr. Westcott, moved to strike out the word "fifty" in the fifth line of the tenth section, and insert the word "twenty," which was lost by the following vote.

AYES—Mr. President, Messrs. Allen, Anderson, Brown, of Monroe, Brown, of Leon, Duval, Levy, Marvin, Mays, McCants, Morton, Partridge, Parkhill, Semmes, Taylor, Thompson, Westcott,—17.

NAYS—Messrs. Baltzell, Bartlett, Bellamy, of Jefferson, Bellamy,

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of Jackson, Bird, Blount, Brooks, Bunce, Cooper, Crichton, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Long, Malone, McClellan, McKinnon, McLean, McGehee, Meacham, Read, of Leon, Roche, Robbins, Sanchez, Stephens, Ward, Webb, Watts, White, Williams, Wood, Woodward, Wright, Wyatt,—38.

Mr. Marvin, proposed to amend the 10th. section, by striking out all after [51] the word "direct" in the 3d. 4th. and part of the fifth line, and insert "and shall possess such jurisdiction, as shall be prescribed by law."

Which was concurred in.

Mr. Bartlett, moved to strike out all after the word "elected," in the 2d. line of the 11th. section, and insert "by the qualified electors"—and the ayes and nays being called, were:

AYES—Messrs. Bartlett, Crichton, Read, of Leon, Sanchez, Watts, Westcott,—6.

NAYS—Mr. President, Messrs. Allen, Anderson, Baltzell, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Blount, Brooks, Brown, of Monroe, Brown, of Leon, Bunce, Cooper, Duval, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Long, Malone, Marvin, Mays, McClellan, McKinnon, McLean, McGehee, McCants, Meacham, Morton, Partridge, Parkhill, Roche, Robbins, Semmes, Stephens, Taylor, Thompson, Ward, Webb, White, Wood, Woodward, Wright, Wyatt,—48.

So the motion was lost.

Mr. Woodward, moved to amend the 12th section, so as to fix the term of office of Judges, at six years instead of good behaviour, which was lost.

Mr. Read, of Leon, offered the following as an additional proviso to the 12th section;—"And provided further, that no person shall hold the office of Justice of the Supreme Court, Chancellor, or Judge of the Circuit Court, after he shall have attained the age of sixty-five years," which was lost.

Mr. Wright, proposed to substitute the words, "seventy-five," in lieu of the words "sixty-five," in Mr. Reads' amendment, which was lost.

Mr. Westcott, proposed, that one hundred be inserted, which was also rejected.

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Mr. Westcott, moved to insert the word "prosecution" in the second line of the 15th section, in lieu of the word, "indictments," which was concurred in.

Also, that the words, "and by the authority of the State of Florida," in the same section, be stricken out, which was concurred in.

Mr. Baltzell, moved to insert after the word "sit," in the first line of the 18th section, "or take part," which was adopted.

On motion of Mr. Fitzpartrick, the report of the committee on the Judicial Department, was ordered to be engrossed for a third reading.

The Convention, then adjourned till ten o'clock, to-morrow.

SATURDAY, December 22nd, 1838.

The Convention met pursuant to adjournment.

Mr. Brown, of Leon, in behalf of a majority of the delegation from the Middle District, presented the following, Preamble and Resolution, passed at a meeting of a majority of the members from said district, together with the protest of the minority, which was read.

"At a meeting this morning of the Delegation from the Middle District, a majority of the delegation being present.

"Whereas, at this meeting of the Convention, Capt. Partridge, of Jefferson county, was appointed proxy, for the two absent members of Madison county, and whereas, John C. McGehee, Esq., one of the delegates duly elected for said county, has since appeared and taken his seat, and whereas it is deemed that the requirements of the law, and principles of justice alike demand the said Delegate, in attendance, to express upon this floor, the [52] voice of said county, in preference to any other individual not of said county, nor elected by the people thereof; Therefore be it

Resolved, That the chairman of this committee, do move the House to invest the said J. C. McGehee, Esq, with the powers of representing the said absent member, from the county of Madison, as his proxy."

Note.—Twelve members of the committee, voting for these instructions.

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St. JOSEPH, Saturday, Dec. 22nd, 1838.

"The undersigned, have understood, a meeting of a portion of the delegation from the middle District of Florida, is desired by Mr. McGehee, who claims the right to vote as proxy for Mr. Mays, who is absent. We regard the matter as settled, and that the delegation has no power to cashier, remove or displace the present proxy, Capt. Partridge. The law does not give the member *from the County* any claim or preference to the proxy for the absent member; but the proxy is to be chosen from the *whole district*. In this case the choice was duly made—the result certified by General Brown the chairman of the delegation, reported to the Convention and recorded in the minutes. No complaint can be made that the choice of Capt. Partridge was not fair. We consider his removal a reflection upon his course. We are satisfied with that course. We have confidence he will act correctly, and truly represent the people of Madison, and also the absent member with fidelity, and if we had the power, we should not be disposed to wrest the proxy from him, as if he had abused it, or was unworthy of future trust. The attempt on this occasion after McGehee has acquiesced in it for several days, looks as if it was with a view to a particular subject, and we regard it on that account as improper.

"The law gives us no power to displace Capt. Partridge, after he has been duly chosen, any more than the power to expel any one of us because our votes do not please the other portion of the delegation. Had Mr. McGehee attended the first of the session, when the selection was made, we might have voted for him, but we regard the matter as settled, and we protest against disturbing the decision.

"We request this may be reported to the Convention, if any course is adopted by the residue of the delegation, as we decline attending the meeting desired."

Respectfully,

JAMES D. WESTCOTT, Jr.
ABRAM BELLAMY,
LESLIE A. THOMPSON,
WM. B. HOOKER,
JOSEPH B. WATTS,
LEIGH READ.

Mr. Westcott, moved they lie on the table, and the yeas and nays being ordered, were:

AYES—Mr. President, Messrs. Bellamy, of Jefferson, Bird,

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Brooks, Brown, of Monroe, Bunce, Cabell, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, Marvin, McClellan, Partridge, Read, of Leon, Robbins, Roche, Sanchez, Thompson, Watts, Webb, Westcott, White, Williams, Wood, Wright,—31.

NAYS—Messrs. Allen, Anderson, Bartlett, Baltzell, Bellamy, of Jackson, Blount, Brown, of Leon, Duval, Fitzpatrick, Hunter, Malone, McKinnon, McLean, McGehee, [53] Meacham, Morton, Parkhill, Semmes, Stephens, Taylor, Ward, Woodward, and Wyatt,—23.

So they were laid on the table.

Mr. Partridge declined acting longer as the proxy of Mr. Mays, the absent member from Madison.

When on motion of Mr. Stephens, the delegation from the middle District were permitted to retire and appoint a proxy to represent the absent member from Madison.

After a short absence, the members from the middle District returned, and reported through their chairman, Mr. Brown, the following resolution.

Resolved, By the delegation from the middle District, that John C. McGehee, Esq., be appointed a proxy, to give the vote of R. J. Mays, Esq., a Delegate from the county of Madison, who is absent, in the room of J. N. Partridge, Esq., who has resigned that proxy.

THOS. BROWN, Chairman.

Mr. Levy, moved that the resolution lie on the table till Monday next, and called for the ayes and nays.

A call of the house was ordered.

Messrs. Westcott and White, asked to be excused from voting, which was refused.

The yeas and nays being ordered upon the adoption of the resolution, were:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Blount, Brown, of Monroe, Brown, of Leon, Bunce, Cabell, Duval, Fitzpatrick, Garrison, Hunter, Long, Malone, Marvin, McClellan, McKinnon, McLean, McCants, Meacham, Morton, Partridge, Parkhill, Read, of Leon, Sanchez, Semmes, Stephens, Taylor, Westcott, Woodward, Wright, Wyatt, Ward,—36.

NAYS—Messrs. Bellamy, of Jefferson, Bird, Brooks, Cooper,

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Crichton, Garey, Haddock, Hooker, Jenckes, Levy, Roche, Robbins, Webb, White, Williams, and Wood,—16.

So the resolution was adopted.

On motion of Mr. Fitzpatrick, the Convention went into committee of the whole, on the report of the committee on suffrage and qualification of officers. Mr. Read of Leon, in the chair.

After some time spent in its consideration, the committee rose, reported progress, and asked leave to sit again.

On motion of Mr. Levy, the Convention adjourned till Monday morning 10 o'clock.

MONDAY, December 24th, 1838.

The Convention met pursuant to adjournment.

Mr. Bellamy of Jefferson, moved that the articles of the Constitution, which were ordered to be engrossed, be taken up, and read a third time and finally acted upon; and the committee on engrossed articles, be charged with the superintendance of there emoluments, which was concurred in.

The engrossed articles on the Preamble, Declaration and Bill of Rights, and on the Executive and Legislative Departments, were read a third time, and passed.

The Convention then went into committee of the whole, on the report of the committee on suffrage and qualification of officers. Mr. Read of Leon in the chair.

[54] After some time spent in its consideration, the committee rose and reported the article as amended, which was adopted.

The article was then taken up, and read by sections.

On motion of Mr. Westcott, the first section was amended by striking out the word "twelve" and inserting the word "six," and the yeas and nays being ordered, were as follows:

AYES—Messrs. Allen, Anderson, Baltzell, Bartlett, Bird, Blount, Brooks, Garrison, Haddock, Hooker, Long, Mays, McGehee, McCants, Morton, Read, of Leon, Roche, Taylor, Thompson, Watts, Webb, Westcott, Wood, Woodward, Wright,—25.

NAYS—Mr. President, Messrs. Bellamy, of Jefferson, Bellamy, of Jackson, Brown, Monroe, Bunce, Cabell, Cooper, Duval, Fitzpat-

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rick, Garey, Hunter, Jenckes, Levy, Malone, Marvin, McKinnon, Meacham, Partridge, Parkhill, Robbins, Stephens, Wyatt, Williams,—23.

Mr. Read of Leon, moved a suspension of the rule, and that the Convention take a recess till 7 o'clock this evening, which was lost.

Mr. Wyatt, moved to insert after the words, "United States" in the last part of the first section, "unless he be a qualified elector of the State, previous to his enlistment, as such soldier, seaman or marine, in the regular army or navy of the United States;" and the yeas and nays being called, were:

AYES—Mr. President, Messrs. Allen, Anderson, Blount, Brown, of Leon, Duval, Hunter, Hooker, McKinnon, McLean, Morton, Parkhill, Roche, Taylor, Thompson, Ward, Watts, Wright, Wyatt,—19.

NAYS—Messrs. Baltzell, Bartlett, Bellamy, of Jackson, Bellamy, of Jefferson, Bird, Brooks, Brown, of Monroe, Bunce Cabell, Cooper, Fitzpatrick, Garey, Garrison, Haddock, Jenckes, Levy, Long, Malone, Marvin, McGehee, McCants, Meacham, Mays, Partridge, Read, of Leon, Robbins, Stephens, Webb, Westcott, Williams, Wood, Woodward,—32.

So the amendment was lost.

On motion of Mr. Fitzpatrick, the Convention adjourned till 10 o'clock to-morrow morning.

TUESDAY, December 25th, 1838.

The Convention met pursuant to adjournment.

Mr. McCants, moved that the standing rule of the Convention, relating to the hours of session, be amended, so that the hours of session shall hereafter be, from 9 o'clock A. M. till 1 o'clock P. M., and from 3 o'clock to 8 o'clock P. M., which was concurred in

Mr. Read of Leon, proposed the following, as an additional section to the article on the Judiciary, which was laid on the table and ordered to be printed.

"The Courts of this State shall never entertain jurisdiction of any grants of land in the Floridas, made by the King of Spain, or by his authority, subsequent to the 24th day of January, 1818; nor shall the said courts receive as evidence in any case, those pretended grants, said to have been made by the said King of Spain, in favor of the

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Duke of Alagon, the Count Punon Rostro, and Don Pedro de Vargas, or any title derived from either of said grants; nor shall any citizen of this State, be a juror in the trial of either of said grants, or any title derived therefrom, in any Court in this State.”

Mr. Levy, from the Eastern District, reported, that Mr. Brooks had been chosen as the proxy of Mr. McClellan of that District, who was confined by indisposition.

[55] Also that Mr. Wood, act as the proxy of Mr. Creighton, another member from the Eastern District, likewise confined by indisposition, which was concurred in.

The engrossed article on the Judiciary, was then taken up, and read a third time.

Mr. Duval, moved the following as a substitute for the 13th. section.

“The clerk of the Supreme Court and the clerks of the Circuit Courts, shall be appointed by, and hold their offices at the will of the Judges thereof.

On the motion to strike out, the yeas and nays were ordered, and were:

AYES—Messrs. Allen, Anderson, Baltzell, Bellamy, of Jefferson, Blunt, Brown, of Monroe, Brown, of Leon, Bunce, Cabell, Crichton, Duval, Haddock, Marvin, McCants, Morton, Partridge, Parkhill, Sanchez, Stephens, Thompson, Ward, Wood, Woodward, Wright.
—24.

NAYS—Mr. President, Messrs. Bartlett, Bird, Brooks, Cooper, Fitzpatrick, Garey, Garrison, Hooker, Hunter, Jenckes, Levy, Long, Malone, Mays, McClellan, McLean, McKinnon, McGehee, Meacham, Read, of Leon, Roche, Robbins, Semmes, Taylor, Watts, Webb, Westcott, White, Williams, Wyatt.—31.

So the motion was lost.

Mr. Marvin, moved that the enrolling committee be instructed to correct any verbal errors in the articles submitted to them for emolument, and report the same to this Convention, which was concurred in.

Mr. Anderson, moved the addition of two members to the enrolling committee, and the chair accordingly added, Messrs. Westcott and Marvin to said committee.

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The article on the Judicial Department was then on motion adopted.

The Convention then proceeded to take up the unfinished business of yesterday, and went into the consideration of the article on Suffrage and Qualifications of Officers.

Mr. Westcott, moved to strike out the second section, and insert the following.

“The General Assembly shall at its first session, provide for the registration of all the qualified electors in each county; and thereafter from time to time, of all who may become such qualified electors.”

Mr. McCants, offered the following as the third section.

“No President, Director, Cashier or other officer of any Banking company in this State, shall be eligible to the office of Governor, Senator or Representative of the General assembly, so long as he shall be such President, Director, Cashier or other officer, nor until after the lapse of twelve months from the time at which he shall have ceased to be such President, Cashier, Director or other officer.”

And the yeas and nays being called for, were as follows:—

AYES—Mr. President, Messrs. Bellamy, of Jefferson, Bird, Brooks, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, McClellan, McCants, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Thompson, Watts, Webb, Westcott, White, Williams, Wood, Woodward, Wright, Wyatt,—30.

NAYS—Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Blount, Brown, of Monroe, Brown, of Leon, Bunce, Cabell, Duval, Fitzpatrick, Hunter, Malone, Marvin, Mays, McKinnon, McLean, McGehee, Meacham, Morton, Parkhill, Semmes, Stephens, Taylor, Ward,—26.

So the section was adopted.

[56] Mr. Marvin, moved to strike out all after the words “General Assembly” in the 4th. section, and the yeas and nays being required, were:

AYES—Messrs. Anderson, Bartlett, Bellamy, of Jefferson, Brown, of Monroe, Cabell, Marvin, Morton, Sanchez, White, Woodward,—10.

NAYS—Mr. President, Messrs. Allen, Baltzell, Bellamy, of Jackson, Blount, Brooks, Brown, of Leon, Bunce, Cooper, Duval, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy Long,

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Malone, Mays, McClellan, McLean, McKinnon, McGehee, McCants, Meacham, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Semmes, Stephens, Taylor, Thompson, Ward, Watts, Webb, Westcott, Wright, Wyatt,—42.

The motion was therefore lost.

Mr. Westcott, moved that the 5th. section, offered by Mr. Meacham, be amended by adding after the word acceptance, the words "and be convicted thereof," upon which the yeas and nays, were required, and were as follows:

AYES—Mr. President, Messrs. Bellamy, of Jefferson, Bird, Brown, of Monroe, Cabell, Levy, Read, of Leon, Roche, Robbins, Stephens, Westcott, White, Williams, Wright—14.

NAYS—Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Blount, Brooks, Brown, of Leon, Bunce, Cooper, Crichton, Duval, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Long, Malone, Marvin, Mays, McClellan, McKinnon, McLean, McGehee, Meacham, Morton, Partridge, Parkhill, Sanchez, Semmes, Taylor, Thompson, Ward, Watts, Webb, Wood, Wyatt, Woodward,—41.

So the motion was lost.

Mr. Marvin, moved to amend the fifth section, by prefixing the words, "The General Assembly shall have power to pass laws, providing that," which was lost.

Mr. Ward, offered as a substitute to the 5th section the following;

"Every person convicted of being engaged in the high offence of duelling, shall be liable to such penalty as the General Assembly shall provide," which was rejected.

On motion the Convention adjourned till 3 o'clock, P. M.

Afternoon Session.

The Convention met pursuant to adjournment.

Mr. Fitzpatrick, moved that the fifth section be stricken out, and called for the yeas and nays, and also moved that those members now absent, be permitted when they come in, to record their votes.

Mr. Levy, moved to amend the fifth section, by inserting after the word "judicial," the words, "nor vote at any election," which was lost.

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The question upon striking out was then put, and the yeas and nays being called, which were as follows:

AYES—Mr. President, Messrs. Bellamy, of Jackson, Bellamy, of Jefferson, Bird, Blount, Brown, of Monroe, Cabell, Cooper, Fitzpatrick, Garey, Jenckes, Levy, Marvin, Parkhill, Read, of Leon, Taylor, Ward, White,—18.

NAYS—Messrs. Anderson, Baltzell, Bartlett, Brooks, Brown, of Leon, Bunce, Crichton, Duval, Garrison, Haddock, Hooker, Hunter, Long, Malone, Mays, McLean, McClellan, McKinnon, McGehee, McCants, Meacham, Morton, Partridge, Robbins, Roche, Sanchez, Semmes, Thompson, Watts, Webb, Westcott, Williams, Wood, Woodward, Wright, Wyatt,—37.

The section therefore was not stricken out.

[57] Mr. Westcott, moved a reconsideration of the last vote, but subsequently withdrew his motion.

Mr. Levy, moved that the rule of the Convention be suspended, in order to a reconsideration, which was lost.

Mr. Anderson, moved a reconsideration, which motion was lost.

Mr. McKinnon, offered the following as the sixth section.

“No person who denies the being of a God, or a future state of rewards and punishments, shall hold any office in the civil department of this State.”

Mr. Bellamy, moved that the words “nor vote at any election” be added, which was lost; and the yeas and nays being called on the previous question, were as follows:

AYES—Messrs. Allen, Bellamy, of Jackson, Blount, Brown, of Leon, Duval, Hunter, Long, Malone, McKinnon, McLean, Meacham, Read, of Leon, Thompson, Taylor, Watts, Webb, Wright, Wyatt,—18.

NAYS—Mr. President, Messrs. Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bird, Brooks, Brown, of Monroe, Bunce, Cabell, Cooper, Crichton, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Marvin, Mays, McClellan, McGehee, McCants, Morton, Partridge, Parkhill, Roche, Robbins, Semmes, Sanchez, Westcott, White, Williams, Wood, Woodward,—36.

The section therefore was not adopted.

Mr. Levy, offered the following as the 8th. section.

“That no person shall be entitled to vote at any election in this

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State, who shall hereafter send or accept a challenge to fight a duel, or shall be engaged or concerned in sending or accepting such challenge, or shall fight or be engaged, or concerned in fighting a duel.

And the ayes and nays being called for, were :

AYES—Messrs. Bartlett, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Brooks, Fitzpatrick, Levy, Long, McClellan, McCants, Morton, Parkhill, Roche, Read, of Leon, Robbins, Semmes, Westcott, White, Woodward, Wright.—21.

NAYS—Mr. President, Messrs. Allen, Baltzell, Brown, of Monroe, Brown, of Leon, Bunce, Cabell, Cooper, Crichton, Duval, Garey, Garrison, Jenckes, Malone, Mays, McKinnon, McLane, McGehee, Meacham, Partridge, Sanchez, Thompson, Watts, Webb, Williams, Wood, Wyatt.—29.

So the section was rejected.

Mr. Wyatt, offered the following as the 8th. section.

“No Governor, member of Congress, or of the General Assembly of this State, shall receive a fee, be engaged as council, agent, or attorney in any civil case or claim against this State, or to which this State shall be a party, during the time he shall remain in office.”

And the yeas and nays being required, were :

AYES—Mr. President, Messrs. Baltzell, Bellamy, of Jackson, Brooks, Brown, of Leon, Bunce, Cooper, Crichton, Duval, Fitzpatrick, Garey, Garrison, Hooker, Haddock, Jenckes, Levy, McClellan, McKinnon, McLean, Partridge, Parkhill, Read, of Leon, Semmes, Taylor, Westcott, White, Wood, Wright, Wyatt.—29.

NAYS—Messrs. Allen, Anderson, Bellamy, of Jefferson, Bird, Blount, Brown, of Monroe, Cabell, Hunter, Long, Malone, Marvin, Mays, McGehee, McCants, Meacham, Mortom, Robbins, Sanchez, Thompson, Webb.—21.

So the section was adopted.

Mr. Fitzpatrick, moved to insert after the word “State” in Mr. Wyatt’s section, “nor attorney at law licensed to plead in the Courts of this State.” Which was lost.

[58] Mr. Westcott, offered the following as the 9th. section.

“No Governor, Justice of the Supreme Court, Chancellor, or Judge in this State, shall be eligible to election or appointment to any other and different station or office, or post of honor, trust or emolument,

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under this State, or to the station of Senator or Representative in the Congress of the United States from this State, until one year after he shall have ceased to be such Governor, Justice, Chancellor or Judge.”

On motion the question was divided, and the yeas and nays required, and were on the first call as follows :

AYES—Mr. President, Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Brown, of Monroe, Brown, of Leon, Cooper, Fitzpatrick, Garey, Garrison, Hooker, Jenckes, Levy, Long, Marvin, McKinnon, McLean, Meacham, Mortom, Read, of Leon, Robbins, Stephens, Taylor, Thompson, Watts, Westcott, White, Williams, Wyatt,—32.

NAYS—Messrs. Allen, Bartlett, Blount, Brooks, Bunce, Cabell, Crichton, Duval, Haddock, Hunter, Malone, Mays, McClellan, McGehee, McCants, Partridge, Sanchez, Semmes, Webb, Wood, Wright,—21.

On the second call as follows :

AYES—Mr. President, Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Bird, Brooks, Cabell, Cooper, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, McClellan, McLean, Morton, Robbins, Taylor, Thompson, Westcott, Watts, White, Williams, Wyatt,—27.

NAYS—Messrs. Allen, Bartlett, Bellamy, of Jackson, Brown, of Leon, Brown, of Monroe, Bunce, Crichton, Duval, Hunter, Malone, Marvin, Mays, McKinnon, McGehee, McCants, Meacham, Partridge, Parkhill, Read, of Leon, Sanchez, Semmes, Stephens, Webb, Wood, Wright,—26.

The section was therefore adopted.

Mr. Wyatt, proposed the following as the 10th section, which was adopted.

“No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any office of profit, under this State, which shall have been created, or the emoluments of which shall have been increased during such term, except such offices as may be filled by elections by the people.”

Mr. Bellamy of Jefferson, proposed the following as the 12th section.

“No minister of the Gospel, shall be eligible to the office of Gov-

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ernor, Senator, or member of the House of Representatives in this State.”

Mr. Hunter, moved a call of the Convention, and demanded the yeas and nays upon the question of adoption.

A call of the Convention was refused, and the yeas and nays were:

AYES—Messrs. Bartlett, Bellamy, of Jefferson, Bird, Brooks, Brown, of Leon, Cabell, Cooper, Duval, Fitzpatrick, Garey, Haddock, Jenckes, Long, Malone, Mays, McClellen, McGehee, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Sanchez, Semmes, Stephens, Taylor, Thompson, White, Williams,—29.

NAYS—Mr. President, Messrs. Allen, Anderson, Baltzell, Bellamy, of Jackson, Blount, Brown, of Monroe, Bunce, Crichton, Garrison, Hooker, Hunter, Levy, Marvin, McLean, McKinnon, McCants, Meacham, Morton, Ward, Watts, Webb, Westcott, Wood, Woodward, Wright, Wyatt,—27.

So the section was adopted.

On motion of Mr. McCants, the article as amended, was referred to the engrossing committee.

[59] The article on Civil Offices and Officers, was then taken up and read by sections a second time.

Mr. Westcott, moved to strike out the words “United States” in the 7th line of the first section, which motion was subsequently withdrawn.

Mr. Read of Leon, offered the following amendment to the first section to be introduced after the word “affirmation” in the 3d line “That I will be faithful and true to the State of Florida, so long as I continue a citizen thereof; and that I will faithfully execute, to the best of my abilities, the office of” which was rejected.

Mr. Westcott, moved to add the words “and such other oath or affirmation as may be prescribed by law, not inconsistent with this constitution”—and the yeas and nays were ordered, and are as follows:

AYES—Messrs. Westcott, Wyatt,—2.

NAYS—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bird, Blount, Brooks, Brown, of Leon, Crichton, Fitzpatrick, Garrison, Haddock, Hooker, Hunter, Levy, Long, Malone, Marvin, Mays, McClellan, McLean, McKinnon, McGehee, McCants, Meacham, Partridge, Parkhill, Read, of Leon,

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Roche, Robbins, Semmes, Stephens, Taylor, Thompson, Ward, Watts, Webb, Wood, and Wright,—41.

So the amendment was lost.

Mr. Wright, offered an amendment to the first section.

Which was lost.

Mr. Allen, moved to substitute the word "legally" for the word "duly" which was rejected.

Mr. Marvin, moved that the parenthesis be stricken out, which was lost.

Mr. Marvin, moved to strike out the 5th section, which was concurred in.

Mr. Westcott, moved to strike out the 6th section, which was lost.

On motion of Mr. Stephens, the Convention adjourned till to-morrow 10 o'clock.

WEDNESDAY, December 26th, 1838.

The convention met pursuant to adjournment.

Messrs. Roche and Robbins, asked permission to change their vote on the motion to strike out the 5th section prohibiting duelling, which was granted.

Mr. Fitzpatrick, moved that sundry resolutions on the subject of Banks, introduced on a former day, be made the first orders of the day for to-day, which was lost.

Mr. Fitzpatrick, offered the following resolutions, which were read and ordered to be printed.

Resolved, That the Union Bank of Florida shall, with the consent of the Stockholders in said Bank, be adopted as the State Bank of Florida, upon the following terms, viz :

1. The present Stockholders, shall retain the whole of their stock according to the number of shares which each of them now hold, and shall have the benefit of the whole of the profits of the bank to the time of its adoption by the state, which profits shall be divided in such proportions as they may be entitled to from the number of shares which each stockholder owns; and [60] and no stockholder of the present bank shall be permitted to subscribe for any more stock in the bank at any time hereafter.

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2. The General Assembly, shall at its first session, provide by law, that books shall be opened in every county in the state, under the direction of proper persons to receive subscriptions for Five Million of stock in said bank, which shall be secured upon real estate in this state, and owned by citizens resident therein, and no person shall ever own any stock in this bank, who is not a resident citizen of the state. The new stockholders shall have the same privileges as the old stockholders, and they shall secure their subscriptions on real estate, in the same manner, and draw out of the bank the same proportion of money, as is provided in the Union Bank Charter; and if the subscriptions, should exceed five millions of dollars, they shall be scaled down in the same manner as prescribed in said Bank charter; and no new stockholder, shall be entitled to more than one thousand shares in the bank

3. The State shall own five millions of the stock in said bank, and shall appoint by the General Assembly, five Directors, and the other stockholders, shall elect eight directors. The state shall as soon as the whole of the stock is secured to her by mortgage, issue state bonds, for ten millions of dollars, to be negotiated by the bank at such times as may be necessary for the increase of its funds. The bank shall establish branches at such places in the state, as may be necessary for the benefit and convenience of the public when required by the General Assembly, or without the requisition of the General Assembly, if the President and Directors of the Bank, may think proper to establish any branch.

4. The General Assembly shall provide by law, for carrying into effect the establishment of this State Bank, and shall regulate the payment of interest on the state bonds, and the application of any surplus accruing to the state, after the payment of its interest for internal improvements in the state.

Mr. Baltzell, offered the following Resolutions, which were read and ordered to be printed:—

Whereas the General Government, during the minority of the Territory, assumed and exercised the powers of Government over the Territory, constituting a legislative body, and all the other officers, wholly dependent upon their will, and also by amending, altering, and repealing on frequent occasions the acts of the Territorial Legislature.

Resolved, Therefore, that the people of this Territory, on attaining their maturity, have a right to expect and ask from the General

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Government, the discharge of this solemn trust, and that their rights and interests, and their sovereignty as an independent people, be assured to them.

And whereas, evils have arisen and may arise, from the improvident legislation of the Territorial Government, in incorporating Banking, Railroad, and other companies, with unusual and extraordinary powers, to the obvious detriment of the public.

Resolved, Therefore, that the attention of the National Legislature, be earnestly requested to this subject, and that they be asked to exert their power to alter, repeal, or modify the charters, that have been granted, or to [61] enact such provisions, in reference thereto, as will protect the people from injury, and maintain and preserve their just rights, interests and privileges.

Resolved further, That a committee of five be appointed to prepare for publication a copy of the various acts of the Legislative Council, constituting Banking, Railroad, and other companies.

Mr. Long, offered the following Resolutions, which were read and ordered to be printed:—

Resolved, That the General Assembly, shall at all times regulate Banking or other corporate bodies, and pass laws, civil and criminal, necessary to secure the solvency and correct management of such corporations.

Resolved, That the General Assembly, shall provide against any violation or diminution of any security or guarantee, given or taken for the public protection, by any banking or other corporate body, and if any such violation or diminution, has occurred by the repeal of any law, or by the action of any board of directory, shall take proper measures to secure and protect the public interest against the same.

Mr. Wyatt, offered the following Resolutions, which were read and ordered to be printed:—

Resolved, That it is not expedient for this Convention to disavow or acknowledge the liabilities of the Territorial Government of Florida.

Resolved, That that subject is one properly and legitimately belonging to the people of Florida, hereafter to be decided by them or their competent authorities, when such liabilities should be demanded.

Resolved, That it is expedient for this convention to vest the Gen-

ONE THOUSAND DOLLARS

United States of America
Territory of Florida

1000

1000

One Thousand Dollars

THIS NOTE IS VALID FOR THE TERRITORY OF FLORIDA, AND IS RECEIVED IN FULL PAYMENT OF THE DEBT OF THE TERRITORY OF FLORIDA TO THE UNITED STATES OF AMERICA, IN THE SUM OF ONE THOUSAND DOLLARS.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Territory of Florida, at Tallahassee, this 1st day of January, 1838.

GOVERNOR

FLORIDA SIX PER CENT

Wm. M. Smith
TREASURER

Wm. M. Smith
GOVERNOR

UNION BANK BOND, ISSUE OF 1838

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eral Assembly with a supervisory power over such banks or other corporated bodies as may exist at the admission of this State into the Union, and that shall exist under the laws of the Territory of Florida.

The unfinished business of yesterday, was then taken up, and the convention resumed the consideration of the article on Civil Offices and Officers.

Mr. Baltzell, moved the following as a substitute for the 7th section.

“Returns of all elections, for the members of Congress, and of the General Assembly, shall be made to the Secretary of State, in manner to be prescribed by law,” which was adopted.

Mr. Wyatt, offered the following, as a substitute for the 7th section.

“Returns of all elections, shall be made to the Secretary of State, by the Sheriff of the County, and duly certified by the Clerk of the same,” which was lost.

Mr Brown, of Leon, moved to strike out the 8th section, and insert the following, “In all elections in this state, to any office, or place of trust, honor, or profit, the votes shall be given openly, or *viva voce*, and not by ballot,” which was lost.

Mr. Westcott, offered the following as a substitute, for the 8th section.

“In all elections by the Senate, or House of Representatives, the votes shall be *viva voce*; and in all elections, by the qualified electors, in such mode as may be prescribed by law,” which was rejected.

[62] Mr. Ward, offered the following substitute to the 8th section.

“In all elections by the General Assembly, the votes shall be *viva voce*; in all elections by the people, the vote shall be given by ballot,” the yeas and nays being ordered, were:

AYES—Mr. President, Messrs. Anderson, Bartlett, Bird, Blount, Brooks, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Long, Malone, Marvin, McClellen, Meacham, Partridge, Parkhill, Read, of Leon, Sanchez, Semmes, Thompson, Ward, Watts, Webb, White, Williams, Wood, Woodward,—35.

NAYS—Messrs. Allen, Baltzell, Bellamy, of Jefferson, Bellamy, of Jackson, Brown, of Monroe, Brown, of Leon, Cabell, Duval, Fitzpat-

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rick, Mays, McKinnon, McLean, McGehee, McCants, Morton, Roche, Robbins, Stephens, Taylor, Westcott, and Wyatt,—21.

So the section was adopted.

Mr. Marvin, moved to strike out all after the word "same," in the fifth line, of the 9th section, the yeas and nays being called, were as follows:

AYES—Messrs. Allen, Anderson, Baltzell, Bird, Blount, Brown, of Monroe, Crichton, Garrison, Haddock, Marvin, Mays, McGehee, Morton, Partridge, Semmes, Westcott, Wood, Wright,—18.

NAYS—Mr. President, Messrs. Bartlett, Bellamy, of Jackson, Brooks, Brown, of Leon, Bunce, Cabell, Cooper, Duval, Fitzpatrick, Garey, Hooker, Hunter, Jenckes, Levy, Long, Malone, McClellan, McKinnon, McLean, Meacham, Parkhill, Read, of Leon, Roche, Robbins, Sanchez, Stephens, Taylor, Thompson, Ward, Watts, Webb, White, Williams, Woodward, Wyatt,—36.

So the motion was lost.

Mr. Levy, moved to strike out the 10th section, which was lost.

Mr. Duval, moved a re-consideration of the vote, on Mr. Levy's motion to strike out, which was concurred in.

Mr. Duval, moved to strike out the 10th section, which was concurred in.

Mr. Wyatt, proposed to insert the following as the 10th section.

"The General Assembly provide by law, how securities, or other liabilities to the state, shall be proceeded against, or released," which was rejected.

The Convention then took a recess till 3 o'clock, P. M.

Afternoon Session.

The Convention met pursuant to adjournment.

Mr. Malone, moved a reconsideration of the vote on the 9th section, and offered as an amendment the following, to be added to said section, "Except Justices of the Peace, Notaries Public, Constables, and Militia Officers," which was concurred in.

Mr. Wyatt, moved an amendment, to the one offered by Mr. Malone, which was rejected

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Mr. Marvin, moved to amend the section, by adding the words "and such officers as may be elected by the people," which was rejected.

Mr. Duval, moved to strike out the word "trust," in the third and fifth lines, which was concurred in.

Mr. McLean, moved to amend the section, by adding the words "Postmasters," and the yeas and nays being ordered, were:

AYES—Messrs. Blount, Crichton, Garrison, Long, McKinnon, McLean, Sanchez, Stephens, White, Wood, Wright, Wyatt,—12.

[63] NAYS—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bird, Brooks, Brown, of Leon, Brown, of Monroe, Bunce, Cabell, Cooper, Duval, Fitzpatrick, Garey, Haddock, Hooker, Hunter, Jenckes, Levy, Malone, Mays, Marvin, McClellan, McGehee, McCants, Meacham, Mortom, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Semmes, Taylor, Thompson, Watts, Webb, Westcott, Williams, Woodward,—41.

So the motion was lost.

On motion, the section was adopted, as amended, and the following are the yeas and nays:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Bird, Blount, Brooks, Bunce, Cabell, Cooper, Duval, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Long, Malone, Mays, McClellan, McLean, McGehee, Meacham, Morton, Partridge, Read, of Leon, Roche, Robbins, Taylor, Thompson, Watts, Westcott, Woodward, Wright, Wyatt,—39.

NAYS—Messrs. Bellamy, of Jefferson, Brown, of Monroe, Brown, of Leon, Crichton, Fitzpartrick, Marvin, McKinnon, Parkhill, Sanchez, Semmes, Webb, Williams, White, Wood,—14.

On motion the 11th section, was stricken out.

Mr. Levy, moved a reconsideration of the vote upon striking out, which was rejected.

Mr. Levy, offered the following, as an additional section.

"In all offices to be filled by appointment of the Executive, or election of the General Assembly, such appointment or election, shall be made from persons residing in the county or district, as the case may be, in which such office is to be exercised."

Which was rejected.

Mr. Baltzell, moved a re-consideration of the vote on the 9th sec-

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tion, with a view to offer an amendment to the same, which was rejected.

Mr. Brown, of Leon, gave notice, that on the reading of this Article, he should offer an amendment to the 9th section.

Mr. Read, of Leon, offered the following as an amendment to the 3rd section, on impeachments, to strike out all after the word "affirmation," in the second line, and insert, "a majority of all the votes of the Senators present, and constituting the Court of impeachments, shall be sufficient to acquit or condemn the person impeached," and the yeas and nays were ordered, and are as follows:

AYES—Messrs. Bartlett, Hooker, Read, of Leon, Thompson, Webb, Westcott, White,—7.

NAYS—Mr. President, Messrs. Allen, Anderson, Baltzell, Bellamy, of Jackson, Bird, Blount, Brooks, Brown, of Monroe, Brown, of Leon, Bunce, Cabell, Cooper, Crichton, Duval, Fitzpatrick, Garey, Garrison, Hunter, Jenckes, Levy, Long, Malone, Marvin, Mays, McKinnon, McLean, McGehee, McCants, Meacham, Morton, Partridge, Parkhill, Robbins, Sanchez, Semmes, Stephens, Taylor, Williams, Woodward, Wood, Wright, Wyatt,—44.

So the motion was lost.

Mr. Westcott, moved to strike out the word "civil," in the first line of the 30th section, which was rejected.

On motion of Mr. McCants, the article on Civil Offices and Officers, was ordered to be engrossed for a third reading.

The article on the Militia, was taken up, considered and adopted, and was ordered to be engrossed for a third reading.

[64] The Convention then took up the article on Taxation and Revenue.

Mr. Anderson, moved to strike out the 2nd section, and the yeas and nays being ordered, were as follows:

AYES—Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Blount, Brooks, Brown, of Monroe, Brown, of Leon, Bunce, Cabell, Duval, Haddock, Hooker, Hunter, Long, Malone, Marvin, Mays, McClellan, McKinnon, McLean, McGehee, McCants, Meacham, Morton, Partridge, Stephens, Taylor, Watts, Wright, and Wyatt,—32.

NAYS—Mr. President, Messrs. Bird, Cooper, Crichton, Garey, Garrison, Jenckes, Levy, Read, of Leon, Roche, Robbins, Sanchez, Thompson, Webb, White, Westcott, Williams, Wood,—18.

So the section was stricken out.

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Mr. Brown, offered the following substitute for the 2d section.

“The General Assembly shall devise and adopt a system of Revenue, having regard to an equal and uniform mode of Taxation, to be general throughout the State.” And the yeas and nays being required, were as follows:

AYES—Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Blount, Brooks, Brown, of Leon, Cabell, Duval, Haddock, Hunter, Long, Malone, Mays, McClellen, McKinnon, McLean, McGehee, Meacham, Morton, Partridge, Taylor, Ward, Watts, Wyatt,—26.

NAYS—Mr. President, Messrs. Bird, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Garrison, Hooker, Jenckes, Levy, Marvin, Read, of Leon, Roche, Robbins, Sanchez, Stephens, Thompson, Webb, Westcott, Williams, Wood,—22.

So the section was adopted.

Mr. Levy, offered the following section: “all lands liable to taxation in the State, shall be taxed in proportion to their value.” And the yeas and nays being required, were:

AYES—Mr. President, Messrs. Anderson, Bartlett, Bird, Brown, of Monroe, Cooper, Crichton, Garey, Garrison, Jenckes, Levy, Malone, Marvin, Mays, McGehee, Morton, Read, of Leon, Roche, Robbins, Stephens, Thompson, Webb, Westcott, Williams, Wood,—25.

NAYS—Messrs. Allen, Baltzell, Bellamy, of Jefferson, Blount, Brooks, Brown, of Leon, Bunce, Duval, Fitzpatrick, Haddock, Hooker, Hunter, Long, McLean, McClellen, McKinnon, Meacham, Partridge, Taylor, Ward, Watts, Wyatt,—21.

So the section was adopted.

Mr. Anderson, moved to strike out the 3d section, which was concurred in.

Mr. Thompson, offered the following section. “The Legislature shall have power to tax the right of fishing on the coasts, within the jurisdiction of this State, and to pass all necessary laws to enforce the collection of the same.”

On motion the Convention adjourned till 9 o'clock in the morning.

THURSDAY, December 27th, 1838.

The Convention met pursuant to adjournment.

Mr. Wyatt, moved that sundry resolutions, offered on yesterday

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on the subject of Banks, be suffered to remain on the table, which was concurred in.

The unfinished business of yesterday was then taken up, and the Convention resumed the consideration of the article on Taxation and Revenue, and [65] the section offered by Mr. Thompson was considered and rejected. The following are the yeas and nays.

AYES—Messrs. Westcott, Williams, Wyatt,—3.

NAYS—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Blount, Brooks, Brown, of Leon, Brown, of Monroe, Bunce, Cabell, Cooper, Crichton, Duval, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Long, Malone, Marvin, Mays, McClellan, McKinnon, McLean, McGehee, McCants, Meacham, Morton, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Sanchez, Semmes, Stephens, Taylor, Thompson, Ward, Watts, Webb, White, Wood, Woodward, Wright,—53.

Mr. Wyatt, offered the following as a proviso to the section proposed by Mr. Thompson; "Provided that no citizen, and permanent inhabitant of this State, shall ever be prohibited from the full use of fishing within the jurisdiction thereof," which was lost.

Mr. Baltzell, moved a reconsideration of the vote on the first section, which was rejected.

Mr. Cabell, moved to strike out the 4th section, and asked for the yeas and nays, which were as follows.

AYES—Mr. President, Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Blunt, Brooks, Brown, of Leon, Bunce, Cabell, Cooper, Crichton, Duval, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Long, Malone, Marvin, Mays, McClellan, McLean, McKinnon, McGehee, McCants, Meacham, Morton, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Sanchez, Stephens, Taylor, Ward, Watts, Westcott, White, Williams, Wood, Wyatt.—46.

NAYS—Messrs. Allen, Bartlett, Brown, of Monroe, Bunce, Fitzpatrick, Semmes, Thompson, Webb, Woodward, Wright.—10.

So the section was stricken out.

Mr. Wyatt, moved to strike out the word "current" in the 2d line of the 5th section, and the yeas and nays were ordered, and are as follows.

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AYES—Messrs. Allen, Anderson, Bartlett, Baltzell, Bellamy, of Jackson, Blount, Brown, of Monroe, Brown, of Leon, Bunce, Cabell, Duval, Fitzpatrick, Hunter, Malone, Marvin, Mays, McKinnon, McLean, McGehee, Meacham, Morton, Semmes, Stephens, Taylor, Ward, Webb, Woodward, Wright, Wyatt,—29.

NAYS—Mr. President, Messrs. Bellamy, of Jefferson, Bird, Brooks, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, McClellan, McCants, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Sanchez, Taylor, Watts, Westcott, White, Williams, Wood,—27.

The motion therefore prevailed.

Mr. Duval, moved to strike out the 5th section.

Mr. Westcott, moved a call of the Convention.

Mr. Levy, moved to amend the 5th section, by striking out all after the word "may" in the 2d line, and insert the words "be necessary for the expenses of the Government." And the ayes and nays were called for, and were:

AYES—Mr. President, Messrs. Baltzell, Bellamy, of Jefferson, Bird, Brooks, Brown, of Leon, Cooper, Crichton, Duval, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, McClellan, McLean, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Thompson, Watts, Westcott, White, Williams, Wood,—29.

NAYS—Messrs. Allen, Anderson, Bartlett, Bellamy, of Jackson, Blount, Brown, of Monroe, Cabell, Fitzpatrick, Hunter, Malone, Marvin, Mays, McKinnon, McGehee, [66] McCants, Meacham, Morton, Parkhill, Semmes, Stephens, Taylor, Ward, Woodward, Webb, Wright, Wyatt,—26.

So the amendment was concurred in.

Mr. Baltzell, moved to strike out the 5th section.

On motion of Mr. Ward, a call of the Convention, was ordered.

Mr. Reid, of St. John's, moved to strike out the word "annual," in the 5th section.

On motion of Mr. Woodward, the Convention took a recess till 3 o'clock, P. M.

Evening Session.

The Convention met at 3 o'clock, and resumed the consideration of the article on Taxation and Revenue.

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Mr. Ward, moved a call of the Convention, which was adopted.

Mr. McCants, moved to amend the 5th section, by inserting at its close, "unless by two thirds of the General Assembly," which was lost.

The question upon striking out, was then decided by yeas and nays, which were as follows:

AYES—Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Blount, Brown, of Monroe, Brown, of Leon, Cabell, Duval, Fitzpatrick, Hunter, Long, Malone, Marvin, Mays, McKinnon, McLean, McGehee, Meacham, Mortom, Parkhill, Stephens, Taylor, Ward, Woodward,—26.

NAYS—Mr. President, Messrs. Bellamy, of Jefferson, Bird, Brooks, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, McClellen, McCants, Partridge, Read, of Leon, Robbins, Roche, Sanchez, Semmes, Thompson, Watts, Webb, Westcott, White, Williams, Wood, Wright, Wyatt,—30.

So the section was stricken out.

Mr. Read, of Leon, gave notice that on the third reading, of this article, he should propose to amend the 5th section, by adding, "unless by the concurrent vote of two-thirds of both houses of the General Assembly."

Mr. Thompson, moved to amend the 7th section, by striking out in the fourth line, the words "according to its value," which was concurred in.

On motion the article on Taxation and Revenue, as amended, was ordered to be engrossed for a third reading.

Mr. Levy, moved, that the Convention go into committee of the whole, on the article on the Census and Apportionment of Representation, which was concurred in.

The Convention then went into the consideration of the article on the Census and Apportionment of Representation.

Mr. Anderson, moved to strike out the 1st section, which was lost.

Mr. Bartlett, moved an amendment to the 1st section, by striking out in the first line, all after the word "shall," and inserting "in the year 1845," which was adopted.

On motion the Convention adjourned till to-morrow 10 o'clock.

FRIDAY, December 28th, 1838.

The Convention met pursuant to adjournment.

Mr. Bellamy, of Jefferson, moved that the Article and Resolutions,

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relating to Banks, be taken up and made the orders of the day, for to-day.

[67] Mr. Brown, of Leon, moved that the motion to take up, lie on the table for the present, which was lost.

A call of the Convention, was then ordered.

On motion the Convention went into committee of the whole, on the article and resolutions on the subject of Banks, Mr. Blount, of Escambia, in the chair.

After some time spent in its consideration, the committee rose, reported progress, and asked leave to sit again.

On motion, the Convention took a recess till 3 o'clock, P. M.

Evening Session.

The Convention met pursuant to adjournment, and resumed in committee of the whole, the consideration of the article on Banks. Mr. Blount, in the chair.

After some time spent in its consideration, on motion of Mr. Levy, the committee rose reported progress, and asked leave to sit again, which was concurred in.

On motion of Mr. Baltzell, the Convention adjourned till 10 o'clock, to-morrow morning.

SATURDAY, December 29th, 1838.

The convention met pursuant to adjournment.

Mr. Wyatt, moved to amend a rule of the Convention, which was lost.

Mr. Fitzpatrick, presented the following Report of the Secretary of the Convention, which was read and laid on the table.

Report of the Committee on Printing.

The Secretary of the Convention, who was authorised to contract for the printing, beg leave respectfully to Report:

1st. That he had contracted with P. W. Gautier, Jr., Esq., for the printing of one thousand copies of the Journals of the Proceedings of this Convention, in pamphlet form, at \$5 50, per page. Those portions of the Journal, that will be of public interest, to appear also in the "St. Joseph Times."

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2nd. The miscellaneous printing, reports, &c., at 6 cents per hundred words, counting twenty-five copies.

All which is respectfully submitted.

J. KNOWLES, *Secretary of the Convention.*

Mr. Westcott, moved that 500 copies of the Constitution, when adopted, be printed, under the direction of the Secretary, and the yeas and nays were ordered, and are as follows:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bellamy, of Jefferson, Bird, Blount, Brooks, Brown, of Monroe, Bunce, Cabell, Cooper, Crichton, Duval, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Long, Mays, McClellen, McLean, McGehee, Morton, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Sanchez, Semmes, Taylor, Thompson, Ward, Watts, Webb, Westcott, Wood, Woodward, Wyatt,—44.

[68] NAYS—Messrs. Bellamy, of Jackson, Brown, of Leon, Malone, Meacham, McKinnon, Stephens, Wright,—7.

So the motion prevailed.

The Convention, then took up the unfinished business of yesterday, and resumed in committee of the whole, the consideration of the article and resolutions on Banks, and other incorporations. Mr. Blount in the chair.

After some time spent in their consideration, the committee rose, reported progress, and asked leave to sit again, which was concurred in.

On motion the Convention took a recess until 3 o'clock, P. M.

Evening Session.

The Convention met at 3 o'clock.

On motion of Mr. Anderson, the articles already engrossed were taken up and read a third time.

The article on Suffrage and Qualifications of Officers, was taken up and read a third time, by sections.

Mr. Fitzpatrick, moved to amend the 1st section, by inserting the words, "and shall have paid all legal taxes, assessed upon him by the State," which was rejected.

Mr. Brown of Leon, moved to amend the 5th section, by inserting

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the words, "or send or accept a challenge to fight a duel," which was concurred in.

On motion of Mr. Westcott, a part of the section, was stricken out.

Mr. Ward, moved to strike out the 11th section, which was lost.

On motion of Mr. Cabell, those members who did not vote upon the 11th section, on a former day, were permitted to record their votes.

The article as amended, was then adopted.

The Article on Civil Offices and Officers, was taken up and read by sections, the third time.

Mr. Brown, of Leon, moved that the 7th section, be amended, by adding after the word ballot, at the close of the section, "until otherwise provided by law," which was lost.

Mr. Marvin, moved to strike out the parenthesis, in the first section, which was concurred in.

Mr Marvin, moved to strike out a part of the 7th section, which was lost.

Mr. Malone, moved to amend the 8th section, by inserting after the word "Justices" the words "the offices," which was concurred in.

On motion, the article as amended, was passed.

The article on the Militia, was then read a third time.

Mr. Read of Leon, offered the following substitute, for the 2d section.

"The Governor shall appoint all the officers of the executive staff, except the Adjutant General, and paymaster General, who shall be appointed by the Governor, by and with the advice and consent of the Senate. The majors general, brigadiers general, and commanding officers of regiments, shall appoint such staff officers as may be prescribed by law, provided no person shall be eligible to any staff appointment, unless he hold a commission in the line," which was adopted.

The article was then passed.

[69] The article on Taxation and Revenue, was read a third time by sections.

Mr. Allen, moved to strike out the 1st section, which prevailed.

Mr. Wyatt, moved an amendment to the 4th section, which was lost.

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Mr. Cabell, moved to strike out the 4th section, and the yeas and nays being called, were ordered, and are as follows:

AYES—Messrs. Allen, Anderson, Baltzell, Bellamy, of Jackson, Blount, Brown, of Leon, Brown, of Monroe, Cabell, Duval, Fitzpatrick, Hunter, Long, Malone, Marvin, Mays, McKinnon, McLean, McGehee, Meacham, Morton, Parkhill, Stephens, Taylor, Ward, Woodward, Wyatt,—26.

NAYS—Mr. President, Messrs. Bellamy, of Jefferson, Bird, Brooks, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, McClellen, McCants, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Semmes, Thompson, Westcott, Watts, Webb, White, Williams, Wood, Wright,—29.

So the section was not stricken out.

Mr. Long, moved to strike out the 6th section, and the yeas and nays being called for, were:

AYES—Messrs. Allen, Anderson, Baltzell, Bellamy, of Jefferson, Blount, Brown, of Leon, Cabell, Duval, Fitzpatrick, Hooker, Hunter, Long, Malone, Mays, McKinnon, McLean, McGehee, Meacham, Morton, Partridge, Parkhill, Read, of Leon, Stephens, Taylor, Ward, Watts, Wright, Wyatt,—28.

NAYS—Mr. President, Messrs. Bird, Brooks, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Jenckes, Levy, Marvin, McClellen, McCants, Roche, Robbins, Sanchez, Semmes, Thompson, Webb, Westcott, White, Williams, Wood, Woodward,—26.

So the motion was lost.

The article was then passed.

On motion of Mr. Read of Leon, the Convention adjourned till monday morning 10 o'clock.

MONDAY, December 31st, 1838.

The Convention met pursuant to adjournment.

Mr. Parkhill, moved a re-consideration of the 2d section of the article on the Militia, and called for the ayes and nays, which are:

AYES—Mr. President, Messrs. Allen, Anderson, Bellamy, of Jackson, Bellamy of Jefferson, Blount, Brown, of Leon, Bunce, Duval, Fitzpatrick, Haddock, Mays, McKinnon, McLean, McGehee, Meacham, Morton, Parkhill, Semmes, Sanchez, Taylor, Ward, Wright,—23.

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NAYS—Messrs. Baltzell, Bird, Brooks, Brown, of Monroe, Cooper, Crichton, Garey, Garrison, Hooker, Hunter, Jenckes, Long, Marvin, McClellan, McCants, Partridge, Read, of Leon, Robbins, Thompson, Watts, Webb, Westcott, Williams, Woodward, Wood, Wyatt,—26.

So the motion was lost.

On motion of Mr. Baltzell, the Convention went into committee of the whole, on the article and resolutions on Banks, Mr. Blount in the chair.

After some time spent in consideration of said resolutions, the committee rose, reported progress, and asked leave to sit again.

Mr. Brown of Leon, presented the following resolution, which was read:

Resolved, That this Convention, when it adjourns on Tuesday the first of January, will adjourn to meet again in Tallahassee, on Tuesday the 15th of January.

[70] Mr. Brown of Leon, moved that the committee be refused leave to sit again.

The Convention then took a recess till 3 o'clock, P. M.

Afternoon Session.

The Convention met at 3 o'clock P. M. and resumed the consideration of the motion of Mr. Brown of Leon, on refusing leave to the committee of the whole to sit again, and a division of the question being called for, the motion was lost.

Mr. Baltzell, moved that the Convention go into committee of the whole, on the resolutions on Banks, which was concurred in, and Mr. Blount was called to the chair.

After some time spent in their consideration, the committee rose, reported progress, and asked leave to sit again, which was granted.

On motion, the Convention adjourned till to-morrow 9 o'clock.

TUESDAY, January 1st, 1839.

The Convention met pursuant to adjournment.

Mr. Anderson, moved that the second article of the Constitution, be read a third time, which was concurred in; and the article was passed and ordered to be enrolled.

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Mr. Semmes, asked leave of absence, which was granted, and Mr. Bartlett was elected as his proxy, by the delegation of the western District.

On motion of Mr. Baltzell, the Convention went into committee of the whole, and resumed the consideration of the resolutions on Banks, Mr. Blount in the chair.

After some time spent in their consideration, on motion of Mr. Wyatt, the committee rose, reported progress, and asked leave to sit again, which was concurred in.

On motion of Mr. McCants, the Convention took a recess till 3 o'clock.

Afternoon Session.

The Convention met at 3 o'clock, and in committee of the whole, resumed the consideration of the Resolutions on Banks, Mr. Blount, in the chair.

After some time spent in their consideration, the committee rose, reported progress, and asked leave to sit again, which was concurred in.

On motion of Mr. Read, the Convention adjourned, till 9 o'clock, to-morrow morning.

WEDNESDAY, January 2nd, 1839.

The Convention met pursuant to adjournment, and resumed in committee of the whole, the consideration of sundry resolutions on Banks, Mr. Anderson in the chair.

After some time spent in the discussion of said resolutions, the committee rose, reported progress, and asked leave to sit again, which was concurred in.

On motion of Mr. Woodward, the Convention took a recess till 3 o'clock.

[71] *Afternoon Session.*

The Convention met at 3 o'clock P. M., and in committee of the whole, resumed the consideration of the resolutions on Banks, Mr. Anderson in the chair. After some time spent in their consideration, the committee rose, reported progress, and asked leave to sit again, which was granted.

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On motion of Mr. Read of Leon, the Convention took a recess, until 7 o'clock P. M.

The Convention met at 7 o'clock, and went into committee of the whole on the resolutions on Banks, Mr. Anderson in the chair.

After some time spent in their consideration, the committee rose, reported progress, and asked leave to sit again, which was granted.

On motion of Mr. Woodward, the Convention adjourned till 9 o'clock to-morrow morning.

THURSDAY, January 3rd, 1839.

The Convention met pursuant to adjournment.

Mr. Brown of Leon, offered the following resolutions.

Resolved, That the members of this Convention were chosen by the people of the several counties of this Territory, for the sole and only purpose of devising and adopting "the most efficient and proper measures for the formation and establishment of an independent State Government for the people of Florida."

Resolved, That this Convention possess no power to interfere with the Institutions established, and laws enacted by the Territorial Authorities. That they properly are subjects for the consideration of the "independent State Government," to be devised and adopted by this Convention, and ratified by the people of this Territory.

Mr. Ward, offered the following Preamble and resolutions.

Whereas, it is deemed expedient by this Convention to limit the future legislative power of Florida, in the creation of Banks. Therefore,

Resolved, That the following be adopted as an article of the Constitution.

The power of the General Assembly shall extend to the establishment of one State Bank with branches, and no more.

In establishing said State Bank, the General Assembly may charter a new institution, or adopt one of the existing Banks heretofore chartered by the Legislature of the Territory, such existing Bank to conform to such rules, and regulations, as the General Assembly may provide.

And whereas, it is deemed by many that the charter of the Union Bank of Florida, in which the faith of the Territory has been pledged

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by the Legislature thereof, does not sufficiently assure to the Territory the inviolable appropriation of the assets of the Bank, and securities given under the charter to the release and discharge of the Territory from her liability in virtue of said pledge. And whereas, the stockholders in said Union Bank are affirmed to this Convention to be willing to make and execute any further acknowledgement, Lien, or obligations necessary and proper, and not inconsistent with said charter. Therefore, *Resolved*, by this Convention, that the Territorial Legislature shall provide by law, the manner and mode in which [72] the foregoing shall be carried out. And further, shall appoint a committee to examine the affairs of said Bank, and make full and true report thereof.

On motion of Mr. Baltzell, the Convention went into committee of the whole, on the Resolutions on Banks.

On motion of Mr. Read of Leon, the committee rose, reported progress, and asked to be discharged from the further consideration of the subject, which was granted.

Mr. Baltzell, moved that the following Preamble and Resolutions, offered by him to the committee of the whole, be now acted on by the Convention.

Whereas, the Congress of the United States of America, soon after the cession of the Floridas to the United States, incorporated by law the Territorial Government of Florida, and delegated the legislative power over all rightful subjects of legislation, to an officer called the Governor of the Territory, appointed by, and holding his office, at the will of the executive of the United States, and a body called the Legislative Council, at first appointed by said executive, but subsequently allowed to be chosen by certain of the inhabitants of said Territory—Congress expressly requiring, report to be annually made to the President of the United States, of all the laws made by said Governor and Legislative Council to be laid before Congress, which if disapproved by Congress, were to be thenceforth of no force.

And whereas, said Governor and Legislative Council, have passed numerous acts, incorporating Banking, Railroad and other companies, and the Governor of the Territory, in pursuance of certain provisions contained in such acts, has executed and delivered to the Union Bank of Florida, bonds amounting to the sum of three millions of dollars, in the name of, and binding the Territory of Florida to the payment of said sum, and has made guarrantees in the name of said Territory, on bonds of the Bank of Pensacola, to the amount of five

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hundred thousand dollars, which bonds and guarrantees have been negociated, and the money received by said Bank respectively. And the said Bank of Pensacola claims the right under the charter granted her as aforesaid, to have further guarrantees executed to her by the Territory, to the amount of two millions of dollars.

And the Southern Life Insurance and Trust company, also claim the right under the charter granted to them, to have the guarrantee of the Territory on their bonds, to an amount not limited by law.— And the foregoing, with the other Banking, Railroad and other charters, contain other grants of powers highly objectionable, have already produced serious injuries, and are calculated to embarrass the government of the State in its future operations, and also to produce further great loss, detriment and injury to the people.

And whereas, the Congress of the United States, by their power aforesaid, can remedy and correct the injury for the future, and relieve the people from their embarrassment in this respect.

Be it Resolved therefore, that early attention of Congress, be and is hereby earnestly requested to this subject, and this Convention in behalf of the people of Florida, solemnly invoke its aid in the passage of a law, to remedy as far as practicable, the evils that have already resulted from the improvident and injudicious acts of the Territorial Legislature, and to prevent the disastrous consequences which it is apprehended, may ensue from the same cause, and whilst this Convention would deprecate any course calculated to [73] impair the obligation of contracts, or to weaken the credit, or, affect injuriously the character and honor of the people of Florida. They yet respectfully insist, that that honorable body will take such action upon this subject by altering, repealing, or amending the charters that have been granted, or by so modifying the same, as will protect the people from further injury, maintain their rights as a free people, and preserve their just interests and priveleges.

Mr. Brown of Leon, moved to strike out all after the word "Resolved" in Mr. Baltzell's resolutions, and insert the resolutions offered by him.

Mr. Westcott, called for the previous question, and the ayes and nays being called, were as follows:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bellamy, of Jefferson, Bird, Blount, Brooks, Brown, of Leon, Brown, of Monroe, Bunce, Cabell, Cooper, Crichton, Duval, Garey, Garrison, Had-

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dock, Hooker, Hunter, Jenckes, Levy, Long, Malone, Marvin, Mays, McClellan, McKinnon, McLean, McGehee, McCants, Morton, Meacham, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Stephens, Taylor, Thompson, Ward, Watts, Westcott, White, Williams, Wood, Woodward, Wyatt,—49.

NAYS—Messrs. Bartlett, Bellamy, of Jackson, Fitzpatrick, Sanchez, Semmes, and Wright,—6.

So the call was sustained.

The question was then upon the passage of the resolution, and the ayes nays being ordered, were as follows:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bellamy, of Jefferson, Bird, Brooks, Brown, of Monroe, Brown, of Leon, Bunce, Cooper, Crichton, Duval, Garey, Garrison, Hooker, Jenckes, Levy, Long, Marvin, McClellan, McCants, Morton, Partridge, Parkhill, Roche, Robbins, Sanchez, Taylor, Thompson, Ward, Westcott, Watts, Webb, White, Williams, Wood, Woodward,—38.

NAYS—Messrs. Bartlett, Bellamy, of Jackson, Blount, Cabell, Fitzpatrick, Hunter, Haddock, Malone, Mays, McKinnon, McLean, McGehee, Meacham, Read, of Leon, Semmes, Stephens, Wright, Wyatt,—18.

The resolution was therefore adopted.

The question upon the adoption of the preamble, was then decided in the affirmative, the yeas and nays being ordered were as follows:

AYES—Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Bird, Brooks, Brown, of Leon, Brown, of Monroe, Bunce, Cooper, Crichton, Duval, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, Marvin, McClellan, McCants, Morton, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Sanchez, Taylor, Thompson, Ward, Watts, Webb, Westcott, White, Williams, Wood, Woodward,—38.

NAYS—Mr. President, Messrs. Allen, Bartlett, Bellamy, of Jackson, Blount, Cabell, Fitzpatrick, Hunter, Malone, Mays, McKinnon, McLean, McGehee, Meacham, Semmes, Stephens, Wright, Wyatt,—18.

A question of order was then raised, whether the article and resolutions upon Banks, were not excluded from the consideration of the Convention, by the adoption of the preamble and resolution of Mr. Baltzell, and decided by the chair in the negative.

An appeal was made from the decision of the chair by Mr.

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Stephens, and the yeas and nays being called for, the Convention sustained the decision of the chair, by the following vote.

AYES—Messrs. Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bird, Blount, Brooks, Brown, of Monroe, Bunce, Cooper, Crichton, Garey Garrison, Haddock, Hooker, Jenckes, Levy, Long, Malone, Marvin, Mays, McClellan, McLean, McGehee, [74] McCants, Meacham, Morton, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Semmes, Watts, Webb, Westcott, Williams, Wood, Woodward, Wright, Wyatt,—41.

NAYS—Messrs. Bellamy, of Jackson, Brown, of Leon, Cabell, Duval, Fitzpatrick, Hunter, McKinnon, Parkhill, Stephens, Taylor, Ward,—11.

Mr. Brown of Leon, moved a reconsideration of the vote upon Mr. Baltzell's preamble and resolutions, and called for the ayes and nays, which were as follows.

AYES—Mr. President, Messrs. Anderson, Bartlett, Blount, Brown, of Leon, Brown, of Monroe, Cabell, Fitzpatrick, Hunter, Malone, Mays, McGehee, Meacham, Morton, Parkhill, Semmes, Stephens, Taylor, Wright, Wyatt,—20.

NAYS—Messrs. Baltzell, Bellamy, of Jefferson, Bird, Brooks, Bunce, Cooper, Crichton, Duval, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, Marvin, McClellan, McKinnon, McCants, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Thompson, Ward, Watts, Webb, Westcott, White, Williams, Wood, Woodward—33.

So the motion for re-consideration was lost.

Mr. Levy, moved that the article on Banks, be taken from the table, and placed among the orders of the day, which was concurred in.

Mr. Blount, moved that the Convention take up the article on the census and apportionment of Representation, which was lost.

Mr. Marvin, moved to take up the resolutions on Banks, and make them the order of the day for to-day, and the yeas and nays were ordered, and are as follows.

AYES—Mr. President, Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Brooks, Bird, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, Malone, Marvin, McClellan, McCants, Meacham, Morton, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Sanchez, Thompson, Ward, Watts, Webb, Westcott, White, Williams, Wood, Woodward,—38.

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NAYS—Messrs. Bartlett, Blount, Brown, of Leon, Duval, Fitzpatrick, Hunter, Mays, McKinnon, McLean, McGehee, Semmes, Taylor, Wright,—13.

So the motion prevailed.

Mr. Baltzell, moved that the Convention now go into the consideration of the Article and Resolutions on Banks, and the yeas and nays were ordered, and are as follows.

AYES—Mr. President, Messrs. Anderson, Baltzell, Bird, Blount, Brooks, Bunce, Cabell, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, Malone, Marvin, McClellan, McCants, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Sanchez, Thompson, Watts, Webb, Westcott, White, Williams, Wood, and Wyatt,—35.

NAYS—Messrs. Bartlett, Brown, of Leon, Fitzpatrick, Hunter, Mays, McKinnon, McGehee, Taylor, Ward, Woodward, Wright,—11.

The motion therefore prevailed.

On motion of Mr. Baltzell, the Convention took a recess till 3 o'clock, P. M.

Afternoon Session.

The Convention met at 3 o'clock, P. M.

Mr. Read, of Leon, stated that Mr. Webb, was confined to his room by indisposition, and that the delegation from the Eastern District, had chosen Mr. Brooks, to act as his proxy.

The Article on Banks, was then taken up and read by sections.

[75] The following was adopted as a substitute for the third section.

“No Banking corporation, shall be created, or continue, which is composed of a less number than twenty individuals, a majority of whom at least shall be residents of the state, and no other corporation, shall be created or continue composed of a less number than ten, of whom at least five, shall be residents of this state.”

Mr. Westcott, moved an amendment to the 4th section, which was concurred in.

Mr. Woodward, moved to strike out the words, “not exceed \$1,000,000,” in the first line of the 5th section, which prevailed.

Mr. Westcott, moved to amend the 8th section, by striking out at

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the end of the section, the words, "ten dollars," and inserting the words, "five dollars," and also to add the words "and the General Assembly, may increase such restriction, to twenty dollars," which was concurred in.

Mr. Thompson, moved to strike out the 9th section, and the yeas and nays being called for, were as follows:

AYES—Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Blount, Bird, Brooks, Brown, of Monroe, Brown, of Leon, Bunce, Cabell, Cooper, Crichton, Fitzpatrick, Garey, Garrison, Haddock, Jenckes, Levy, Malone, Marvin, Mays, McClellan, McKinnon, McLean, McGehee, McCants, Meacham, Morton, Partridge, Parkhill, Read, of Leon, Sanchez, Semmes, Taylor, Thompson, Ward, Webb, White, Wood, Woodward, Wyatt,—43.

NAYS—Mr. President, Messrs. Long, Roche, Westcott, Williams, Wright,—6.

The section was therefore stricken out.

Mr. Wyatt, offered the following, amendment to the 10th section.

"Every stockholder of any Banking Institution in this state, shall be liable in his private capacity, for any liabilities of the incorporations of which he shall be a stockholder, to the full amount of his stock, and no transfer of such stock, shall be considered as a release of such stockholder, until the lapse of two years after such transfer," and the yeas and nays were required, and are as follows:

AYES—Messrs. Anderson, Bartlett, Bellamy, of Jackson, Blount, Brown, of Leon, Cabell, Fitzpatrick, Haddock, Long, Marvin, Mays, McKinnon, McLane, McGehee, Morton, Parkhill, Taylor, Ward, Watts, White, Wyatt.—21.

NAYS—Mr. President, Messrs. Allen, Baltzell, Bellamy, of Jefferson, Bird, Brooks, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Garrison, Hooker, Jenckes, Levy, Malone, McClellan, McCants, Meacham, Partridge, Read, of Leon, Robbins, Roche, Sanchez, Thompson, Westcott, Williams, Wood, Woodward, Wright.—30.

So the amendment was lost.

On motion of Mr. Thompson, the 11th section was amended, by striking out in the first line, the words, "Public Officers," and "of any citizen."

Mr. Read, of Leon, moved to amend the 11th section, by inserting after the words, "persons," in the third line, the words "not con-

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nected in any manner, with any Bank in the state," which was lost.

Mr. Fitzpatrick, offered the following additional clause, to the section.

"And it shall be the duty of the President and Directors of every Bank in the state, to have a room prepared in their respective Banks, in which they shall keep a plentiful of the best liquors, wines and cigars, for the use of the visitors and inspectors of the Banks," and the yeas and nays being called for, were as follows :

[76] YEAS—Messrs. Bellamy, of Jackson, Brown, of Leon, Fitzpatrick, Wright,—4.

NAYS—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bird, Blount, Brooks, Brown, of Monroe, Bunce, Cabell, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Long, Levy, Malone, Marvin, Mays McClellen, McLean, McGehee, McCants, Morton, Partridge, Read, of Leon, Roche Robbins, Sanchez, Stephens, Semmes, Taylor, Thompson, Watts, Webb, Westcott, White, Williams, Wood, Woodward, Wyatt,—45.

So the amendment was rejected.

Mr. Long, moved to strike out the 13th section.

Mr. Marvin, called for the previous question, which was sustained.

The question upon striking out was then decided by yeas and nays which were as follows :

AYES—Mr. President, Messrs. Allen, Baltzell, Bartlett, Bellamy, of Jefferson, Brooks, Brown, of Leon, Bunce, Cabell, Cooper, Crichton, Fitzpatrick, Garrison, Garey, Hooker, Hunter, Jenckes, Long, Mays, McGehee, McCants, Meacham, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Semmes, Taylor, Thompson, Webb, Wood, Wright, Wyatt,—34.

NAYS—Mr. Anderson, Messrs. Bellamy, of Jackson, Bird, Brown, of Monroe, McClellen, Malone, Marvin, Morton, Westcott, Woodward,—10.

So the section was stricken out.

Mr. Long offered the following as the 13th section,

"The General Assembly may establish one State Bank, with a capital of millions of dollars, one half to be owned by the state, the other half by the citizens thereof. The stock owned by the citizens, to be secured by mortgage on real estate, in such manner as may be prescribed by law.

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“The Bank shall establish branches at such places in the state, as may be necessary for the benefit and convenience of the public, when required by the General Assembly, or without such requisition, if the President and Directors may consider, that the public convenience and the interests of the Bank may be served thereby.”

And the yeas and nays were ordered, and are as follows :

AYES—Messrs. Baltzell, Bellamy, of Jackson, Brown, of Leon, Bunce, Fitzpatrick, Long, McGehee, Parkhill, Taylor, Westcott, Wyatt,—11.

NAYS—Mr. President, Messrs. Anderson, Bartlett, Bellamy, of Jefferson, Brooks, Bird, Cooper, Crichton, Garey, Garrison, Hooker, Hunter, Jenckes, Levy, McClellan, McCants, Meacham, Morton, Partridge, Read, of Leon, Roche, Sanchez, Semmes, Thompson, Watts, Webb, Williams, Wood, Woodward, Wright,—30.

The section was therefore rejected.

Mr. Jenckes offered the following as the 13th section.

“The General Assembly shall not pledge the faith and credit of the state, to raise funds in aid of any corporation, whatever.”

Mr. Read, of Leon, moved to insert before the word “corporations,” the word “Banking,” which was lost.

Mr. Marvin, called for the previous question, which was sustained.

The question was then decided upon Mr. Jenckes’ section, by yeas and nays, as follows :

AYES—Mr. President, Messrs. Anderson, Bellamy, of Jefferson, Bird, Brooks, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, McLean, McClellan, McCants, Morton Partridge, Read, of Leon, Roache, Robbins, Sanchez, Thompson, Watts, Webb, Westcott, Williams, Wood, Woodward, Wyatt,—31.

[77] NAYS—Messrs. Allen, Baltzell, Bartlett, Bellamy, of Jackson, Blount, Brown, of Leon, Brown, of Monroe, Cabell, Fitzpatrick, Hunter, Long, Malone, Marvin, Mays, McKinnon, McGehee, Meacham, Parkhill, Semmes, Taylor, Wright,—21.

So the section was adopted.

Mr. Wyatt, offered the following as the 14th section.

“Nothing in the foregoing section, shall be construed, so as to prevent the General Assembly, from incorporating Banks, the specie

basis of which, may be raised upon the pledges of real and personal property."

Mr. Westcott, moved the following amendment to Mr. Wyatt's section. "the whole stock of which shall be owned by the state," which was lost.

Mr. Marvin, called for the previous question, which was sustained.

The question was decided upon the adoption of Mr. Wyatt's section, by yeas and nays, as follows:

AYES—Messrs. Baltzell, Bartlett, Bellamy, of Jackson, Brown, of Leon, Bunce, Fitzpatrick, Hunter, Long, Malone, Mays, McKinnon, McGehee, Meacham, Parkhill, Semmes, Taylor, Westcott, Wright, Wyatt,—19.

NAYS—Mr. President, Messrs. Anderson, Bellamy, of Jefferson, Bird, Brooks, Cooper, Crichton, Garey, Garrison, Jenckes, Levy, Marvin, McClellan, McCants, Morton, Partridge, Read, of Leon, Robbins, Roche, Sanchez, Thompson, Watts, Webb, Williams, Wood, Woodward,—26.

So the section was therefore lost.

Mr. Read, of Leon, offered the following as the 14th section.

"The General Assembly may provide by law, for the institution in this state, of a system of free Banking," and called for the ayes and nays, which were as follows:

AYES—Mr. President, Messrs, Baltzell, Blount, Brooks, Garrison, Haddock, Hooker, Parkhill, Read, of Leon, Watts, Webb, Westcott, Wood, Wright,—14.

NAYS—Messrs. Allen, Anderson, Bartlett, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Brown, of Leon, Bunce, Cooper, Crichton, Garey, Hunter, Jenckes, Long, Malone, Marvin, Mays, McClellan, McKinnon, McLean, McGehee, McCants, Meacham, Morton, Partridge, Roche, Sanchez, Semmes, Taylor, Thompson, Ward, Williams, Woodward, Wyatt,—35.

So the section was therefore not adopted.

Mr. Westcott, offered the following, as the 14th section.

"The General Assembly, shall have power to alter or modify any or all acts of incorporations, granted heretofore or which may be granted hereafter, by the Governor and Legislative Council of the Territory of Florida, either to Banking companies or other associa-

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tions, to adopt such measures as may be proper to ascertain whether any such corporations have acted contrary to the provisions of said acts, and to correct the evils arising therefrom, and to annul such acts, and dissolve such corporations when the public welfare demands such course. And also, to adopt such measures as may be necessary to enable the state to secure the means, and have the power to redeem the obligations of the Territory of Florida, on account of any such corporations, and in all cases of dissolution of such corporations, adequate and proper remedies shall be provided by law for the security and collection of all debts thereto, and of all liabilities thereof, according to the terms and conditions thereof, and the provisions of such acts. Such measures of the General Assembly, not to impair the obligation of contracts, or to violate any rights, which may be legally acquired under said acts, but to be only in [78] regulation, restraint, or prohibition of the exercise of corporate privileges, and franchises by such companies or associations of the General Assembly, decide the public welfare requires such course."

Which was lost.

Mr. Read, of Leon, moved that the Convention take a recess till 8 o'clock, this evening, which was lost.

Mr. Bellamy, of Jackson, moved that the Convention adjourn till 10 o'clock, to-morrow morning, which was lost.

Mr. Marvin, called for the previous question.

Mr. Bellamy, of Jackson, moved a call of the Convention, and the ayes and nays were ordered, and are as follows:

AYES—Messrs. Bellamy, of Jackson, Bird, Blount, Brooks, Brown, of Leon, Cabell, Crichton, Fitzpatrick, Garrison, Levy, Mays, McKinnon, McLean, McGehee, McCants, Meacham, Partridge, Parkhill, Read, of Leon, Sanchez, Semmes, Webb, Westcott, Williams, Wood, Woodward, Wright, Wyatt,—29.

NAYS—Mr. President, Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Cooper, Garey, Haddock, Hooker, Jenckes, Long, Malone, Marvin, Morton, Roche, Robbins, Stephens, Thompson, Ward, Watts,—20.

The motion therefore prevailed.

On motion, further proceedings under a call of the Convention, were suspended.

On motion of Mr. Jenckes, the Convention adjourned till to-morrow morning 10 o'clock.

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FRIDAY, January 4th, 1839.

The Convention met pursuant to adjournment.

Mr. Brown, of Leon, presented the following statement, explanatory of his course on yesterday, relative to sundry resolutions, acted upon by the convention, on the subject of Banks, and asked permission to spread it upon the Journals of the Convention, which was granted.

St. JOSEPH, Friday, Jan. 4th, 1839.

“After the committee of the whole were on yesterday discharged from the further consideration of the report of the committee on Banks, and the Resolutions on the subject to them referred; the resolutions of Mr. Baltzell, were taken up, as a substitute for all the resolutions then under consideration, as I understood, and I moved to substitute the Resolutions, offered by me in the morning, as a substitute, for the substitute. The chair decided my motion to be out of order, but suggested that it would be in order for me, to move to strike out and insert, I yielded to the suggestion, and made that motion, and a motion was made for the previous question, which was ordered, and the yeas and nays were ordered on Mr. Baltzell’s Resolutions, I voted in the affirmative, and then renewed my motion to substitute my resolutions for Mr. Baltzell’s, when the chair decided, that they were *adopted* by the house, and that it would not be in order, to move a substitute. An appeal was taken from the decision of the chair, and the house sustained the chair. I then moved a re-consideration of the vote on Mr. Baltzell’s resolution, which the house refused. I now declare that I did not *vote* [79] for the *adoption* of Mr. Baltzell’s Resolution. That I am opposed to them as well as to the Report of the committee on Banks, and ask that this declaration be spread on the journals of this convention.

THOMAS BROWN,

A member of the Convention from the County of Leon.

Mr. Westcott, moved that the vote upon the Preamble and Resolutions adopted yesterday, be reconsidered by the convention, which motion at his request, was laid on the table.

Mr. Baltzell, offered the following resolutions.

Resolved, That the Preamble and Resolution, adopted by the Convention, on the subject of Banking, be engrossed, and signed by the

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President of this convention, and that copies thereof be forwarded to the President, and Vice-President of the United States, and the Speaker of the House of Representatives. Be it further

Resolved, That a copy thereof, be also forwarded to the Delegate in Congress from this Territory, with a request, that the action of that Honorable Body be had thereon.

The orders of the day, were then taken up, and the convention resumed the consideration of the Article on Banks.

Mr. Westcott, asked leave to withdraw the proposition offered by him on yesterday, as the 14th section, which was objected to by Mr. Brown, of Leon.

Mr. Westcott, called for the previous question, which was sustained, and the ayes and nays were then taken upon the adoption of the section, proposed by Mr. Westcott, and are as follows:

AYES—Messrs. Bellamy, of Jefferson, Brooks, Cooper, Crichton, Garey, Hooker, Jenckes, Levy, McClellen, McCants, Webb, Westcott, Wood, Williams,—14.

NAYS—Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Blount, Bird, Brown, of Leon, Bunce, Cabell, Duval, Fitzpatrick, Garrison, Haddock, Hunter, Long, Malone, Marvin, Mays, McKinnon, McLean, McGehee, Meacham, Morton, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Sanchez, Semmes, Stephens, Thompson, Ward, White, Woodward, Wright, Wyatt,—38.

So the motion was lost.

Mr. Westcott, offered the following as the 14th section.

“The General Assembly shall have power over all acts of incorporation heretofore granted, or which may be hereafter granted by the Governor and Legislative Council of the Territory of Florida, either to Banking companies or other associations, and to adopt such measures as may be proper to ascertain whether any of such corporations, shall not have complied with, or shall have acted contrary to, the provisions of the acts incorporating them, and to correct the evils arising therefrom, and when the public welfare shall demand, to dissolve such corporations, for such cause. And in all cases of dissolution of corporations, the General Assembly, shall provide proper and adequate remedies, for the security and collection of all debts and liabilities by or to the same according to the terms and conditions thereof, and the provisions of the acts of incorporations,

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such measures of the General Assembly, not to impair the obligation of contracts, or to violate any rights which may be legally vested under said acts, but to be confined to the regulation, [80] restraint or prohibition of the exercise of corporate privileges and franchises, when the public welfare requires such course. And the General Assembly, shall also have power to adopt such measures as may be necessary to enable the state to secure the payment of the obligations, and the redemption of the plighted faith of the Territory of Florida, on account of any acts of incorporation." And the yeas and nays were ordered, and are as follows:

AYES—Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Bird, Brooks, Bunce, Cooper, Crichton, Garey, Haddock, Hooker, Jenckes, Levy, Marvin, Morton, McClellen, Read, of Leon, Robbins, Roche, Sanchez, Watts, Webb, Westcott, White, Williams, Wood,—26.

NAYS—Mr. President, Messrs. Allen, Bartlett, Blount, Brown, of Leon, Brown, of Monroe, Cabell, Duval, Fitzpatrick, Garrison, Hunter, Long, Malone, Mays, McKinnon, McLean, McGehee, McCants, Meacham, Partridge, Parkhill, Semmes, Stephens, Thompson, Ward, Woodward, Wright, Wyatt,—28.

So the section was therefore rejected.

Mr. Wyatt, moved the following as the 14th section,

"All Banking and other incorporations, of the Territorial Government of Florida, shall be under the supervision of the General Assembly," and the ayes and nays were called for, and are as follows:

AYES—Mr. President, Messrs. Bartlett, Bellamy, of Jackson, Brooks, Brown, of Leon, Malone, Marvin, McKinnon, McLean, Partridge, Roche, Sanchez, Semmes, Ward, Webb, Westcott, White, Wyatt,—17.

NAYS—Messrs. Allen, Anderson, Baltzell, Bellamy, of Jefferson, Bird, Blount, Bunce, Cabell, Cooper, Crichton, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Long, Mays, McClellan, McGehee, McCants, Meacham, Morton, Parkhill, Read, of Leon, Robbins, Stephens, Thompson, Watts, Williams, Wood, Woodward, Wright,—36.

So the section was lost.

Mr. Westcott, moved that the report of the minority of the committee on Banks, be now taken up, and that the first section be adopted.

Mr. Ward, offered the following as a substitute for the 4th section.

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“The General Assembly, shall have power, whenever in their opinion, the general good may require, to institute legal proceedings against any Bank or other corporate body, and whenever such Bank, or other incorporation, shall be declared by the judgment of the proper tribunal, to have violated its charter, then the General Assembly, shall provide by law, for a sequestration of the assets of such Bank, or such other remedy, as may be necessary and proper.”

Mr. Westcott, called for a division of the question, and the yeas and nays were called for on the motion to strike out, and were as follows:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Blunt, Brooks, Bird, Brown, of Leon, Brown, of Monroe, Cabell, Duval, Fitzpatrick, Garrison, Hooker, Hunter, Malone, Mays, McKinnon, McLean, McGehee, Meacham, Morton, Parkhill, Partridge, Read, of Leon, Robbins, Semmes, Ward, Webb, Woodward, Wright, Wyatt.—33.

NAYS—Messrs. Bunce, Levy, Long, Marvin, McClellan, Roche, Westcott, and White,—8.

The motion therefore to strike out, prevailed

Mr. Anderson, moved for an indefinite postponement of the article and resolutions on Banks.

[81] On motion of Mr. Bellamy, a call of the Convention was ordered.

Mr. Ward, informed the convention, that Mr. Taylor, the member from Leon, was confined by indisposition, and asked, that leave of absence be granted him, and proposed that he (Mr Ward,) be permitted to act as his proxy, which was concurred in.

Mr. Anderson, withdrew his motion for an indefinite postponement of the subject on Banks.

Mr. Westcott, moved a recess till 3 o'clock, which was lost.

Mr. Read, of Leon, offered the following as a substitute for Mr. Wards' section,

“The General Assembly, shall at its first session, after the adoption of this Constitution, assume for the State of Florida, all obligations created by the charters of incorporations, granted during the existence of the Territorial Government, to any Banking Railroad, or other company, upon the express conditions, that said companies shall secure and guard the State against all possible loss by, and on account of said obligations, in such manner, and upon such terms, as

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shall be approved of by the General Assembly, at its said first session. But if the said companies, or either of them, shall fail or refuse so to secure and guard the State, then the General Assembly, shall immediately proceed to provide by law, for the forfeiture of the charter or charters, of the company or companies so failing or refusing, and the sequestration of the assets thereof."

Mr. Fitzpatrick, moved that the further consideration of the article and resolutions on Banks, be postponed till the 4th day of July next.

Mr. Westcott, moved to take a recess till 3 o'clock, and the ayes and nays were called for, and are as follows:

AYES—Mr. President, Messrs. Anderson, Baltzell, Bird, Blount, Brooks, Brown, of Monroe, Cabell, Crichton, Garrison, Levy, Long, McLean, Morton, Partridge, Read, of Leon, Robbins, Webb, Westcott, White, Williams, Wood, Woodward, Wyatt,—24.

NAYS—Messrs. Allen, Bartlett, Bellamy, of Jackson, Bellamy, of Jefferson, Brown, of Leon, Bunce, Cooper, Duval, Fitzpatrick, Garey, Haddock, Hooker, Hunter, Jenckes, Malone, Marvin, McClellan, McKinnon, McGehee, McCants, Meacham, Mays, Parkhill, Roche, Sanchez, Semmes, Stephens, Taylor, Thompson, Ward, Watts, Wright,—32.

The motion was therefore rejected.

Mr. Baltzell, called for the previous question, which was sustained.

The question upon the adoption of the section offered by Mr. Ward, was then decided by yeas and nays as follows:

AYES—Mr. President, Messrs. Allen, Bartlett, Blount, Brown, of Leon, Bunce, Cabell, Duval, Fitzpatrick, Garrison, Hunter, Malone, Mays, McKinnon, McLean, McGehee, Partridge, Parkhill, Robbins, Semmes, Taylor, Ward, Woodward, and Wyatt,—24.

NAYS—Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Brooks, Brown, of Monroe, Cooper, Crichton, Garey, Haddock, Hooker, Levy, Jenckes, Long, Marvin, McClellan, McCants, Meacham, Morton, Read, of Leon, Roche, Sanchez, Stephens, Thompson, Watts, Webb, Westcott, White, Williams, Wood, Wright,—31.

The section was therefore rejected.

Mr. Read, of Leon, moved the adoption of his section.

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Mr. Ward, offered the following amendment.

[82] "Provided, that the General Assembly shall not prescribe rules or regulations inconsistent with the acts of incorporation of such Bank, or other incorporation," which was rejected.

The previous question was then called for, on the adoption of Mr. Read's section, and the yeas and nays were called for, which are as follows:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Blount, Brooks, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Garrison, Hooker, Jenckes, Levy, Long, McClellan, McCants, Morton, Partridge, Read, of Leon, Robbins, Roche, Semmes, Thompson, Watts, Webb, Westcott, White, Williams, Wood, Woodward, Wright, Wyatt.—38.

NAYS—Messrs. Brown, of Leon, Cabell, Duval, Fitzpatrick, Haddock, Hunter, Malone, Marvin, Mays, McKinnon, McLean, McGehee, Meacham, Parkhill, Sanchez, Stephens, Taylor, Ward,—17.

The main question was then decided by yeas and nays as follows:

AYES—Mr. President, Bellamy, of Jefferson, Bird, Brooks, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Marvin, McClellan, McLean, Read, of Leon, Roche, Robbins, Thompson, Watts, Webb, Westcott, White, Williams, Wood,—25.

NAYS—Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Blount, Brown, of Monroe, Brown, of Leon, Cabell, Duval, Fitzpatrick, Hunter, Levy, Long, Malone, Mays, McKinnon, McGehee, McCants, Meacham, Morton, Partridge, Parkhill, Sanchez, Semmes, Stephens, Taylor, Ward, Woodward, Wright, Wyatt,—31.

The section was therefore rejected.

The question was then decided by yeas and nays, upon Mr. Fitzpatrick's motion to postpone, as follows:

AYES—Messrs. Anderson, Bartlett, Bellamy, of Jefferson, Bellamy, of Jackson, Blount, Brooks, Brown, of Leon, Cabell, Duval, Fitzpatrick, Hunter, Long, Malone, Mays, McKinnon, McLean, McGehee, Meacham, Morton, Parkhill, Robbins, Semmes, Stephens, Taylor, Ward, Webb, Woodward, Wright, Wyatt,—29.

NAYS—Mr. President, Messrs. Allen, Baltzell, Bird, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Marvin, McClellan, McCants, Partridge, Read, of

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Leon, Roche, Sanchez, Thompson, Westcott, Watts, White, Williams, Wood,—27.

The motion to postpone, therefore prevailed.

On motion of Mr. Baltzell, the Convention took a recess till 3 o'clock.

Afternoon Session.

The Convention met at 3 o'clock, P. M.

Mr. Marvin, moved a call of the Convention, which prevailed.

On motion of Mr. Baltzell, further proceedings under the call of the Convention, were dispensed with.

Mr. Brooks, moved a reconsideration of the vote on the motion of Mr. Fitzpatrick, to postpone the further consideration of the Articles and Resolutions on Banks, till the 4th day of July next.

A call of the Convention was ordered.

Mr. Bartlett, moved that the further proceedings under the call of the Convention be suspended, and that the absent members be permitted to vote when they shall appear; which was concurred in.

The question of reconsideration, was then decided in the affirmative by the following vote:

AYES—Mr. President, Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Bird, [83] Brooks, Brown, of Monroe, Bunce, Cabell, Cooper, Crichton, Garey, Garrison, Hooker, Haddock, Jenckes, Levy, Marvin, McClellan, McCants, Morton, Partridge, Read, of Leon, Sanchez, Thompson, Watts, Webb, Westcott, White, Williams, Wood,—31.

NAYS—Messrs. Allen, Bartlett, Bellamy, of Jackson, Blount, Brown, of Leon, Duval, Fitzpatrick, Hunter, Long, Malone, Mays, McKinnon, McLean, McGehee, Meacham, Parkhill, Roche, Robbins, Semmes, Stephens, Taylor, Ward, Woodward, Wright, Wyatt,—24.

Mr. Bartlett, moved to adjourn *sine die*, and the yeas and nays were ordered and are as follows:

AYES—Messrs. Bartlett, Blount, Brown, of Leon, Bunce, Duval, Hunter, Malone, Meacham, Parkhill, Robbins, Semmes, Stephens, Wright,—13.

NAYS—Mr. President, Messrs. Allen, Anderson, Baltzell, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Brooks, Brown, of Monroe,

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Cabell, Cooper, Crichton, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, Marvin, Mays, McClellan, McKinnon, McLean, McGehee, McCants, Morton, Partridge, Read, of Leon, Roche, Sanchez, Taylor, Thompson, Ward, Watts, Webb, Westcott, White, Williams, Wood, Woodward, Wyatt,—43.

So the motion was lost.

Mr. Brown, of Leon, moved that a resolution offered by him on a former day, relative to an adjournment, be taken from the table, which was concurred in.

Mr. Read, of Leon, moved that said resolution, be indefinitely postponed, and the yeas and nays were ordered, and are as follows:

AYES—Mr. President, Messrs. Anderson, Baltzell, Bird, Brooks, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, Marvin, McClellan, McCants, Morton, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Thompson, Watts, Webb, Westcott, White, Williams, Wood, Woodward, Wyatt,—34.

NAYS—Messrs. Allen, Bartlett, Bellamy, of Jefferson, Bellamy, of Jackson, Blount, Brown, of Leon, Cabell, Duval, Fitzpatrick, Hunter, Malone, Mays, McKinnon, McLean, McGehee, Meacham, Parkhill, Semmes, Stephens, Taylor, Ward, Wright,—22.

Mr. Westcott, moved that the convention, now take a recess till 7 o'clock this evening, which was lost.

Mr. Thompson, moved a reconsideration of the vote on Mr. Westcott's proposition for the 14th section, which was concurred in.

Mr. Bartlett, called for the previous question, which was not sustained.

Mr. Brown, of Leon, moved that every thing on the subject of Banks, be recommitted to the committee of the whole, which was lost.

Mr. Baltzell, offered the following as a substitute for the section proposed by Mr. Westcott.

"The General Assembly, shall have power to pass laws, to regulate, control and restrain, all Banking and other corporations, and to declare the causes, which shall induce the forfeiture of their charters."

Mr. Ward, offered an amendment to Mr. Westcott's proposition.

"The General Assembly shall have power, whenever in their opin-

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ion, the general good may require, to institute legal proceedings against any Bank, or other corporate body, and whenever such Bank, or other incorporation, shall be declared by the judgement of the proper tribunal to have violated its charter, then the General Assembly, shall provide by law, for the sequestration of the assets of such bank, or such other remedy as may be necessary and proper."

[84] Mr. Read, of Leon, called for the previous question, and the call was sustained, by the following vote.

AYES—Mr. President, Bartlett, Bellamy, of Jefferson, Bird, Brown, of Monroe, Brown, of Leon, Cabell, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Levy, Jenckes, Marvin, McClellan, Read, of Leon, Roche, Robbins, Sanchez, Semmes, Watts, White, Williams, Wood,—26.

NAYS—Messrs. Allen, Anderson, Baltzell, Bellamy, of Jackson, Blount, Brooks, Fitzpatrick, Hunter, Long, Malone, Mays, McKinnon, McLean, McGehee, McCants, Meacham, Morton, Partridge, Parkhill, Stephens, Taylor, Ward, Webb, Westcott, Wyatt,—25.

The question was then put upon the adoption of Mr. Westcott's proposition, and decided in the negative by the following vote.

AYES—Messrs. Anderson, Bellamy, of Jefferson, Bird, Bunce, Cooper, Crichton, Garey, Haddock, Hooker, Jenckes, Levy, Marvin, McClellan, McCants, Morton, Roche, Robbins, Sanchez, Thompson, Westcott, White, Williams, Wood,—23.

NAYS—Mr. President, Messrs. Allen, Baltzell, Bartlett, Bellamy, of Jackson, Blount, Brooks, Brown, of Monroe, Brown, of Leon, Cabell, Fitzpatrick, Garrison, Hunter, Long, Malone, Mays, McKinnon, McLean, McGehee, Meacham, Partridge, Parkhill, Read, of Leon, Semmes, Stephens, Taylor, Ward, Webb, Woodward, and Wyatt,—28.

Mr. Bartlett, moved to adjourn *sine die*, and the yeas and nays were ordered, and are as follows:

AYES—Messrs. Bartlett, Blount, Brown, of Leon, Bunce, Malone, Meacham, Parkhill, Semmes, Stephens,—9.

NAYS—Mr. President, Messrs. Allen, Anderson, Baltzell, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Brooks, Brown, of Monroe, Cabell, Cooper, Crichton, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Long, Marvin, Mays, McClellan, McKinnon, McLean, McGehee, McCants, Morton, Partridge, Read, of

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Leon, Roche, Robbins, Sanchez, Taylor, Thompson, Ward, Watts, Webb, Westcott, White, Williams, Wood, Woodward, Wyatt,—45.

So the motion was lost.

Mr. Baltzell, moved to adjourn till to-morrow 10 o'clock, and the yeas and nays being called for, were as follows:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bird, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Jenckes, Levy, Long, Marvin, McCants, Morton, Partridge, Roche, Robbins, Sanchez, Thompson, Westcott, White, Williams, Wood, Woodward, Wyatt,—27.

NAYS—Messrs. Bartlett, Bellamy, of Jefferson, Bellamy, of Jackson, Brown, of Leon, Blount, Cabell, Fitzpatrick, Garrison, Haddock, Hooker, Hunter, Malone, Mays, McClellan, McKinnon, McLean, McGehee, Parkhill, Read, of Leon, Semmes, Stephens, Taylor, Ward, Watts, Webb,—25.

So the Convention adjourned till 10 o'clock, to-morrow morning.

SATURDAY, January 5th, 1839.

The convention met pursuant to adjournment.

Mr. Cabell, moved "That the State Constitution, when adopted by this Convention, before it goes into operation, shall be submitted to the citizens of Florida, for their ratification," and the yeas and nays were ordered and are as follows:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Bird, Blount, Brooks, Brown, of Leon, Brown, of Monroe, Bunce, Cabell, [85] Cooper, Crichton, Fitzpatrick, Garey, Garrison, Hunter, Jenckes, Levy, Long, Marvin, Malone, Mays, McClellan, McKinnon, McLean, McGehee, McCants, Meacham, Morton, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Sanchez, Semmes, Stephens, Taylor, Thompson, Ward, Watts, Webb, Westcott, White, Williams, Wood, Woodward, Wright,—52.

NAYS—Messrs. Bellamy, of Jefferson, Haddock, Wyatt,—3.

So the motion was concurred in.

Mr. Westcott, asked leave of temporary absence for Mr. Thompson, the member from Leon, and that he be received as his proxy, which was granted.

Mr. Marvin, moved "that two-thirds of this Convention must be in

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actual session, in order to constitute a quorum, of this convention," which was concurred in.

Mr. Wyatt, moved that a majority of all the members elected, shall be necessary to the passage of any clause in this constitution," which was concurred in.

Mr. Westcott, asked leave to withdraw a motion of his, which was laid on the table, on yesterday, relative to the Preamble and Resolutions, offered by Mr. Baltzell, and passed by the convention, which was granted.

Mr. Brown, moved that the convention, now take up the resolutions offered by him, which prevailed. And the yeas and nays were ordered on the adoption, and are as follows:

AYES—Mr. President, Messrs. Allen, Bartlett, Bellamy, of Jackson, Brown, of Leon, Blount, Cabell, Fitzpatrick, Hunter, Long, Malone, Mays, McKinnon, McLean, McGehee, Meacham, Parkhill, Semmes, Stephens, Taylor, Ward, White, Wright, and Wyatt,—24.

NAYS—Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Bird, Brooks, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Marvin, McClellen, McCants, Morton, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Thompson, Watts, Webb, Westcott, Williams, Wood, Woodward,—31.

So the resolutions were therefore rejected.

Mr. Baltzell, moved that the resolution, offered by him authorizing the transmission of the Preamble and Resolutions, passed by this convention to the President, Vice-President, and Delegate in Congress, be now taken up.

Mr. Bellamy, of Jackson, moved that the Preamble and Resolutions offered by Mr. Baltzell, and adopted by this convention, on the subject of Banks, be submitted to the People, for their ratification, or rejection, before they are sent to Congress.

Mr. Westcott, called for the previous question, which was sustained by the following vote.

AYES—Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Bird, Brooks, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Haddock, Hooker, Jenckes, Levy, Long, Marvin, McClellen, McCants, Morton, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Thompson, Watts, Webb, Westcott, White, Williams, Wood,—31.

NAYS—Mr. President, Messrs. Allen, Bartlett, Bellamy, of Jack-

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son, Blount, Brown, of Leon, Cabell, Fitzpatrick, Hunter, Malone, Mays, McKinnon, McLean, McGehee, Meacham, Parkhill, Semmes, Stephens, Taylor, Ward, Woodward, Wright, and Wyatt,—23.

The main question on the adoption of Mr. Baltzell's resolutions, was then put, and decided in the affirmative by the following vote:

AYES—Mr. President, Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Brooks, [86] Bird, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, McClellan, McCants, Morton, Partridge, Roche, Robbins, Sanchez, Thompson, Watts, Webb, Westcott, White, Williams, Wood,—29.

NAYS—Messrs. Allen, Bartlett, Bellamy, of Jackson, Blount, Brown, of Leon, Brown, of Monroe, Cabell, Bunce, Fitzpatrick, Hunter, Malone, Marvin, McKinnon, Mays, McLean, McGehee, Meacham, Parkhill, Read, of Leon, Semmes, Stephens, Taylor, Ward, Woodward, Wright, Wyatt,—26.

The question upon the adoption of Mr. Bellamy's, motion was then put and decided in the negative, by the following vote:

AYES—Messrs. Allen, Bartlett, Bellamy, of Jackson, Blount, Brown, of Leon, Cabell, Fitzpatrick, Hunter, Malone, Mays, McKinnon, McLean, McGehee, Meacham, Parkhill, Semmes, Stephens, Taylor, Ward, Woodward, Wyatt.—21.

NAYS—Mr. President, Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Brooks, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, Marvin, McClellan, McCants, Morton, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Thompson, Watts, Webb, Westcott, White, Williams, Wood,—30.

The convention then on motion of Mr. Westcott, took up the article on Banking and other incorporations.

Mr. Allen, proposed the following as the 14th section.

“The General Assembly, shall at its first session, have power to regulate, restrain and control all associations, claiming to exercise corporate privileges in the State, so as to guard, protect, and secure the interests of the people of the State, not violating vested rights, or impairing the obligations of contracts,” and the ayes and nays were ordered, and are as follows:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bellamy, of Jackson, Bird, Brooks, Brown, of Monroe, Brown, of Leon, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy,

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Long, Marvin, Mays, McClellan, McKinnon, McLean, McGehee, McCants, Morton, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Sanchez, Taylor, Thompson, Ward, Watts, Webb, Westcott, White, Wood, Woodward, Wyatt,—43.

NAYS—Messrs. Bartlett, Bellamy, of Jefferson, Blount, Cabell, Fitzpatrick, Hunter, Malone, Meacham, Semmes, Stephens, Williams,—11.

So the section was adopted.

Mr. Bellamy, of Jefferson, moved that his resolutions, on the subject of Banks, be taken up, which was concurred in.

Mr. Bellamy, of Jefferson, moved the adoption of his resolutions, but subsequently withdrew his motion.

Mr. Read, of Leon, moved that the Article on Banking, and other incorporations, be passed and engrossed for a third reading, and the yeas and nays being called for, are as follows:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bird, Brooks, Cooper, Crichton, Garey, Garrison, Hooker, Hunter, Jenckes, Levy, McClellan, McCants, Meacham, Morton, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Thompson, Webb, Westcott, White, Williams, Wood, Woodward, Wyatt,—31.

NAYS—Messrs. Bartlett, Bellamy, of Jefferson, Blount, Brown, of Leon, Fitzpatrick, Long, Mays, McKinnon, McLean, McGehee, Parkhill, Semmes, Stephens, Ward, Wright,—15.

So the article was ordered to be engrossed for a third reading.

On motion, the Article on Census and Apportionment of Representation, was then taken up

On motion of Mr. Woodward, the Convention took a recess till 3 o'clock.

[87] *Afternoon Session.*

The Convention met at 3 o'clock, and on motion a call of the Convention, was then called.

Mr. Westcott, asked leave of absence for Mr. Thompson, the member from Leon, and that he be received as his proxy, which was granted.

Mr. Meacham, asked leave of absence for Messrs. Hunter and Stephens, members from Gadsden county.

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Mr. Westcott, called for a division of the question, whereupon, leave of absence was granted to Mr. Hunter, but not to Mr Stephens.

The President, read a letter from Mr. Wright, the member from Escambia, tendering his resignation, which was accepted, and Mr. Blount, received his proxy.

Mr. Read, of Leon, moved that Mr. Meacham, be received as the proxy of Mr. Hunter, which prevailed.

Mr. Westcott, moved that leave of absence be granted to more members of this Convention, which was laid on the table.

Mr. Allen, asked leave of absence, for Mr. Duval, and that he be permitted to act as his proxy, which was granted.

Mr. Marvin, asked leave of absence for Mr. Brown, the member from Monroe, till Monday next.

The Convention, then on motion of Mr. Levy, went into committee of the whole on the Article on Census and Apportionment of Representation, Mr. Westcott, in the chair.

After some time spent in its consideration, the committee rose, reported progress, and asked to be discharged from the further consideration of the article, which was concurred in.

The Article on Census and Apportionment of Representation, was taken up and read a second time, by sections.

Mr. Reid, of St. John's, moved to strike out the second section and insert the following, as a substitute:

"Each county shall be entitled to one Senator," which was lost.

Mr. Bellamy, of Jackson, moved that when the Convention adjourn, it adjourn till nine o'clock, to-morrow, which was lost.

Mr. Fitzpatrick, moved that the amendment, offered by Mr. Partidge, in committee of the whole, for the fourth section, be printed, which was lost.

It was then moved, that when the Convention adjourn, it adjourn till 10 o'clock, on Monday morning next, which prevailed.

On motion of Mr. Read, of Leon, the convention took a recess till 7 o'clock, in the evening.

Evening Session.

The Convention met at 7 o'clock, and on motion of Mr. Read, of Leon, a call of the Convention was ordered.

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On presenting the motion of Mr Reid, it was moved to strike out the second section, and insert the following:

“Each County, shall be entitled to one Senator, provided that no new County, shall be formed, unless with a population, which according to their [88] existing ratio of representation, shall entitle it to one member,” and the yeas and nays being ordered, were as follows:

AYES—Mr. President, Bird, Brooks, Cooper, Crichton, Fitzpatrick, Garey, Garrison, Hooker, Jenckes, Levy, Long, McClellen, Roche, Robbins, Sanchez, Watts, Webb, White, Williams, Wood,—21.

NAYS—Messrs. Allen, Anderson, Bartlett, Blount, Brown, of Leon, Cabell, Duval, Haddock, Hunter, Malone, Mays, McKinnon, McLean, McGehee, Meacham, Morton, Partridge, Parkhill, Read, of Leon, Semmes, Stephens, Taylor, Thompson, Ward, Westcott, Wright, Wyatt,—27.

So the motion was lost.

On motion of Mr. Read, of Leon, those members that were absent, were permitted to record their votes, when they come in.

Mr. McClellen, asked to be excused from voting, which was refused.

Mr. Wyatt, moved to amend the 2nd section, by inserting after the word “entitled,” in the seventh line, the words “at least,” and also, to strike out the words “and no more,” in the same line, and the yeas and nays being called for, were as follows:

AYES—Messrs. Allen, Baltzell, Bellamy, of Jefferson, Blount, Brown, of Leon, Cabell, Duval, Hunter, McKinnon, McLean, McCants, Meacham, Partridge, Parkhill, Read, of Leon, Stephens, Taylor, Thompson, Ward, Westcott, Wright, Wyatt,—22.

NAYS—Mr. President, Messrs. Anderson, Bartlett, Bird, Brooks, Cooper, Crichton, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, Malone, Mays, McClellen, McGehee, Morton, Roche, Robbins, Sanchez, Semmes, Watts, Webb, White, Williams, Wood, Woodward,—30.

So the amendment was lost.

Mr. Long, moved to amend the 2nd section, by striking out the word “third,” in the fourth line, and insert the word “half,” and the yeas and nays were ordered thereon, and are as follows:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Bird, Blount, Brooks, Brown, of Leon, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Hunter,

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Jenckes, Levy, Long, McClellan, McKinnon, McLean, Meacham, Morton, Parkhill, Stephens, Taylor, Ward, Watts, Webb, Westcott, Williams, Woodward, Wright,—36.

NAYS—Messrs. Bellamy, of Jefferson, Cabell, Fitzpatrick, Malone, Marvin, Mays, McGehee, Partridge, Read, of Leon, Roche, Sanchez, Thompson, White, Wood, and Wyatt,—15.

So the motion prevailed.

Mr. Bartlett, moved to re-consider the vote on Mr. Wyatt's motion to strike out the words "no more," which was concurred in, and the yeas and nays being ordered, were as follows:

AYES—Messrs. Allen, Baltzell, Bartlett, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Blount, Brown, of Leon, Cabell, Duval, Hunter, Malone, McLean, McCants, Meacham, Partridge, Parkhill, Read, of Leon, Semmes, Stephens, Thompson, Taylor, Ward, Westcott, Wright, Wyatt,—29.

NAYS—Mr. President, Messrs. Anderson, Brooks, Cooper, Crichton, Fitzpatrick, Garey, Garrison, Hooker, Jenckes, Levy, Long, Marvin, Mays, McClellan, McGehee, Morton, Roche, Robbins, Sanchez, Watts, Webb, White, Williams, Wood, Woodward,—25.

So the motion, was re-considered, and the amendment was adopted, and the words "no more," were stricken out.

Mr. Bartlett, moved to amend the 2nd section, by inserting after the [89] word "may be," in the sixth line, the words "according to the ratio of representation established in the preceeding section," and the yeas and nays were called for, and are as follows:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Bellamy, of Jefferson, Blount, Brown, of Leon, Cabell, Duval, Hunter, Long, Malone, Marvin, Mays, McKinnon, McLean, McGehee, Meacham, Morton, Partridge, Parkhill, Read, of Leon, Semmes, Stephens, Taylor, Thompson, Ward, Westcott, Wright, Wyatt.—33.

NAYS—Messrs. Bird, Brooks, Cooper, Crichton, Fitzpatrick, Garey, Haddock, Hooker, Jenckes, Levy, McClellan, McCants, Roche, Robbins, Sanchez, Watts, Webb, White, Williams, Wood, Woodward,—21.

So the motion prevailed.

Mr. Marvin, offered the following, as a substituto for the 3rd section.

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“The State shall be divided into four Senatorial Departments—The first department, shall consist of that portion of the state, lying west of the Apalachicola river, and shall always be entitled to. . . . senators, and no more; The second department, shall consist of that portion of the state, between the Apalachicola and Suwanee rivers, and shall always be entitled to. . . . senators, and no more; The third district, shall consist of that portion of the state, east of the Suwanee river, and north of the northern boundary of the County of Dade and Monroe, and shall always be entitled to. . . . senators, and no more; and that portion of the state, lying south of the said third senatorial department, shall constitute the fourth department, and shall always be entitled to. . . . senators, and no more. The General Assembly shall subdivide these Senatorial Departments, into convenient Senatorial Districts, as nearly equal in the number of their inhabitants, as may be.”

It was moved to strike out the second section, and the yeas and nays being ordered, are as follows:

AYES—Mr. President, Messrs. Anderson, Bird, Cooper, Crichton, Fitzpatrick, Garey, Haddock, Hunter, Jenckes, Long, Malone, Marvin, McKinnon, Meacham, McLean, Morton, Roche, Sanchez, Stephens, Watts, Williams, Woodward,—23.

NAYS—Messrs. Allen, Baltzell, Bartlett, Bellamy, of Jackson, Bellamy, of Jefferson, Blount, Brown, of Leon, Cabell, Duval, Hooker, Levy, Mays, McGehee, Partridge, Parkhill, Read, of Leon, Semmes, Taylor, Thompson, Ward, Webb, Westcott, White, Wood, Wright,—25.

The section therefore, was not stricken out.

Mr. Westcott, moved to amend the 3rd section, by striking out the words “and no county shall be divided in forming a district,” and decided in the negative by the following vote:

AYES—Messrs. Allen, Baltzell, Bellamy, of Jackson, Blount, Brown, of Leon, Cabell, Duval, Hunter, Marvin, Meacham, Partridge, Parkhill, Read, of Leon, Taylor, Thompson, Ward, Westcott, Wyatt,—18.

NAYS—Mr. President, Messrs. Anderson, Bartlett, Bellamy, of Jefferson, Brooks, Bird, Cooper, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Jenckes, Long, Levy, Malone, Mays, McKinnon, McLean, McGehee, Morton, Roche, Sanchez, Stephens, Semmes, Watts, Webb, White, Wood, Woodward,—31.

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Mr. Partridge, moved to strike out the 4th and 5th sections, and insert the following section, as a substitute.

“No new county shall be entitled to separate representation, until its [90] population equal the ratio of representation then existing; nor shall any county be reduced in population by division, below the existing ratio.

“Until the apportionment of representation by the General Assembly, as directed in the foregoing section, the several counties shall be entitled to the following Representatives, viz:—Escambia three, Walton one, Washington one, Jackson three, Franklin two, Calhoun two, Gadsden four, Leon six, Jefferson three, Madison one, Hamilton one, Columbia two, Alachua two, Duval two, Nasau one, St. Johns three, Mosquito one, Dade one, Monroe one, Hillsborough one:—And until the apportionment of Senators under the census as aforesaid, there shall be sixteen Senatorial Districts in this State, which shall be as follows:

The county of Escambia shall compose the first District.

The counties of Walton and Washington, shall compose the second District.

The county of Jackson, shall compose the third District.

The county of Calhoun, shall compose the fourth District.

The county of Franklin, shall compose the fifth District.

The county of Gadsden, shall compose the sixth District.

The county of Leon, shall compose the seventh District.

The county of Jefferson, shall compose the eighth District.

The county of Madison, shall compose the ninth District.

The county of Hamilton, shall compose the tenth District.

The county of Columbia, shall compose the eleventh District.

The county of Alachua, shall compose the twelfth District.

The county of Duval, shall compose the thirteenth District.

The county of Nasau, shall compose the fourteenth District.

The counties of St. Johns and Mosquito, shall compose the fifteenth District.

The counties of Dade, Monroe, and Hillsborough, shall compose the sixteenth District.

And each Senatorial District shall elect one Senator, and the seventh District shall be entitled to two.”

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A division of the question was called for, and the question upon striking out, was decided in the affirmative, and the substitute of Mr. Partridge, was adopted.

Mr. Long, moved to strike out the word "three," after the word "Jackson," and insert the word "four."

A division of the question, was called for, and the question upon striking out, was decided in the negative as follows:

AYES—Messrs. Anderson, Baltzell, Bellamy, of Jackson, Bird, Blount, Crichton, Garrison, Long, Marvin, McLean, Morton, Roche, Sanchez, White, Woodward, and Wright,—17.

NAYS—Mr. President, Messrs. Allen, Bartlett, Bellamy, of Jefferson, Brown, of Leon, Brooks, Cabell, Bunce, Cooper, Duval, Fitzpatrick, Garey, Haddock, Hooker, Hunter, Jenckes, Levy, Malone, Mays, McClellan, McKinnon, McGehee, Meacham, Partridge, Parkhill, Read, of Leon, Semmes, Stephens, Taylor, Thompson, Ward, Watts, Webb, Westcott, Wood, Wyatt,—35.

Mr. Read, of Leon, moved to strike out the word "one," after the word Hamilton," and insert the word "two," and the yeas and nays were ordered, and are as follows:

[91] AYES—Messrs. Bellamy, of Jefferson, Bird, Fitzpatrick, Garrison, Haddock, Hooker, Jenckes, Malone, Mays, McLean, McGehee, Read, of Leon, Sanchez, Thompson, Watts, Webb, Westcott, White, Wood,—19.

NAYS—Mr. President, Messrs. Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Blount, Brooks, Brown, of Leon, Cabell, Cooper, Crichton, Garey, Hunter, Levy, Long, Marvin, McKinnon, Meacham, Morton, Partridge, Parkhill, Roche, Semmes, Stephens, Taylor, Ward, Woodward, Wright, Wyatt,—29.

So the section was not amended.

Mr. Crichton, moved to strike out the word "two," after the word "Duval," and insert the word "three," and the yeas and nays were ordered, and are as follows:

AYES—Mr. President, Messrs. Bird, Brooks, Crichton, Fitzpatrick, Garey, Garrison, Hooker, Long, Mays, McLean, McGehee, Read, of Leon, Semmes, Thompson, Watts, Webb, Westcott, Wood,—18.

NAYS—Messrs. Allen, Anderson, Bartlett, Bellamy, of Jefferson, Bellamy, of Jackson, Blount, Brown, of Leon, Cabell, Cooper, Duval, Haddock, Hunter, Jenckes, Levy, Malone, Marvin, McKinnon, Mc-

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Cants, Meacham, Morton, Partridge, Roche, Sanchez, Semmes, Stephens, Taylor, Ward, White, Woodward, Wright, Wyatt,—31.

So the motion was lost.

Mr. McGehee, moved to strike out the word "one," after the word "Madison," and insert the word "two," which was lost.

Mr. McLean, moved that Walton County be made a Senatorial District, which was lost.

Mr. Hooker, moved to amend the section, by striking out in the last line, the word "two" and inserting "one," and the yeas and nays were called, and are as follows.

AYES—Mr. President, Messrs. Anderson, Bellamy, of Jackson, Crichton, Fitzpatrick, Hooker, Long, Morton, Roche, Watts,—10.

NAYS—Messrs. Allen, Baltzell, Bartlett, Bellamy, of Jefferson, Blount, Brooks, Brown, of Leon, Cabell, Cooper, Duval, Garey, Garrison, Hunter, Jenckes, Malone, Marvin, Mays, McKinnon, McLean, McGehee, McCants, Meacham, Partridge, Parkhill, Read, of Leon, Semmes, Stephens, Taylor, Thompson, Ward, Webb, White, Westcott, Williams, Wood, Wright, Wyatt,—37.

So the motion was lost.

The motion was then put, on the motion of Mr. Partridge to strike out the fourth and fifth sections, which was decided in the affirmative.

The question upon the adoption of the substitute of Mr. Partridge, for the fourth and fifth sections, by yeas and nays, are as follows.

AYES—Mr. President, Messrs. Allen, Anderson, Bartlett, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Blount, Brooks, Brown, of Leon, Cabell, Cooper, Crichton, Duval, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Mays, Malone, Marvin, McClellan, McKinnon, McLean, McGehee, McCants, Meacham, Morton, Parkhill, Partridge, Read, of Leon, Robbins, Sanchez, Semmes, Stephens, Taylor, Thompson, Ward, Watts, Webb, Westcott, White, Wright, Wyatt,—50.

NAYS—Messrs. Long, Roche,—2.

So the substitute was adopted.

On motion of Mr. Partridge, the following was adopted as the fifth section.

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“No new county shall be entitled to separate representation, until its population, equal the ratio of representation then existing.”

[92] On motion of Mr. Marvin, the article was ordered to be engrossed for a third reading.

The Convention then adjourned till 10 o'clock on monday next.

MONDAY, January 7th, 1839.

The Convention met pursuant to adjournment.

The President read a letter from Mr. Stephens, the member from Gadsden, tendering his resignation, which was laid on the table.

Mr. Meacham, reported that he had been appointed the proxy of Mr. Stephens, and requested the concurrence of the Convention in such appointment.

The previous question was called for, and the yeas and nays required, on the question of receiving Mr. Meacham as the proxy of Mr. Stephens, and are as follows.

AYES—Mr. President, Messrs. Allen, Bartlett, Blount, Brooks, Brown, of Leon, Cabell, Duval, Fitzpatrick, Garrison, Hunter, Long, Malone, Marvin, Mays, McKinnon, McLean, McGehee, McCants, Meacham, Partridge, Parkhill, Read, of Leon, Robbins, Sanchez, Semmes, Taylor, Ward, Webb, Wright, Wyatt,—31.

NAYS—Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Bird, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Hooker, Jenckes, Levy, Morton, Roche, Thompson, Watts, Westcott, White, Williams, Wood, Woodward,—21.

Mr Meacham was therefore permitted to act as the proxy of Mr. Stephens.

Mr. Woodward asked leave of absence for Mr. Bellamy of Jackson, which was granted, and on motion, the report of the delegation from the Western District, appointing Mr. Woodward the proxy of Mr. Bellamy, was concurred in.

Mr. White asked for temporary leave of absence for Mr. McClellan, who was necessarily absent, owing to the illness of his colleague, Mr. Webb, which was granted, and Mr. Brooks was received as his proxy.

Mr. Anderson presented the following Report:

Report of the Committee on Enrollment.

The committee on enrollment, report to the Convention, that, in supervising the enrollment of the articles of the Constitution, they

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have in the second section, of the Declaration of Rights, changed the word "think," in the phrase "as may think expedient," to the word "deem." In the 4th section, they have changed the word "should," to "shall." In the 8th section they have changed the word "ought," to "shall." In the 10th section, the phrase "to be confronted *by* the witnesses against him," they have changed the word "by," to the word "with." In sec. 11th, in the words "presumption great," they have changed the word *great*, to "strong." In section 12th. in the phrase "nor cruel or unusual punishments inflicted," they have inserted the word "shall," after the "nor," and the word "be," before the word "inflicted." In section 22d, they have inserted the word "shall," between the words *peace*, and *be*. In sec. 27th, they have stricken out the words "against the high powers herein delegated," and have inserted "upon the rights of the people," and changed the word "foregoing," to the word "following."

[93] *Executive Department.*

In section 2d, the committee have stricken out the word "for," between the words *eligible* and *re-election*, and inserted the word "to." In section 7th, the word "in," between the words *offices* and *the*, changed to "of," and the last word changed from "departments," to "offices." In sec. 8th, the word "in," in the last line, changed to "by." In sec. 11th, the words "in those," in the first line, be stricken out. In the first line of the 15th section, the word "may," be stricken out. In the 16th section, between the words *shall be* and *by*, the word "determined," be stricken out. In sec. 17th, between the words *disapprove* and *be*, the word "shall," stricken out. In the last line of the 20th section, the words "had he been employed in the duties of his office," be stricken out. In the 22d section, the word "and," changed to "or," between the words *Senate* and *the Speaker*. In the same section, at the end thereof, the words "in consequence of the death, resignation, impeachment, or absence of the Governor," be stricken out, and the word "aforesaid," inserted. In the 18th section, the words "elected the time pointed out by the Constitution, for the election of Governor, shall arrive," be stricken out, and the words "during the term for which the governor was elected," inserted.

Legislative Department.

The committee have inserted the word "and," after classes in the second line, of the 6th section. In the 8th section, the last word changed from "provide," to "prescribe."

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Judiciary Department.

The words "Justices of the Supreme Court, and," be stricken out at the beginning of the 12th section.

Civil Officers.

In the last line of the 7th section, after the word "be" and before the word "by," the word "given," be stricken out. In the 8th section, the word "same," be stricken out, and the word "state," inserted.

Taxation and Revenue.

The committee on referring to the journals, find that the second section of the article on taxation and revenue, as reported by the committee on taxation and revenue, was stricken out in the House. They found the section, however, enrolled; they have in pursuance of the vote of the House, stricken it from the enrolled article.

The committee in presenting the articles of the Constitution, thus far enrolled, respectfully ask the Convention to concur in the alterations and amendments, as herein made.

WALKER ANDERSON, *Chairman.*

Which was read and laid on the table, for the examination of members, until to-morrow.

Mr. Levy, moved that the Convention go into committee of the whole, on the article on Education, which was concurred in.

Mr. Baltzell was called to the chair.

[94] After some time spent in its consideration, the committee rose and reported the article without amendments.

The article was then taken up and read by sections.

Mr. Ward, moved to strike out the whole article and insert the following as a substitute.

1. The proceeds of all lands that have been or may hereafter be granted by the United States for the use of Schools, and a Seminary or Seminaries of learning, shall be and remain a perpetual fund, the interest of which together with all moneys derived from any other source applicable to the same object, shall be inviolably appropriated to the use of Schools and Seminaries of learning, respectively, and to no other purpose.

2. The General Assembly shall take such measures as may be nec-

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essary to preserve from waste or damage, all land so granted and appropriated to the purposes of Education.

3. It shall be the duty of the General Assembly, to provide by law, a general system of Education, and also for the disposition of the lands applicable to that purpose.

Mr. Wyatt offered the following sections.

1. It shall be the duty of the General Assembly to provide by law, for the sale and improvement of such lands as are, or shall hereafter be granted by the United States, to this State, for the purposes of Education, and apply any funds which may be raised from such lands, or from any other quarter to the accomplishment of this object, and for no other.

2. It shall be the duty of the General Assembly, as soon as circumstances will permit, to provide by law, for a general system of Education throughout the State, commencing first with common or primary schools, and ascending as the funds may justify, in a regular gradation to the establishment of such higher institutions of learning, as shall be deemed by the General Assembly best calculated to promote the great object of Education, in which tuition shall be gratis and equally open to all.

Mr. Marvin called for the previous question, which was sustained.

The question upon the adoption of the first section, was then put, and decided in the affirmative.

Mr. Marvin called for the previous question, upon the adoption of the second section, which was sustained.

The yeas and nays were then ordered on the main question, and are as follows.

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Brooks, Brown, of Leon, Bunce, Cooper, Duval, Garey, Garrison, Haddock, Hunter, Jenckes, Long, Malone, Marvin, Mays, McClellen, McKinnon, McLean, McGehee, Meacham, Morton, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Sanchez, Stephens, Taylor, Thompson, Ward, Watts, Webb, White, Williams, Wood, Woodward, Wyatt,—45.

NAYS—Messrs. Crichton, Fitzpatrick, Hooker, Levy, Westcott,—5.
So the section was adopted.

On motion of Mr. Ward, the third section was stricken out.

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Mr. Wyatt, moved to insert the sections proposed by him, and the yeas and nays were called for, and are as follows.

AYES—Messrs. Bellamy, of Jackson, Brooks, Bunce, Fitzpatrick, Hooker, McClellan, McKinnon, McLean, Read, of Leon, Thompson, Watts, Westcott, Williams, Webb, Woodward, Wyatt,—16.

NAYS—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bird, Brown, of Leon, Cooper, Crichton, Duval, Garey, Garrison, Haddock, Hunter, Jenckes, Levy, Long, Malone, Marvin, Mays, McGehee, Meacham, Morton, Partridge, Parkhill, Roche, Robbins, Sanchez, Semmes, Stephens, Taylor, Ward, White, Wood,—35.

The motion was therefore lost.

On motion of Mr. Ward, the fourth and fifth sections were stricken cut.

Mr. Levy offered the following section.

The interest of the said fund heretofore provided by Congress, for a University, or which may hereafter be granted for that purpose, shall be equally divided with the assent of Congress, between a College to be established at.....in West Florida, and a College to be established at.....in East Florida.

The interest of the fund heretofore provided, or which may hereafter be granted for the use of schools, shall be appropriated to the use of free schools, to be established in every county in this State.

The General Assembly shall direct the application of the said interest arising from the said fund to the use of the said Colleges and schools, and shall appoint the trustees of the said Colleges in such manner and for such term as to them shall seem fit and proper.

No land heretofore granted, or hereafter to be granted by the Congress of the United State, for the use of a University of Seminaries of learning and of schools, shall ever be sold, except upon a credit of _____ years, the interest to be paid semi-annually, and the principal and interest to be secured by a mortgage on real estate.

The previous question was called for, but not sustained.

Mr. Westcott offered the following as a substitute for the one proposed by Mr. Levy.

“It shall be the duty of the General Assembly, to provide by law, for a general system of Education, and for disposing to the best ad-

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vantage, of the lands applicable to that purpose, and investing the proceeds, so as to constitute a permanent fund, the interest of which only shall be applied to the purposes for which such lands have been bestowed respectively," but subsequently withdrew it.

Mr. Wyatt called for the previous question, which was sustained.

The question was then put, upon the adoption of Mr. Levy's section, and decided in the negative, by yeas and nays as follows.

AYES—Mr. President, Messrs. Allen, Bird, Cooper, Crichton, Garey, Jenckes, Levy, Long, McKinnon, McLean, Read, of Leon, Roche, Thompson, Westcott, White, Williams,—17.

NAYS—Messrs. Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bellamy, of Jackson, Brooks, Brown, of Monroe, Brown, of Leon, Bunce, Cabell, Duval, Fitzpatrick, Garrison, Haddock, Hooker, Hunter, Malone, Marvin, Mays, McClellan, McGehee, McCants, Meacham, Morton, Partridge, Parkhill, Robbins, Sanchez, Semmes, Stephens, Taylor, Ward, Webb, Woodward, Wyatt,—35.

On motion of Mr. Marvin, the article on Education was ordered to be engrossed for a third reading.

The article on Public Domain &c., was then taken up, and read a second time by sections.

[96] It was moved to adopt the first section, and the previous question was called for.

Mr. Fitzpatrick, moved to amend the first section, by striking out the words "letting or" in the fourth line.

The yeas and nays were ordered on the call for the previous question, and are as follows:

AYES—Messrs. Allen, Bartlett, Bellamy, of Jefferson, Brown, of Monroe, Bunce, Crichton, Haddock, Hooker, Hunter, Marvin, Mays, McLean, McGehee, McCants, Meacham, Partridge, Read, of Leon, Semmes, Stephens, Wyatt,—20.

NAYS—Mr. President, Messrs. Anderson, Baltzell, Bellamy, of Jackson, Brooks, Bird, Brown, of Leon, Cabell, Cooper, Fitzpatrick, Garey, Garrison, Jenckes, Long, Malone, McClellan, Morton, Roche, Robbins, Sanchez, Taylor, Thompson, Ward, Webb, Westcott, White, Woodward,—26.

So the call was not sustained.

The question upon striking out, was then put, and decided in the affirmative, by the following vote.

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AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Bellamy, of Jefferson, Bird, Brooks, Brown, of Leon, Brown, of Monroe, Bunce, Cooper, Duval, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Hunter, Levy, Jenckes, Long, Malone, Marvin, Mays, McClellen, McKinnon, McLean, McGehee, Meacham, Morton, Parkhill, Read, of Leon, Robbins, Sanchez, Semmes, Stephens, Taylor, Thompson, Ward, Webb, Westcott, White, Woodward, Wyatt,—45.

NAYS—Messrs. Cabell, McCants, Partridge, Roche,—4.

The article was then adopted, and ordered to be engrossed for a third reading.

The article on Piscary, was taken up, and read a second time.

The article on Internal Improvements, was taken up, and read a second time.

Mr. Fitzpatrick, moved to strike out the article.

Mr. Bartlett called for the previous question.

Mr. Cabell, moved that the Convention take a recess till 3 o'clock P. M. and demanded the ayes and nays, which are as follows.

AYES—Mr. President, Messrs. Allen, Bellamy, of Jefferson, Brown, of Monroe, Bunce, Cabell, Duval, Fitzpatrick, Garrison, McCants, Robbins, Thompson, Westcott,—12.

NAYS—Messrs. Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Bird, Brooks, Cooper, Garey, Haddock, Hooker, Hunter, Jenckes, Levy, Long, Malone, Marvin, Mays, McClellen, McKinnon, McLean, McGehee, Meacham, Morton, Partridge, Read, of Leon, Roche, Sanchez, Stephens, Watts, Webb, Woodward, Wyatt,—32.

The Convention therefore refused to take a recess.

Mr. Baltzell, moved to strike out the last clause of the article, but withdrew his motion, which was renewed by Mr. Long.

Mr. Wyatt called for the previous question, which was sustained.

The question upon striking out, was then decided in the negative, by the following vote.

AYES—Messrs. Bellamy, of Jackson, Bellamy, of Jefferson, Brooks, Cooper, Crichton, Fitzpatrick, Garey, Haddock, Hooker, Jenckes, Levy, McClellen, Sanchez, Webb, Wood, Woodward,—16.

NAYS—Mr. President, Messrs. Allen, Baltzell, Bartlett, Bird, Brown, of Monroe, Brown, of Leon, Bunce, Cabell, Duval, Garrison,

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Hunter, Long, Malone, Marvin, Mays, McKinnon, McLean, McGehee, McCants, Meacham, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Semmes, Stephens, Taylor, Thompson, Ward, Watts, Westcott, Wyatt,—34.

[97] The article was then adopted, and ordered to be engrossed for a third reading.

On motion of Mr. Westcott, the committee on enrollment, were permitted to transpose some of the articles of the constitution, to be submitted to, and adopted by the Convention.

On motion of Mr. Haddock, the Convention took a recess until 3 o'clock.

Afternoon Session.

The Convention met at 3 o'clock, P. M.

Mr. Westcott, moved that the committee, appointed to superintend the recording of the Journals of this Convention, be instructed to supervise and correct the Journal, before it be sent to the printer, which prevailed.

Mr. Marvin, moved that the committee be discharged, which was lost.

Mr. Marvin, requested to be excused from acting on that committee, which was refused.

The Convention, took up the consideration of the article on Boundaries.

Mr. Fitzpatrick, moved to strike out, all after the words "United States," in the fourth line, and called for the previous question, which was sustained.

The ayes and nays were ordered on the motion to strike out, and are as follows:

AYES—Messrs. Bellamy, of Jackson, Bellamy, of Jefferson, Bird, Brooks, Cabell, Crichton, Fitzpatrick, Garrison, Haddock, Hooker, Marvin, Mays, McClellan, McKinnon, McGehee, McCants, Partridge, Read, of Leon, Roche, Semmes, Stephens, Thompson, Watts, Webb, Westcott, White, Woodward,—27.

NAYS—Mr. President, Messrs. Allen, Anderson, Baltzell, Blount, Brown, of Monroe, Bunce, Cooper, Duval, Garey, Hunter, Jenckes, Levy, Long, Malone, McLean, Meacham, Morton, Robbins, Sanchez, Wood, Wright, Wyatt,—23.

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So the motion prevailed.

The article was then passed, and ordered to be engrossed for a third reading.

The Convention went into the consideration of the article on General Provisions.

Mr. Malone, offered an amendment, to the 1st section, but subsequently withdrew it.

Mr. Marvin, moved to strike out the 1st section, which was lost.

Mr. Bartlett, moved to strike out the 2d section, which was lost.

Mr. Read, of Leon, moved to strike out the 3rd section, which prevailed, and the section was stricken out.

On motion of Mr. Woodward, the 5th section, was stricken out.

Mr. McCants, moved to strike out the 6th section, and the yeas and nays were ordered, and are as follows:

AYES—Messrs. Baltzell, Bartlett, Bellamy, of Jackson, Bellamy, of Jefferson, Brooks, Brown, of Monroe, Bunce, Cabell, Haddock, Hunter, Long, Malone, Mays, McClellen, McGehee, McCants, Meacham, Partridge, Read, of Leon, Robbins, Semmes, Stephens, Watts, Webb, White, Woodward,—27.

NAYS—Mr. President, Messrs. Allen, Anderson, Bird, Blount, Cooper, Crichton, Duval, Fitzpatrick, Garey, Garrison, Hooker, Jenckes, Levy, Marvin, McKinnon, McLean, Morton, Roche, Sanchez, Thompson, Westcott, Williams, Wood, Whight, Wyatt,—26.

So the section was stricken out.

[98] Mr. Levy, moved a reconsideration of the vote, on the motion of Mr. Wyatt, making a majority of all the members elected, necessary to the adoption of any section of the Constitution.

Mr. Hooker, moved for a reconsideration of the vote on Mr. Cabell's motion, to submit the Constitution to the People, for ratification, previous to transmitting it to Congress.

On motion of Mr. Westcott, the Convention adjourned till 10 o'clock to-morrow morning.

TUESDAY, January 8th, 1839.

The Convention met pursuant to adjournment.

Mr. Read, of Leon, moved that the motion of Mr. Hooker, made on a former day, lie on the table, which was concurred in.

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1. *Resolved*, That a committee of five be appointed to audit and state the accounts of members of the Convention, and all the accounts against the Convention, and to prescribe and report the manner in which the said accounts shall be settled and paid, and that the said committee be authorised to dispose of the furniture and effects if any belonging to the Convention, and make report thereof, to the auditor of the Territorial Treasury.

2. *Resolved*, That after the several articles of the Constitution shall have been read a third time and passed—the enrolled Constitution shall be read three times in Convention—once by its title—a second time, article by article, and a third time by its title; after which third reading, the President shall put the question—shall this be the Constitution of the State of Florida? and the ayes and nays shall be taken thereon.

3. *Resolved*, That the Constitution having passed, shall be signed by the President and by such members of the Convention as may choose to do so, and the same countersigned by the Secretary, shall be by the President safely kept, until the election of a Governor of the State of Florida, to whom the President shall transmit the same.

4. *Resolved*, That four copies of the said Constitution, shall be signed and countersigned as aforesaid—and one shall be transmitted to the President of the U. S. one to the Vice President, and another to the Speaker of the House of Representatives, and a fourth to the Delegate in Congress from the Territory of Florida.

Mr. Anderson, presented the report in part, of the enrolling committee.

The committee on Enrollment report to the Convention, that, they have transferred the sixth section in article six, to section twenty in article five, and the numbers of the sections are made to correspond. Articles six and seven are merged together in article six, and the sections made to correspond. Section fourth of the article on census and apportionment of Representation, we recommend to be transferred to the Schedule and Ordinances.

The committee respectfully ask the Convention to concur in the amendments.

W. ANDERSON, Chairman.

Mr. Anderson, moved that the report of the committee on enrollment, be taken up and adopted, which was concurred in.

The unfinished business of yesterday, was then taken up.

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[99] The resolution offered by Mr. Read, of Leon, on yesterday appointing a committee to superintend the enrolling of the Journals of this Convention, was taken up and passed.

The motion made by Mr. Levy, on yesterday, on reconsidering the vote on the motion offered by Mr. Wyatt, was then decided by yeas and nays as follows :

AYES—Mr. President, Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Blount, Bird, Brooks, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, Marvin, McClellan, McCants, Morton, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Watts, Webb, White, Williams, Wood, Woodward, Wright,—34.

NAYS—Allen, Bartlett, Brown, of Leon, Cabell, Duval, Fitzpatrick, Hunter, Malone, Mays, McKinnon, McLean, McGehee, Meacham, Parkhill, Semmes, Stephens, Taylor, Thompson, Ward, Westcott, Wyatt,—21.

So the motion prevailed.

Mr. Wyatt, moved that the motion offered by him on a former day, be laid on the table, which was concurred in.

The Convention then resumed the consideration of the article on General Provisions, including the subject of Domestic Slavery.

Mr. Levy, offered the following as a substitute for the sixth section.

“No free negro or molatto, shall at any time be permitted to emigrate to this State,” which was rejected.

The article or General provisions, was then taken up and read a second time by sections.

On motion of Mr. Partridge, the first section was stricken out.

Mr. Malone, moved to insert the word “it” after the word “against,” in the first line of the second section, which was concurred in.

On motion, the article from the third to the eleventh section inclusive, was stricken out.

A call of the Convention was ordered.

Mr. Partridge offered the following as a substitute for the eleventh section: “Divorces from the bonds of matrimony, shall not be allowed, but by the judgment of a court, as shall be prescribed by law.”

Which was adopted.

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On motion of Mr Partridge, the twelfth section was stricken out.

Mr. Westcott offered the following as a substitute for the 12th section. "The General Assembly shall declare by law, what parts of the common law, and what parts of the civil law, not inconsistent with the Constitution, shall be in force in this State."

The ayes and nays were ordered upon its adoption, and are as follows.

AYES—Mr. President, Messrs. Anderson, Bartlett, Bird, Blount, Brooks, Cooper, Crichton, Garey, Garrison, Hooker, Hunter, Jenckes, Levy, Long, Malone, McCants, McClellan, Meacham, Morton, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Semmes, Stephens, Thompson, Webb, Westcott, Wood, Woodward, Wright,—32.

NAYS—Messrs. Allen, Baltzell, Bellamy, of Jefferson, Brown, of Monroe, Brown, of Leon, Bunce, Cabell, Duval, Fitzpatrick, Had-dock, Marvin, Mays, McKinnon, McLean, McGehee, Parkhill, Taylor, Ward, Watts, Wyatt,—20.

So the section was adopted.

On motion of Mr. Partridge, the 13th section was stricken out.

[100] On motion of Mr. Fitzpatrick, the 14th 15th and 16th sections were stricken out.

Mr. Westcott offered the following section: "No law shall be in force until it shall have been promulgated in print, unless, in case of emergency, when it shall be otherwise directed by law."

And the ayes and nays were ordered upon its adoption, and are as follows.

AYES—Mr. President, Messrs. Baltzell, Bird, Brooks, Bunce, Cooper, Crichton, Garey, Garrison, Hooker, Hunter, Jenckes, Levy, Long, McClellan, Meacham, Roche, Robbins, Sanchez, Stephens, Thompson, Webb, Westcott, Woodward, Wyatt.—25.

NAYS—Messrs. Allen, Anderson, Bartlett, Bellamy, of Jefferson, Blount, Brown, of Monroe, Brown, of Leon, Duval, Fitzpatrick, Had-dock, Malone, Marvin, Mays, McKinnon, McLean, McGehee, McCants, Morton, Partridge, Parkhill, Read, of Leon, Semmes, Taylor, Ward, Watts, Wood, Wright,—27.

The section was therefore not adopted.

Mr. Fitzpatrick, proposed the following section: "The General Assembly shall have power to pass laws to prevent the emigration of

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free negroes, mulattoes and persons of color to this State, and to prevent their residing therein."

Mr. Anderson, moved to amend the section, by striking out the words "and to prevent their residing therein."

The previous question was then called, and decided by yeas and nays:

AYES—Messrs. Bellamy, of Jefferson, Bird, Brooks, Cooper, Crichton, Garey, Haddock, Hunter, Jenckes Levy, Long, Malone, Mays, McClellen, McGehee, McCants, Meacham, Read, of Leon, Stephens, Thompson, Watts, Webb, Westcott Woodward, Wyatt, —24.

NAYS—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Blount, Brown, of Monroe, Brown, of Leon, Bunce, Cabell, Fitzpatrick, Garrison, Hooker, Marvin, McKinnon, McLean, Morton, Partridge, Parkhill, Roche, Robbins, Sanchez, Semmes, Taylor, Ward, Wood, Wright,—27.

So the call was not sustained.

Mr. Ward offered the following sections: "The General Assembly shall pass laws to prevent free negroes and mulattoes, from emigrating to this State, or from being discharged from on board any vessel in any of the ports of Florida."

Mr. Fitzpatrick, moved to insert the words "and other persons of color" which was concurred in.

Mr. Long, moved to add the words "and in case of emergency, to expel such persons from this State," which was lost.

Mr. Marvin, moved to insert the words "have power" after the words "the General Assembly," which was concurred in.

The section as amended was then adopted.

Mr. Anderson offered the following section: "The number of members of the House of Representatives shall never exceed sixty."

Which was adopted.

Mr. Westcott offered the following section.

"The Governor of this State, no Justice of the Supreme Court, Chancellor, or Judge of this State, shall leave the State, without permission of the General Assembly by joint resolution first obtained on application, and absence of such officer for three months continuously from the State, shall [101] be declared a resignation of office;

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and the permanent residence of every Senator and Representative in Congress from this State, shall be at the time of his election therein, and twelve months continuous absence therefrom, during the term for which such Senator or Representative was elected, shall be deemed a resignation of his office."

Which on motion of Mr. Baltzell, was laid on the table.

On motion of Mr Anderson, the article was ordered to be engrossed for a third reading.

The article on the Seat of Government, was taken up and read a second time.

Mr. Read of Leon, moved to strike out the article, and insert the following:—"The Seat of Government of the State of Florida, shall be and remain permanent, at the city of Tallahassee, until otherwise directed by a Convention of the People."

Mr. Levy, offered the following amendment.

"The first session of the General Assembly, shall be at and provision, shall then be made for the selection of a Seat of Government."

Which was laid on the table.

The previous question was then called for, and decided by yeas and nays as follows:

AYES—Messrs. Allen, Bartlett, Bellamy, of Jefferson, Brooks, Cabell, Duval, Fitzpatrick, Hooker, Hunter, Malone, Mays, McClellen, McKinnon, McLean, McCants McGehee, Meacham, Semmes, Stephens, Watts, Webb, Wood, Wyatt,—24.

NAYS—Mr. President, Messrs. Anderson, Baltzell, Bird, Blount, Brown, of Leon, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Jenckes, Levy, Long, Marvin, Morton, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Sanchez, Taylor, Thompson, Ward, Westcott, White, Woodward, Wright,—31.

So the call was sustained.

The question upon striking out was then put, and decided in the negative by yeas and nays as follows.

AYES—Messrs. Allen, Bellamy, of Jefferson, Brown, of Leon, Cabell, Duval, McKinnon, McLean, Partridge, Parkhill, Read, of Leon, Taylor, Thompson, Ward, Westcott, Woodward, Wyatt,—16.

NAYS—Mr. President, Messrs. Anderson, Baltzell, Bartlett, Bird,

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Blount, Brooks, Brown, of Monroe, Bunce, Cooper, Crichton, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Long, Malone, Marvin, Mays, McClellan, McGehee, McCants, Meacham, Morton, Roche, Robbins, Semmes, Stephens, Watts, Webb, White, Wood, Wright,—37.

Mr. Ward offered the following amendment: "The seat of Government shall be and remain at the city of Tallahassee, until the year 1845. And the General Assembly at their Session in said year, shall have power to fix the seat of Government permanently," which was lost.

Mr. Marvin, moved to amend the original section, by striking out the word "before" in the 7th line, and inserting the words "immediately after," which was concurred in.

Mr. Long called for the previous question, which was sustained; and the main question upon the adoption of the article as amended, was put, and decided in the affirmative, by yeas and nays as follows.

AYES—Messrs. Allen, Anderson, Baltzell, Bellamy, of Jefferson, Bartlett, Blount, Bird, Brooks, Brown, of Monroe, Bunce, Cabell, Cooper, Crichton, Duval, Fitzpatrick, [102] Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Long, Marvin, McClellan, Mays, McKinnon, McLean, McGehee, McCants, Meacham, Morton, Partidge, Read, of Leon, Roche, Robbins, Semmes, Thompson, Ward, Watts, Webb, Westcott, White, Wood, Wright, Wyatt,—45.

NAYS—Mr. President, Messrs. Brown, of Leon, Malone, Parkhill, Stephens, Sanchez, Taylor, Woodward,—9.

On motion, the article was ordered to be engrossed for a third reading.

On motion of Mr. Woodward, the Convention took a recess till 3 o'clock.

Afternoon Session.

The Convention met at 3 o'clock P. M.

The engrossed article on census and apportionment of Representation, was taken up and read a third time by sections.

Mr. Bartlett, moved to amend the first section, by inserting after the word "population," the words "according to the foregoing basis," which was concurred in.

Mr. Westcott, moved to strike out in the third section, the words

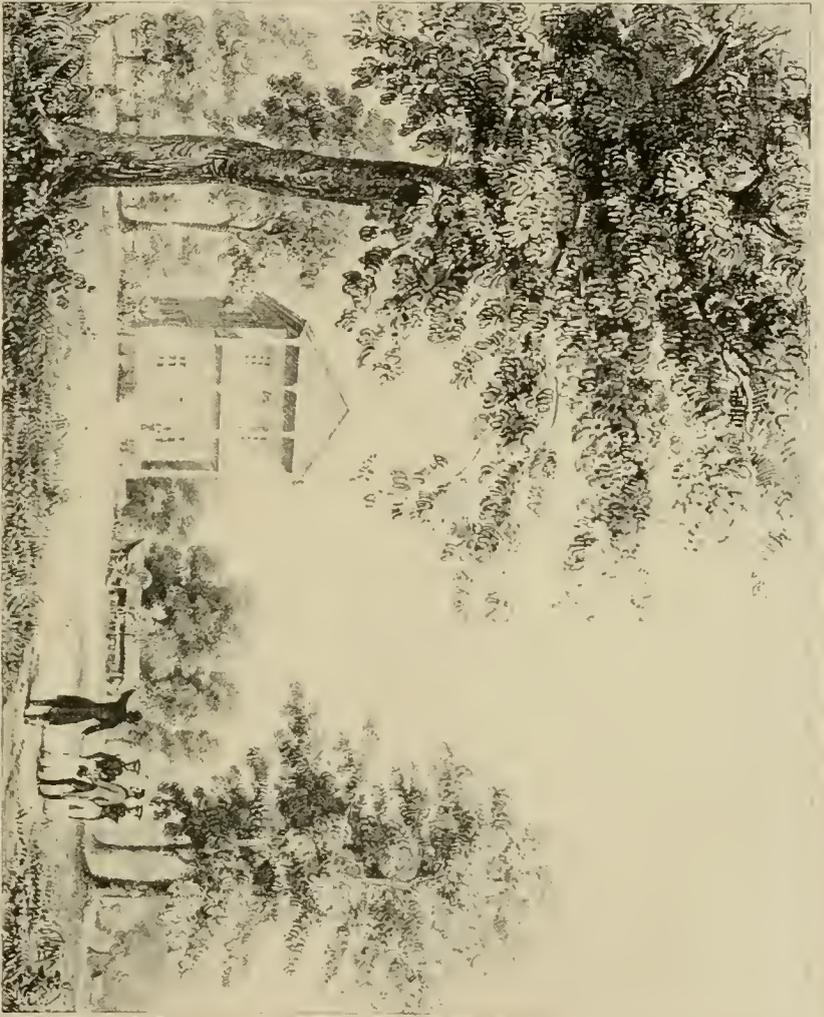


Table par Boncompagni

Vues de Tallahassee

(Pl. 23)

Table par Boncompagni

CAPITOL OF FLORIDA, 1838
From Francis de Castelneau's *Vues et Souvenirs*
de l'Amérique du Nord, 1842.

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“and no county shall be divided in forming a district,” and the yeas and nays were ordered, and are as follows.

AYES—Messrs. Allen, Anderson, Baltzell, Bellamy, of Jackson, Bellamy, of Jefferson, Blount, Brooks, Brown, of Leon, Duval, Hunter, Malone, Mays, McClellen, McGehee, Meacham, Morton, Partridge, Parkhill, Read, of Leon, Stephens, Taylor, Thompson, Ward, Webb, Westcott, Wright, Wyatt,—27.

NAYS—Mr. President, Messrs. Bartlett, Bird, Brown, of Monroe, Bunce, Cooper, Cabell, Crichton, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, Marvin, McKinnon, McLean, McCants, Roche, Robbins, Sanchez, Semmes, Watts, White, Williams, Wood, Woodward,—29.

So the motion was lost.

On motion of Mr. Anderson, the enrolling committee were permitted to arrange the Senatorial Districts, in geographical order.

Mr. Marvin, moved to amend the 4th section, by inserting the words “and the sixteenth district shall be entitled to two Senators.”

Which was lost.

The main question was then put, upon the adoption of the 4th section, and decided in the affirmative by the following vote.

AYES—Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Bellamy, of Jefferson, Bird, Blount, Brooks, Brown, of Monroe, Brown, of Leon, Bunce, Cabell, Cooper, Crichton, Duval, Garey, Garrison, Hunter, Jenckes, Levy, Long, Malone, Mays, McClellen, McKinnon, McLean, McGehee, McCants, Meacham, Morton, Partridge, Parkhill, Read, of Leon, Robbins, Semmes, Stephens, Taylor, Ward, Webb, White, Wood, Woodward, Wright, Wyatt,—45.

NAYS—Mr. President, Messrs. Fitzpatrick, Haddock, Hooker, Marvin, Roche, Sanchez, Thompson, Watts, Westcott, Williams,—11.

Mr. Bartlett offered the following amendment to the 5th section: “Nor shall any county be reduced in population by division, below the existing ratio.” And the yeas and nays were ordered, and are as follows.

AYES—Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Bellamy, of Jefferson, Blount, Brooks, Brown, of Leon, Cabell, Duval, Hunter, Malone, Mays, McClellen, McKinnon, McLean, McGehee, McCants, Meacham, Morton, Partridge, Parkhill, Read, of

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Leon, Roche, Robbins, Semmes, Stephens, Taylor, Thompson, Ward, Webb, Westcott, White, Wood, Woodward, Wright, Wyatt,—38.

[103] NAYS—Mr. President, Messrs. Bird, Brown, of Monroe, Bunce, Cooper, Crichton, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, Marvin, Sanchez, Watts, Williams,—18.

So the amendment was adopted.

It was moved to strike out the 5th section, and decided in the negative by the following vote.

AYES—Mr. President, Messrs. Bird, Brown, of Monroe, Bunce, Cooper, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Marvin, Sanchez, Watts, Williams,—16.

NAYS—Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bellamy, of Jackson, Blount, Brooks, Brown, of Leon, Cabell, Crichton, Duval, Hunter, Long, Malone, Mays, McClellen, McKinnon, McLean, McGehee, McCants, Meacham, Morton, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Semmes, Stephens, Taylor, Thompson, Ward, Webb, Westcott, White, Wood, Woodward, Wright, and Wyatt,—40.

The question was then put, upon the passage of the article, and decided by yeas and nays as follows.

AYES—Mr. President, Messrs. Allen, Anderson, Bartlett, Baltzell, Bellamy, of Jefferson, Bellamy, of Jackson, Blount, Brooks, Brown, of Leon, Bunce, Cabell, Cooper, Crichton, Duval, Garey, Hunter, Jenckes, Long, Levy, Malone, Mays, McClellen, McKinnon, McLean, McGehee, McCants, Meacham, Morton, Partridge, Parkhill, Roche, Robbins, Semmes, Stephens, Taylor, Ward, Webb, White, Wood, Woodward, Wright, Wyatt,—43.

NAYS—Messrs. Bird, Brown, of Monroe, Fitzpatrick, Garrison, Hooker, Marvin, Read, of Leon, Sanchez, Thompson, Watts, Westcott,—10.

The article on Education was taken up, read a third time, and passed.

The article on public Domain was taken up, and read by sections a third time.

Mr. Bunce, moved that the second section be stricken out.

Mr. Fitzpatrick offered an amendment to the second section.

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Mr. Bartlett, called for the previous question, and the yeas and nays were ordered, and are as follows.

AYES—Messrs. Allen, Anderson, Bartlett, Brown, of Leon, Bunce, Cooper, Crichton, Duval, Garey, Hunter, Jenckes, Levy, Malone, McKinnon, McLean, McCants, Meacham, Morton, Parkhill, Read, of Leon, Sanchez, Semmes, Stephens, Taylor, Ward, Wood, Wright, Wyatt,—28.

NAYS—Mr. President, Messrs. Baltzell, Bellamy, of Jackson, Bellamy, of Jefferson, Bird, Brooks, Brown, of Monroe, Cabell, Fitzpatrick, Garrison, Haddock, Hooker, Long, Marvin, Mays, McClellan, McGehee, Partridge, Roche, Robbins, Thompson, Watts, Webb, Westcott, White, Woodward,—26.

So the call was sustained.

The question upon striking out was then put, and decided in the affirmative as follows.

AYES—Messrs. Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Bellamy, of Jefferson, Bird, Blount, Brooks, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes; Marvin, Mays, McClellan, McLean, McGehee, Morton, Read, of Leon, Sanchez, Semmes, Stephens, Watts, Webb, Williams, Wood, Woodward, Wright,—33,

NAYS—Mr. President, Messrs. Allen, Brown, of Leon, Cabell, Duval, Fitzpatrick, Hunter, Long, Malone, McKinnon, McCants, Meacham, Partridge, Parkhill, Roche, Robbins, Taylor, Thompson, Ward, Westcott, Wyatt.—22.

Mr. Woodward, moved to strike out the latter part of the third section.

[104] The previous question was called, and sustained, and the main question upon the adoption of the third section, put and decided in the affirmative.

The article was then passed, by the following vote.

AYES—Mr. President, Messrs. Bartlett, Bellamy, of Jefferson, Brooks, Brown, of Leon, Bird, Garrison, Haddock, Hooker, Levy, Mays, McClellan, McKinnon, McCants, McGehee, Partridge, Parkhill, Read, of Leon, Semmes, Taylor, Thompson, Ward, Watts, Webb, Westcott, Wyatt,—30.

NAYS—Messrs. Anderson, Baltzell, Blount, Brown, of Monroe, Bunce, Cooper, Cabell, Crichton, Garey, Hunter, Jenckes, Long, Ma-

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lone, Marvin, McLean, Meacham, Morton, Roche, Robbins, Sanchez, Stephens, Wood, Woodward, Wright,—24.

The report on relations with the General Government, was then taken up, and read a second time, and on motion of Mr. Marvin, concurred in, and the accompanying resolutions laid on the table.

The Convention then went into the consideration of the article on Ordinances.

Mr. Westcott, moved to strike out the first section, and insert the following.

“In order that no inconvenience may arise from the dissolution of the Territorial authorities, and the abrogation of the rules and regulations under which the people of Florida have hitherto been governed by the organization and establishment of the State government; it is declared and ordained:

1. That all laws and parts of laws now in force, or which may be hereafter passed by the Governor and legislative Council of the Territory of Florida, not repugnant to the provisions of this Constitution, shall continue in force until by operation of their provisions or limitations, the same shall cease to be in force, or until the General Assembly of this State shall alter or repeal the same: All writs, actions, prosecutions, judgments, contracts, claims, and rights of individuals and of associations claiming to exercise corporate franchises and privileges, shall be and continue unimpaired, and all process which has heretofore issued or which may be issued prior to the last day of the first session of the General Assembly of this State, shall be as valid as if issued in the name of the State.”

The previous question was then called for, and the ayes and nays ordered, which are as follows:

AYES—Messrs. Baltzell, Bartlett, Bellamy, of Jackson, Brown, of Leon, Cabell, Fitzpatrick, Hunter, Long, Malone, Mays, McKinnon, McLean, McGehee, Meacham, Parkhill, Semmes, Stephens, Taylor, Ward, Woodward,—20.

NAYS—Mr. President, Messrs. Anderson, Bellamy, of Jefferson, Bird, Blount, Brooks, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Marvin, McClellen, McCants, Morton, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Thompson, Watts, Webb, Westcott, White, Wood, Williams, Wright, Wyatt,—34.

The call therefore was not sustained.

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Mr. Read of Leon, moved that the Convention take a recess of one hour, which was concurred in.

Evening Session.

The Convention met at 7 o'clock.

Mr. Wyatt, moved that a committee of seven be appointed, to whom shall be referred, the various propositions, relative to the Regulations and Ordinances, and report to this Convention, what regulations and ordinances should be adopted.

Which was concurred in. Whereupon, the President appointed, Messrs. Allen, Westcott, Baltzell, Meacham, Fitzpatrick, Ward and Levy, that committee.

Mr. Westcott, moved that said committee, be instructed to prepare an ordinance for the election of Governor, Representatives in Congress, and Senators and Representatives to the General Assembly, on the first monday in May next.

Mr. Ward, moved that the committee on Regulations, and Ordinances, be instructed to report a provision for submitting to the people of Florida, the Constitution now to be adopted, on the first monday in May next, for their approval or otherwise: another provision for the election of State officers, at such subsequent day as the committee may determine.

Mr. Read of Leon, moved that said committee be instructed to report an ordinance, providing for the ratification or rejection of the Constitution, on the first monday in May next, and also for the election of Governor, member of Congress, and members of the General Assembly, as soon after the admission of Florida into the Union as practicable.

Mr. Marvin, moved "that the committee on regulations and ordinances, be instructed to provide, that two questions be submitted to the people—the one, the approval or ratification of the Constitution, and the other, whether the people desire a State Government."

Mr. Levy, moved that said committee, be instructed to provide for the organization of the State Government, as soon as the act shall have been passed, by the Congress of the United States, for the admission of Florida into the Union of the States.

The several instructions were on motion, referred to the committee on Regulations and Ordinances.

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On motion of Mr. Fitzpatrick, the Convention adjourned till nine o'clock to-morrow.

WEDNESDAY, January 9th, 1839.

The Convention met pursuant to adjournment.

Mr. Marvin, moved that the resolutions offered by him yesterday, be now taken up, which was concurred in.

The resolutions were therefore taken up, and after sundry amendments passed, except the last, which was on motion laid on the table.

Mr. Westcott, asked leave to withdraw a section offered by him on yesterday, which was granted.

Mr. Westcott, from the special committee, to whom was yesterday referred, the Article on Regulations and Ordinances, reported the following provisions, to be substituted for the articles originally reported to the Convention:

"1. That all laws and parts of laws, now in force, or which may be hereafter passed by the Governor and Legislative Council, of the Territory of Florida, not repugnant to the provisions of this Constitution, shall continue [106] in force, until by operation of their provisions or limitations, the same shall cease to be in force, or, until the General Assembly of this State, shall alter or repeal the same; and all writs, actions, prosecutions, judgments, and contracts, shall be, and continue, unimpaired, and all process which has heretofore issued, or which may be issued, prior to the last day of the first session of the General Assembly of this State, shall be as valid as if issued in the name of the State; and nothing in this Constitution shall impair the obligation of contracts, or violate vested rights, either of individuals, or of associations, claiming to exercise corporate privileges in this State.

2. All fines, penalties, forfeitures, obligations, and escheats, accruing to the Territory of Florida, shall accrue to the use of the State of Florida.

3. All recognizances heretofore taken, or which may be taken before the organization of the Judicial Department under this Constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of the State; and all bonds, executed to the Governor of the Territory of Florida, or to any other officer in his official capacity, shall pass over to the Governor or other proper State authority, and to their successors in office, for the uses therein re-

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spectively expressed, and may be sued for, and recovered accordingly; and all criminal prosecutions and penal actions, which have arisen, or which may arise before the organization of the Judicial Department under this Constitution, and which shall then be depending, may be prosecuted to judgment and execution in the name of the State.

4. All officers, civil and military, now holding their offices and appointments in the Territory, under the authority of the United States, or under the authority of the Territory, shall continue to hold and exercise their respective offices and appointments, until superseded under this Constitution; and all actions at law, or suits in chancery, or any proceeding pending, or which may be pending in any Court of the Territory of Florida, may be commenced in, or transferred to such Court of the State, as may have jurisdiction of the subject matter thereof."

Mr. Ward, from the same committee, made a further report of additional provisions.

"This Constitution shall be submitted to the people for ratification at the election for Delegate on the first Monday of May next. Each qualified voter, shall express his assent or dissent to the Constitution, by directing the managers of said election to write opposite to his name on the poll book, either the word "*Constitution*," or "*No Constitution*." And in case the time of election for Delegate, be changed to any other day than the first Monday of May next, then the Judges of Clerks of the County Courts respectively, shall appoint managers to hold an election on the said first Monday of May, for ratification of the Constitution, and said managers, shall conduct said election, in the manner provided by the laws of the Territory, respecting elections, and make return of the result of such vote forthwith, by depositing the original Poll Book, in the clerks office of their Counties respectively, and by transmitting a certificate of the result to the President of the Convention; who shall forthwith make Proclamation of the same, and in case the Constitution be ratified by the People, and shall issue writs [107] of election, directed to the Judges of the County Courts, of the several Counties, requiring them to cause an election to be held on the first Monday in October thereafter, for Governor, Representative in Congress, and members of the General Assembly, which election shall be conducted in the manner prescribed by the existing election laws of the Territory of Florida, and in case of the failure of the President of this Convention, to perform

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the duties herein prescribed, then the same shall be discharged by the Secretary of this Convention, and in case of his failure, the same shall be performed by a committee of or a majority of them.”

Which with the foregoing were received as a substitute for the original articles. The said reports were received by the House.

The Article on Regulations and Ordinances was then taken up, and read a second time by sections, and the 1st, 2nd, 3rd, and 4th sections, as reported by the committee, were adopted.

Mr. Allen, moved to amend the section, reported by Mr. Ward, by striking out all after the word “and,” and inserting the following:

“Immediately after official information shall have been received that Congress have approved the Constitution, and provided for the admission of Florida, the President of this Convention shall issue writs of election to the proper officers, in the different Counties, enjoining them to cause an election to be held for Governor, Representative in Congress, and Members of the General Assembly, in each of their respective Counties. The election shall be held on the first Monday after the lapse of sixty days, following the day of the date of the President’s proclamation, and shall take place on the same day throughout the State. The said election shall be conducted according to the then existing election laws of the Territory of Florida: Provided, however, that in case of the absence, or disability of the President of the Convention, to cause the said election, to be carried into effect, the Secretary of this Convention, shall discharge the duties hereby imposed upon the President; and in case of the absence, or disability of the Secretary, a committee consisting of to wit:

or a majority of them, shall discharge the duties herein imposed on the Secretary of the Convention, and the Members of the General Assembly, so elected, shall assemble on the fourth Monday thereafter, at the Seat of Government. The Governor, Representative in Congress, and Members of the General Assembly, shall enter upon the duties of their respective offices immediately after their election, under the Provisions of this Constitution, and shall continue in office in the same manner, and during the same period, they would have done, had they been elected on the first Monday in October.”

Mr. Ward, called for the previous question, and the yeas and nays were ordered, and are as follows:

AYES—Messrs. Bartlett, Bellamy, of Jefferson, Bellamy, of Jack-

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son, Bird, Brown, of Leon, Bunce, Cabell, Haddock, Hunter, Malone, Mays, McKinnon, McGehee, Meacham, Parkhill, Semmes, Stephens, Taylor, Ward, Watts, White, Woodward, and Wyatt,—23.

NAYS—Mr. President, Messrs. Allen, Anderson, Baltzell, Blount, Brooks, Cooper, Crichton, Duval, Garey, Garrison, Jenckes, Levy, Long, Marvin, McClellan, McLean, [108] McCants, Morton, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Thompson, Webb, Westcott, Williams, Wood, Wright,—30.

The call was therefore not sustained.

Mr. Allen, moved that the propositions before the Convention, be laid on the table for the present, with a view to reconsider the vote, on the motion of Mr. Hooker, relative to a proposition to submit the Constitution to the People for ratification, after its adoption.

The yeas and nays were demanded by Mr. Hooker, on his motion to reconsider, and are as follows:

AYES—Messrs. Baltzell, Bellamy, of Jefferson, Brooks, Brown, of Monroe, Bunce, Bird, Fitzpatrick, Hooker, McClellan, McCants, Thompson, Watts, Webb, Westcott, Wyatt,—15.

NAYS—Mr. President, Messrs. Allen, Anderson, Bartlett, Bellamy, of Jackson, Blount, Brown, of Leon, Cooper, Cooder, Crichton, Duval, Garey, Garrison, Haddock, Hunter, Jenckes, Levy, Long, Marvin, Mays, McKinnon, McLean, McGehee, Morton, Meacham, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Sanchez, Semmes, Stephens, Taylor, Ward, Williams, Wood, Woodward, Wright,—38.

So the motion was lost.

The Article on Regulations and Ordinances, was again taken up, and the question upon Mr. Allen's motion to strike out and insert, was decided in the affirmative as follows:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bird, Blount, Brooks, Brown, of Monroe, Bunce, Cabell, Cooper, Crichton, Duval, Garey, Garrison, Haddock, Jenckes, Levy, Long, Marvin, McClellan, McLean, McKinnon, Morton, Partridge, Read, of Leon, Robbins, Roche, Robbins, Sanchez, Semmes, Watts, Webb, Williams, Wood, Wright,—38.

NAYS—Messrs. Bellamy, of Jackson, Brown, of Leon, Fitzpatrick, Hooker, Hunter, Malone, Mays, McGehee, McCants, Meacham, Parkhill, Stephens, Taylor, Thompson, Ward, Westcott, Woodward, Wyatt,—17.

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Mr. Fitzpatrick, moved a reconsideration of the vote, upon Mr. Allen's amendment, which was lost.

On motion of Mr. Read, of Leon, the blank was filled up with a committee of "five."

Mr. Anderson, moved that the committee referred to, be appointed by the chair, which prevailed.

Mr. Westcott, offered the following as a substitute, for the 5th section.

"5. In case the Constitution shall be ratified by the People, elections shall be held throughout the State on the first Monday in May, 1839, for a Governor of the State of Florida, to serve for the term of four years, from and after the fourth Monday in November, 1839, and for one Representative in the Congress of the United States, from the State of Florida, to serve for two years, from the 4th day of March, 1839, and also for members of the Senate and House of Representatives, of the first General Assembly of the State of Florida, according to the apportionment in the 7th section of this Ordinance; the term of service of such members of the General Assembly, to commence on the first Monday of October, 1839, and at said election, each elector shall before voting, express his assent or dissent to this Constitution, by directing the managers of the election, to write the word "*Ratification*," or "*Rejection*," at the end of his name on the Poll Book.

[109] 6. The President of this Convention, shall issue writs of election, directed to the Judges of the several County Courts of the Territory of Florida, appointing and requiring them to cause the aforesaid elections to be held in their respective Counties, and in case of their neglect, the clerks of the County Courts, shall perform such duty as prescribed in the present existing laws of said Territory, in relation to elections, and except as to the qualifications of electors in regard to which the provisions of the Constitution shall be observed at such elections, as far as the same can be done, shall in all respects be conducted according to said laws, and the Inspectors of the elections at the different precincts in the several Counties, shall within five days thereafter, seal up and transmit by mail to Tallahassee, directed to "The Committee of Elections of the Constitutional Convention of the State of Florida," one copy of the Poll Book, and statement of the votes at such election for the different candidates for the respective offices, and shall also within the said time, transmit to the clerk's office, of the clerk of the county court of the county in

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which such election is held, another copy of the said returns, and in case of vacancy by death, resignation, or otherwise before the session of the General Assembly, the said committee may order an election to fill such vacancy in like manner, and on the receipt of the returns of the election, the said committee shall ascertain and certify the result with regard to the Ratification or Rejection of the Constitution, and cause the same to be made public, *and in case of ratification thereof*, to transmit to the persons so elected, under the same certificate of their election which shall be *prima facie* evidence thereof.

7. And.....be and are hereby appointed said Committee, any two of whom may do and perform the acts aforesaid."

And the ayes and nays were ordered, and are as follows:

AYES—Messrs. Bellamy, of Jackson, Brown, of Leon, Brown, of Monroe, Cabell, Fitzpatrick, Hunter, Marvin, Mays, McGehee, McCants, Meacham, Morton, Parkhill, Stephens, Taylor, Thompson, Ward, Watts, Westcott, Woodward, Wyatt,—21.

NAYS—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bird, Blount, Brooks, Bunce, Cooper, Crichton, Duval, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, McClellan, McKinnon, McLean, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Semmes, Webb, Wood, Wright,—32.

So the substitute was rejected.

The question was then taken upon the adoption of the section as amended, and decided in the affirmative as follows:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bird, Blount, Brooks, Brown, of Monroe, Bunce, Cabell, Cooper, Crichton, Duval, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Long, Marvin, McClellan, McKinnon, McLean, McCants, Morton, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Semmes, Watts, Webb, Wood, Wright,—38.

NAYS—Messrs. Bellamy, of Jackson, Brown, of Leon, Fitzpatrick, Hunter, Mays, McGehee, Meacham, Parkhill, Stephens, Taylor, Thompson, Westcott, Woodward, Ward, Wyatt,—15.

The article was ordered to be engrossed for a third reading.

On motion of Mr. Woodward, the Convention take a recess till 3 o'clock.

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[110] *Afternoon Session.*

The Convention met at 3 o'clock, P. M.

Mr. Anderson, moved that when this Convention adjourn, it adjourn to meet at.....subject to the call of the President, made at the request in writing of one-third of the members of this Convention, in the event of the Congress of the United States, refusing to admit Florida into the Union. And in event of the President of the Convention, not acting from any cause, the committee specified in the ordinance, shall perform that duty, which motion prevailed.

The resolutions appended to the report of the committee on Federal Relations, were then taken up, and the first one adopted.

Mr. Woodward, moved to strike out the second resolution, which prevailed.

The third resolution on motion, was adopted.

The question upon the adoption of Mr. Anderson's motion, was then decided in the affirmative by the following vote.

AYES—Messrs. Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bird, Blount, Brooks, Brown, of Monroe, Bunce, Cooper, Crichton, Garey, Garrison, Hunter, Levy, Jenckes, Marvin, McClellen, McCants, Meacham, Morton, Partridge, Read, of Leon, Robbins, Semmes, Stephens, Thompson, Watts, Webb, Westcott, Wood, Wright,—32.

NAYS—Messrs. Allen, Bellamy, of Jackson, Brown, of Leon, Cabell, Duval, Fitzpatrick, Haddock, Hooker, Long, Malone, Mays, McKinnon, McLean, McGehee, Parkhill, Roche, Sanchez, Taylor, Ward, White, Woodward, Wyatt,—22.

Mr. Westcott, moved to fill the blank, with the word "Tallahassee," and the yeas and nays were ordered, and are as follows:

AYES—Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Blount, Brooks, Brown, of Monroe, Bunce, Cabell, Cooper, Crichton, Duval, Garey, Garrison, Hooker, Hunter, Jenckes, Levy, Marvin, McClellen, McLean, McCants, Meacham, Morton, Partridge, Read, of Leon, Roche, Robbins, Semmes, Stephens, Thompson, Watts, Webb, Westcott, White, Wood, Wright, Wyatt,—38.

NAYS—Brown, of Leon, Fitzpatrick, Haddock, Long, Malone, Mays, McKinnon, McGehee, Parkhill, Sanchez, Taylor, Ward, Woodward,—16.

So the motion prevailed.

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The article on Banks was then taken up, and read a third time by sections.

Mr. Fitzpatrick, moved to strike out the whole article on Banks, and insert his resolutions.

A division of the question was called for, and the ayes and nays were ordered, first on the motion to strike out, and are as follows.

AYES—Messrs. Bartlett, Bellamy, of Jackson, Brown, of Leon, Cabell, Fitzpatrick, Long, Mays, McKinnon, McLean, McGehee, Parkhill, Semmes, Taylor, Ward,—14.

NAYS—Messrs. Allen, Anderson, Baltzell, Bellamy, of Jefferson, Blount, Brooks, Bird, Brown, of Monroe, Bunce, Cooper, Crichton, Duval, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Malone, Marvin, McClellen, McCants, Meacham, Morton, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Stephens, Thompson, Watts, Webb, Westcott, Wood, Woodward, Wright, Wyatt,—39.

So the motion was lost.

Mr. Fitzpatrick offered an amendment to the fourth section.

The previous question was called for, and sustained by the following vote.

AYES—Messrs. Allen, Baltzell, Bartlett, Bellamy, of Jackson, Bellamy, of Jefferson, Bird, Brooks, Bunce, Cooper, Crichton, Duval, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Marvin, McClellen, McCants, Partridge, Read, of Leon, [111] Roche, Robbins, Sanchez, Semmes, Thompson, Watts, Webb, Westcott, Woodward, Wood, Wyatt,—32.

NAYS—Messrs. Anderson, Blount, Brown, of Leon, Brown, of Monroe, Cabell, Fitzpatrick, Hunter, Long, Malone, Mays, McKinnon, McLean, McGehee, Meacham, Morton, Parkhill, Stephens, Taylor, Ward, Wright,—20.

On motion the fourth section was adopted.

Mr. Cabell, moved to strike out the fifth section, which was lost.

Mr. Long, moved to strike out the words "nor shall any stock be hypothecated."

The previous question was then called for, and sustained.

The question upon the adoption of the 6th section, was then decided in the negative as follows.

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AYES—Messrs. Bellamy, of Jefferson, Bird, Brooks, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes Levy, Marvin, McClellen, McCants, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Thompson, Watts, Webb, Westcott, Wood, Woodward,—25.

NAYS—Messrs. Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Blount, Brown, of Monroe, Brown, of Leon, Bunce, Cabell, Duval, Fitzpatrick, Hunter, Long, Malone, Mays, McKinnon, McLean, McGehee, Meacham, Morton, Parkhill, Semmes, Stephens, Taylor, Ward, Wright, Wyatt,—28.

Mr. Westcott, moved that the absent members, when they come in, be permitted to vote, which was concurred in.

Mr. Bellamy of Jackson, moved that the Convention take a recess of one hour, which prevailed.

Convention met at 7 o'clock in the evening.

Mr. Sanchez, in behalf of the Eastern Delegation, reported that the President of the Convention, was confined by indisposition, and that Mr. White was necessarily absent, and that said delegation had appointed Mr. Jencks to act as proxy for those gentlemen, and asked the concurrence of the Convention in the report.

The report of Mr. Sanchez, on motion, was concurred in.

The article on Banks, was again taken up.

Mr. Wyatt, moved a reconsideration of the vote on the sixth section, and the ayes and nays were ordered, and are as follows.

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bellamy, of Jefferson, Bird, Blount, Brooks, Bunce, Cooper, Crichton, Duval, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Malone, Marvin, McClellen, McKinnon, McCants, Meacham, Morton, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Stephens, Thompson, Watts, Webb, Westcott, White, Williams, Wood, Whight, Wyatt,—41.

NAYS—Messrs. Bartlett, Bellamy, of Jackson, Brown, of Monroe, Brown, of Leon, Cabell, Fitzpatrick, Long, Mays, McLean, McGehee, Parkhill, Semmes, Taylor, Ward, Woodward,—15.

The motion to reconsider, therefor prevailed.

Mr. Baltzell, moved that the three last lines of the 6th section be stricken out, which prevailed.

On motion of Mr. Baltzell, the 6th section as amended was adopted.

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Mr. Fitzpatrick, moved to amend the 8th section, by striking out the word "five" and inserting the word "fifty," which was lost.

Mr. Long, moved to amend the 10th section, by striking out the word [112] "jointly" and add the following words, "in proportion to the stock owned by each;" which prevailed.

The section as amended was then adopted.

Mr. Marvin offered an amendment to the 12th section.

Mr. Meacham offered the following amendment to the 13th section:

"This section not to prohibit the organization and establishment by the General Assembly, of a State loan office, and the guarrantee of the bonds of such office to raise funds to make loans to residents of this state for the encouragement of agriculture upon pledge of real estate, and to individuals, or incorporations in this State for the promotion of internal improvements, on such full security as may be prescribed by law—and the State shall own and receive all the profits of said loan office and have the entire control thereof, nor shall the said funds be in anywise employed in banking."

The previous question was called, and the ayes and nays ordered.

Mr. Ward asked leave to make a special answer for himself and proxies, and to have the same put upon the journals, which was refused by the House.

The following are the ayes and nays, on the call for the previous question.

AYES—Mr. President, Messrs. Bartlett, Bellamy, of Jefferson, Brooks, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, McClellan, McCants, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Semmes, Watts, Webb, White, Williams, Wood, Woodward,—27.

NAYS—Messrs. Allen, Anderson, Baltzell, Bellamy, of Jackson, Bird, Blount, Cabell, Duval, Hunter, Long, Malone, Marvin, Mays, McKinnon, McLean, McGehee, Meacham, Morton, Stephens, Thompson, Westcott, Wright, Wyatt,—23.

So the call was sustained.

The question upon the adoption of the section, was then decided in the affirmative, as follows.

AYES—Mr. President, Messrs. Bellamy, of Jefferson, Bird,

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Brooks, Crichton, Cooper, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Marvin, McClellan, McCants, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Thompson, Westcott, Watts, Webb, White, Williams, Wood, Woodward, Wyatt,—29.

NAYS—Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jackson, Blount, Brown, of Leon, Bunce, Cabell, Duval, Hunter, Long, Malone, Mays, McKinnon, McLean, McGehee, Meacham, Morton, Parkhill, Semmes, Stephens, Taylor, Ward, Wright,—25.

The article was then put upon its passage, and the ayes and nays called for, which are as follows.

AYES—Mr. President, Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Brooks, Bird, Bunce, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Marvin, McClellan, McLean, McCants, Morton, Partridge, Read, of Leon, Robbins, Roche, Sanchez, Thompson, Watts, Webb, Westcott, White, Williams, Woodward, Wood, Wright, Wyatt,—35.

NAYS—Messrs. Allen, Bartlett, Bellamy, of Jackson, Blount, Brown, of Leon, Cabell, Duval, Hunter, Long, Malone, Mays, McKinnon, McGehee, Meacham, Parkhill, Semmes, Stephens, Taylor, Ward,—19.

So the article was passed.

Mr. Ward requested that the following statement be entered on the journal:

“Be it remembered, that when the amendment of Dr. Meacham, to the 13th section was under consideration, the previous question having been moved, and the ayes and nays called: upon the name of Brown of Leon being called, Mr. Ward answered—Mr. President, I am unwilling, for my-[113]self, and those for whom I stand proxy, to vote upon a question of so important a character so suddenly, and as I conceive, irregularly propounded. I ask that this answer be placed upon the Journals, which was concurred in.

The article on amendments was then taken up, and after some slight amendments, was adopted.

The Article on General Provisions was taken up, and read a third time by sections.

Mr. Baltzell, moved to amend the 1st section, by adding the words “unless the owner send them from the State, and obligate himself, that they shall not return.” Which was lost.

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Mr. Woodward, moved to amend the first section, by adding at its close, the words "without the consent of the owner," which was lost.

The Article was then passed.

The Article on the Seat of Government, was then taken up, read a third time and passed.

The section offered by Mr. Read, of Leon, as an additional section to the Article on Ordinances, was taken up, read a second time, and ordered to be engrossed for a third reading.

The chair announced the following committees:

On Accounts.—Messrs. Jenckes, Sanchez, Long, Bartlett, and Malone.

To Memorialize Congress.—Messrs. Fitzpatrick, Westcott, Ward, Levy, and Baltzell.

On motion, the Convention adjourned till to-morrow 10 o'clock.

THURSDAY, January 10th, 1839.

The Convention met pursuant to adjournment.

On motion of Mr. Haddock, the Convention took a recess of two hours.

Afternoon Session.

The Convention met at half-past 12 o'clock, P. M.

Mr. Fitzpatrick, presented the following protest.

"Be it remembered that on the 10th day of January, A. D. one thousand eight hundred thirty-nine, I Richard Fitzpatrick, a Delegate from the County of Dade in the Territory of Florida, to the Convention held at the city of St. Joseph, in said Territory, in pursuance of an Act of the Legislative Council passed the 30th day of January, 1838, "to call a Convention for the purpose of organizing a State Government," do hereby enter my solemn protest against a certain article, to be inserted and placed in the Constitution, formed by this Convention, and called—"The Article on Banking, for the reason, that at the time of the passage of said article on Banking," at its third reading, there was not a quorum of the members of the Convention present to vote upon said article, and that consequently the same is improperly placed in the Constitution, made by this Convention, and ought not to be regarded by the People of Florida."

R. FITZPATRICK, Delegate from the County of Dade.

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Mr. Marvin, moved a reconsideration of the vote taken last evening on the passage of the Article on Banks.

And the main question was called for and sustained.

[114] On the question of reconsideration, the ayes and nays were ordered, and are as follows:

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bird, Blount, Brown, of Monroe, Bunce, Cabell, Cooper, Crichton, Duval, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes, Levy, Long, Malone, Marvin, Mays, McKinnon, McLean, McGehee, McCants, Meacham, Morton, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Stephens, Thompson, Watts, Westcott, Williams, Wood, Wright, Wyatt.—44.

NAYS—Messrs. Bellamy, of Jackson, Brooks, Brown, of Leon, Fitzpatrick, McClellan, Parkhill, Taylor, Ward, Webb, Woodward,—10.

So the motion prevailed.

Mr. Marvin, moved that the Article on Banks, be now passed, and the ayes and nays were ordered, and are as follows:

AYES—Mr. President, Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Blount, Bird, Brooks, Brown, of Monroe, Bunce, Cabell, Cooper, Crichton, Garey, Garrison, Haddock, Hooker, Jenckes, Levy, Marvin, McClellan, McLean, McCants, Morton, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Thompson, Watts, Webb, Westcott, Williams, Wood, Woodward, Wright, Wyatt,—37.

NAYS—Messrs. Allen, Bartlett, Bellamy, of Jackson, Brown, of Leon, Duval, Fitzpatrick, Hunter, Long, Malone, Mays, McKinnon, McGehee, Meacham, Parkhill, Semmes, Stephens, Taylor, Ward,—18.

So the article was passed.

Mr. Ward, moved "that the rules of the Convention be waived, and that he be permitted to move a reconsideration of the various votes of this Convention, heretofore had on various days, whereby persons engaged in or connected with a Duel, Ministers of the Gospel, and Directors of Banks, are disqualified from holding any office of trust, emolument, or profit."

Which was lost by the following vote.

AYES—Messrs. Allen, Bellamy, of Jackson, Brown, of Monroe, Brown, of Leon, Cabell, Duval, Fitzpatrick, Garrison, McLean, Parkhill, Taylor, Thompson, Ward, Westcott,—14.

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NAYS—Mr. President, Messrs. Anderson, Bartlett, Baltzell, Bellamy, of Jefferson, Bird, Blount, Brooks, Bunce, Cooper, Crichton, Garey, Haddock, Hooker, Hunter, Jenckes, Long, Levy, Malone, Marvin, Mays, McClellen, McKinnon, McGehee, McCants, Meacham, Morton, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Semmes, Stephens, Watts, Webb, Williams, Wood, Woodward, Wright, Wyatt,—41.

The Article on General Provisions and Ordinances, was read a third time and passed.

Mr. Anderson, from the committee on enrollments, presented an enrolled copy of the Preamble and Resolutions, offered by Mr. Baltzell, and passed by the Convention, for the signature of the President.

On motion of Mr. Fitzpatrick, the Preamble and Resolutions were ordered to be printed.

Mr. Cabell, moved that all further proceedings, under the Resolutions offered by Mr. Baltzell, be dispensed with, which was laid on the table.

The last section of the Article on Ordinances, was read a third time, and passed by the following vote.

AYES—Mr. President, Messrs. Allen, Anderson, Bartlett, Bird, Blount, Brooks, Brown, of Monroe, Crichton, Fitzpatrick, Garrison, Haddock, Hooker, Hunter, Levy, Long, McClellen, Meacham, Morton, Partridge, Read, of Leon, Semmes, Stephens, Thompson, Watts, Webb, Westcott, Williams, Wright, Wyatt,—30.

[115] NAYS—Messrs. Baltzell, Bellamy, of Jefferson, Bellamy, of Jackson, Brown, of Leon, Bunce, Cabell, Cooper, Duval, Garey, Jenckes, Malone, Marvin, McKinnon, Mays, McLean, McGehee, McCants, Parkhill, Roche, Robbins, Sanchez, Taylor, Ward, Wood, Woodward,—25.

Mr. Woodward, presented the following protest, signed by himself and others:

“Dissentients, We, protest against the motion submitted on yesterday by Mr. Anderson, of Escambia, and adopted by the Convention, which motion resolves, that when this Convention adjourns, it adjourn to meet again at Tallahassee, upon the call of the President, in the event of Florida not being admitted into the Union. Because, we consider that this Convention in doing so, transcends its just pow-

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ers; its province being limited, and the subject matter of its action defined by the law, under which it is assembled.

A. L. WOODWARD,
JOHN W. MALONE,
W. H. WILLIAMS,
JOSE S. SANCHEZ,
RICH'D. FITZPATRICK,
JOHN C. McGEHEE,
W. WYATT,
JOHN L. MCKINNON,
DANIEL G. McLEAN,
E. CARRINGTON CABELL.

St. Joseph, January, 10th, 1839.

On motion of Mr. Wyatt, the Convention took a recess of one hour.

The Convention met at 4 o'clock, P. M.

Mr. Allen, moved that the Convention adjourn till 9 o'clock, to morrow morning, which prevailed.

FRIDAY, January 11th, 1839.

The Convention met pursuant to adjournment.

Mr. Cabell, presented the following protest.

“Regarding the Preamble and Resolutions, submitted by Mr. Baltzell, a member of this Convention from Jackson County, and concurred in by a majority of the Convention, insisting upon the interposition of Congress to alter, repeal, amend or modify the charters which have been granted to Banking, Railroad, and other companies by the Governor and Legislative Council of the Territory of Florida; as transcending the powers of this Convention, in as much as the sole purpose for which it was organized, was to adopt and form a Constitution for the people of Florida, and not to interfere in the slightest degree, with matters obviously pertaining exclusively to our present Legislative and Judicial tribunals; as calculated to effect prejudicially the vested rights and interests of certain Banking and Railroad institutions, now in successful operation; as unnecessary and indeed supererogatory, in as much as by a subsequent enactment of the Convention, the State Legislature is established and recognised as the authority to which the revision, amendment or abrogation of chartered rights should be referred; as containing allegations

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against the existing corporations which are loose, vague [116] and unfounded; as calculated to create an excitement in the public mind greatly to be deprecated, and to cause much dissatisfaction in the community; as partial in their expression and character, because this Convention has refused to submit them to the people for their approbation or dissent; and believing that if so submitted they would not be sanctioned, and consequently should be regarded only as embodying the opinion of a majority of the individuals composing this Convention, and not as an expression of the will of the people of Florida. I do hereby formally, enter upon the journals of this Convention, my solemn protest against said Preamble and Resolutions."

E. CARRINGTON CABELL.

Member of the Convention from Jefferson County,
St. Joseph, January 11th, 1839.

Mr. Fitzpatrick, presented the following protest.

"I protest against the passage of the Article on Banking, and against its insertion in the Constitution; because, at the time of its passage from a second to a third reading, there was not a quorum of the members of the Convention present, and that every section after the seventh section was passed by less than a quorum of the Convention, and because further, that the Convention has refused by a vote, to reconsider the aforesaid Article on Banking, for the purpose of adopting the same by a quorum of its members, and passing the Article by such quorum from a second to a third reading, which had not previously been done, thereby rendering said article on Banking, an improper and illegal article, which ought not to be contained in the Constitution of Florida."

R. FITZPATRICK, Delegate from the County of Dade,
St. Joseph, January 10th, 1839.

Mr. Marvin, moved that on the final reading of the Constitution, each member of this Convention, be furnished with a printed copy of the same, and be requested to remain in his seat, and upon the detection of any error, to make the same known, immediately after the section in which it may occur, shall have been read, which was concurred in.

Mr. Wyatt, moved that the following rules shall govern the reading of this Constitution, in chief, to wit:

"1st To amend.

2d To strike out and insert.

3d To strike out.

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4th On all motions to amend, or strike out, the mover of each motion shall state in his place, distinctly and briefly, the effect of such motion, which shall be confined to clerical or verbal errors only, upon which the question, shall be taken by yeas and nays, without further debate," which was rejected,

Mr. Jenckes, presented the report of the committee on accounts.

Mr. Westcott, moved that so much of the report as allows pay to members who have been absent be recommitted, with instructions to make deductions for such absence, which was concurred in, and the report was accordingly recommitted

The Constitution as enrolled, was then presented and read first by its title, and afterwards Article by Article.

[117] Mr. Fitzpatrick, moved to amend the seventeenth Article, by striking out the word "shall," in the 5th section, and inserting the word "may," and the ayes and nays were ordered, and are as follows.

AYES—Mr. President, Messrs. Allen, Bartlett, Bellamy, of Jackson, Bird, Brooks, Bunce, Cooper, Crichton, Duval, Fitzpatrick, Garey, Garrison, Haddock, Hooker, Hunter, Jenckes; Long, Malone, Mays, McKinnon, McGehee, Meacham, Semmes, Stephens, Webb, White, Woodward, Wyatt.—28.

NAYS—Messrs. Anderson, Baltzell, Bellamy, of Jefferson, Blount, Brown, of Leon, Brown, of Monroe, Cabell, Levy, Marvin, McClellan, McLean, Morton, Partridge, Parkhill, Read, of Leon, Roche, Robbins, Sanchez, Taylor, Thompson, Ward, Watts, Westcott, Williams, Wood, Wright,—26.

So the amendment was concurred in.

After several clerical corrections were made, by consent of the Convention, it was read a third time by its title; and upon the question being put by the President. "Shall this be the CONSTITUTION of FLORIDA? The ayes and nays were called, and are as follows.

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bellamy, of Jackson, Bird, Blount, Brooks, Brown, of Monroe, Brown,* of Leon, Bunce, Cabell, Cooper,* Crichton, Duval,* Garey,* Garrison, Haddock, Hooker, Hunter,* Jenckes, Levy, Long, Malone, Marvin, Mays,* McClellan, McKinnon, McLean, McGehee, McCants, Meacham, Morton,* Partridge, Parkhill,* Read, of Leon, Roche, Robbins, Sanchez, Semmes, Stephens,* Taylor,*

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Tompson,* Ward, Watts, Webb, Westcott, White, Williams, Wood, Woodward, Wright,* and Wyatt,—55.

NAYS—Mr. Fitzpatrick.

Whereupon the President rose, and said, "I solemnly proclaim and declare, this to be the Constitution of the State of Florida.†

Mr. Westcott, moved that the committee to draft a memorial to Congress, have further time to draw the same, and that the same be transmitted by the President of this Convention, with a copy of the Constitution; that another member be added in the place of Mr. Fitzpatrick resigned, and that the President of the Convention, be added to said committee, and also another member.

Which was concurred in, and Messrs. Anderson and Marvin, were added to the committee.

On motion the Convention took a recess of one hour.

Afternoon Session.

The Convention met at 4 o'clock, P. M.

The President read a letter from Mr. Fitzpatrick, proposing to relinquish any mileage or pay, due him as a member of the Convention, if other members would do the same.

Mr. Fitzpatrick, moved that the question, whether the members would accede to his proposition be decided by yeas and nays.

Mr. Marvin, moved that each member who shall vote aye, shall be considered as having relinquished his claim to pay.

On motion of Mr. Levy, the whole subject was laid on the table.

The report of the committee on accounts, was then taken up and read.

[118] On motion of Mr. Long, the sum of thirteen hundred dollars was allowed to the Secretary of the Convention; including four hundred dollars to Buckingham Smith, and four hundred to Chandler C. Yonge, assistant clerks.

On motion of Mr. Wyatt, four hundred dollars was allowed to the Sergeant-at-Arms, for himself and assistants.

Mr. Read, of Leon, moved that the President of the Convention, now

*By their proxies.

†See Constitution.

FLORIDA BECOMES A STATE

sign the Constitution; after which, the members of the Convention, by their Senatorial Districts, commencing with Escambia County, and that it be countersigned by the Secretary of the Convention, which was concurred in.

Whereupon, Mr. Marvin, presented the Constitution, for the signature of the President, after which the members of the Convention as their names were called, came forward and affixed their signatures to the instrument, which was countersigned by the Secretary.

It was moved and concurred in, that those members who are absent, be permitted to affix their names to the Constitution, on application to the Secretary.

Mr. Marvin, then presented the Constitution to the President for safe keeping.

Mr. Marvin, was called to the chair, and the rule being waived, Mr. Anderson, presented the following resolution, accompanied with a chaste and appropriate address.

Resolved unanimously, That the thanks of this Convention, be presented to the Honorable Robert Raymond Reid, for the dignity, ability, and impartiality, with which he has presided over its deliberations.

On motion of Mr. Westcott, a committee of two were appointed to wait upon the President, and conduct him to his seat, and Messrs. Westcott and Brown, of Monroe, were appointed said committee.

Upon resuming the chair, the President delivered an eloquent and impressive address as follows:

ADDRESS.

“I congratulate you and the country, Fellow-citizens, upon the work you have accomplished; and when the obstacles and embarrassments by which you have been opposed, are remembered, your fortitude, your zeal, your untiring industry, cannot be sufficiently admired.

We met here, surrounded by difficulties; there was a *miscalculation* among ourselves, perhaps among our constituents, of the labor to be performed. It was supposed that one or two weeks were all sufficient for the formation and adoption of a Constitution. We seemed to forget that for the most part, we were strangers to each other;—that each of us had, when reflecting upon the important subject of State Government, become imbued with, and attached to his own pe-

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cular views; that some of us had pledged ourselves to particular doctrines before the people; that there were sectional interests, and even personal feelings, to perplex and annoy us. We seemed to forget that time was necessary for the just appreciation of the character, motives and designs of each other; for the interchange of opinion—for a comparison of tenet—for removing prejudices, and softening opposition: for the correction of error, and the establishment of Truth.

[119] Besides, we were without books: for the models of constitutional legislation; the opinions of the great law givers of the world; the history of past and present times, (all so necessary to the completion of our task) we were dependent almost entirely, upon memory.

But nobly and faithfully have you performed your duty; you have compromised opinions without deserting principle; you have suppressed feelings and subdued sectional predilections; each has yielded something to the other. Aided by patriotism, and guided by wisdom, you have at length framed a constitution every way worthy of the ability and skill which were brought to its construction.

Fellow-citizens, there was a time when there was little in the prospect, save rupture and ruin; but your magnanimity—your love of country—your just estimate of the consequences of disaster at such a crisis, were all exerted to ward off the impending evil, and it is now our pride and our blessing, that the storm has passed away, the skies are again serene, and we are approaching the haven so long the object of our anxious wishes.

I am happy, Fellow-citizens, that it has been your pleasure to submit the Constitution to the people; although, with a generous confidence, they did not require so much of you, yet there is a manifest propriety; in presenting that law, which is to be paramount and permanent, to the final arbitrament of the people. This opinion is not mine, nor yours *alone*; it was entertained and inculcated by the great prophet of Democracy—THOMAS JEFFERSON.

If the people approve the work, their judgment will meet, in the halls of Congress, both respect and attention; when the *fiat* of the popular will shall be impressed upon the Constitution, those who represent the freemen of the States, cannot, will not be indifferent to the voice of freemen, claiming moderately, but firmly, the right of self government. Another advantage must attend the course you have adopted. You will calmly, and at leisure, organize your State Government; you will not embarrass the country, and evince disrespect to the General Government, by a hasty and rash attempt to su-

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persede the Federal authorities—you will proceed slowly perhaps, but surely; adding strength to strength, until at last, your admission into the Union of the States, will be secured by that public opinion, which shall rally upon your side.

I am aware, there is no one in this Convention who can say of the instrument which lies before me, that it contains “no line which dying, he could wish to blot.” No, the Constitution *is* imperfect; but was it ever otherwise, with any production of even the highest genius or the strongest intellect?

“Whoe’er expects a faultless piece to see
Hopes what ne’er was, nor is, nor er’e shall be!”

The true question is—do not its perfections far outweigh its defects? What some consider imperfect, others deem excellent; but all will, I think, agree, that the work is more to be commended than condemned. Whoever thought of denying glory to the Sun, because there are spots upon his disc? Whoever thought of withdrawing his admiration from the beauties of nature, because “the trail of the serpent is over them all?”

Fellow-citizens, in responding to your kind notice of my services in this [120] place, permit me to assure you, that my heart is constantly throbbing with the full pulse of gratitude for your favor, indulgence and support. I am deeply sensible that without these, I could not have sustained myself in the high station to which it was your pleasure to call me.

All I claim for myself here, or elsewhere, is an anxious desire to perform my duty; if I fail, it is because my powers are unequal to my wishes; because my utmost efforts cannot, through frailty and weakness, attain the lofty standard ever present to my mind.

We part, never perhaps to meet again. May you return in safety to your homes and expecting friends, cheered by the consciousness of having performed your duty, and greeted by the approbation of your constituents; that highest reward of the American citizen.

Fellow-citizens, I tender to you an affectionate farewell! May the temple you have this day erected to liberty, long remain the *honor*—the safety—the protection of the *People of Florida*.

On motion of Mr. Marvin, the proceedings of the Convention, were concluded with prayer, by the Chaplain.

of the United States of America, the sixty-third Year; and the Secretary of said Convention, doth countersign the same.

ROBERT RAYMOND REID, *President*.

WALTER ANDERSON,	E. CHARINGTON CABELL,
JOHN L. MCKINSON,	J. McCAYTS,
DAVID G. McLEARY,	JOHN C. McGENEE,
STEPHEN J. ROOHE,	JOSEPH B. WATTS,
F. ROHRLES,	WM B. BOOKER,
COSAR EMIR BARTLETT,	WILSON BROOKS,
THOMAS BALTZELL,	GEORGE E. McCRELLAN,
SAM'L. C. BELMAY,	JOHN F. WERN,
ALFRED L. WOODWARD,	I. GARRISON,
RICHARD H. LONG,	E. K. WHITE,
RICH. C. ALLEN,	A. W. CHURTON,
BANKS MEACHAM,	OLIVER WOOD,
JOHN W. MALONE,	WM. HADDOCK,
GEORGE T. WARD,	JOSE SIMON SANCHEZ,
W. WYATT,	EDWIN T. JENSEN,
JAMES D. WESTCOTT, Jr.	DAVID LEVY,
LEIGH READ,	W. H. WILLIAMS,
A. BELMAY,	WILLIAM MARVIN,
JOHN N. PARTRIDGE,	J. B. BROWN,
WILLIAM BRUCE,	EDMUND BIRD,
	JOSHUA KNOWLES, <i>Secretary</i> ,

CONSTITUTION

OR

FORM OF GOVERNMENT,

FOR THE

PEOPLE OF FLORIDA.

—
St. JOSEPH:

PRINTED AT THE "TIMES" OFFICE.

1839.

*I certify that the foregoing
is a true copy from the
original
Joshua Knowles
Secretary*

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Mr. Marvin, moved that the Convention do now adjourn, subject to the call of the President, in pursuance of a resolution, adopted by the Convention in the event of Congress refusing Florida, admission into the Union.

Mr. Ward, moved that the Convention adjourn *sine die*, which was lost.

The ayes and nays were then called on the motion of Mr. Marvin, and are as follows :

AYES—Mr. President, Messrs. Allen, Anderson, Baltzell, Bartlett, Bellamy, of Jefferson, Bird, Blount, Brooks, Brown, of Monroe, Bunce, Cooper, Crichton, Garrison, Garey, Haddock, Hooker, Hunter, Jenckes, Levy, Marvin, Mays, McClellen, McLean, McGehee, McCants, Meacham, Morton, Partridge, Read, of Leon, Roche, Robbins, Sanchez, Semmes, Thompson, Watts, Webb, Westcott, White, Williams, Wood, Wright,—42.

NAYS—Messrs. Bellamy, of Jackson, Cabell, Fitzpatrick, Long, Malone, Woodward, Wyatt,—7.

So the motion prevailed, and the Convention adjourned subject to the provision aforesaid.

* * *

[NO. 17.] A CONSTITUTION, OR FORM OF GOVERNMENT,
FOR THE PEOPLE OF FLORIDA.²⁸

WE, the People of the Territory of Florida, by our Delegates in Convention, assembled at the city of St. Joseph, on Monday the third day of December, A. D. 1838, and of the Independence of the United States the sixty-third year, having and claiming the right of admission into the Union, as one of the United States of America, consistent with the principles of the Federal Constitution, and by virtue of the Treaty of Amity, Settlement, and Limits between the United States of America and the King of Spain, ceding the Provinces of East and West Florida to the United States; in order to secure to ourselves and our posterity, the enjoyment of all the rights of life, liberty and property, and the pursuit of happiness, do mutually agree, each with the other, to form ourselves into a free and independent State, by the name of the State of Florida.

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ARTICLE I.

Declaration of Rights.

That the great and essential principles of liberty and free government, may be recognized and established, we declare :

1. That all freemen, when they form a social compact, are equal; and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty; of acquiring, possessing and protecting property and reputation; and of pursuing their own happiness.

2. That all political power is inherent in the people, and all free governments are founded on their authority, and established for their benefit; and therefore, they have at all times, an inalienable and indefeasible right, to alter or abolish their form of government, in such manner as they may deem expedient.

3. That all men have a natural and inalienable right to worship Almighty God according to the dictates of their own conscience; and that no preference shall ever be given by law, to any religious establishment, or mode of worship, in this State.

4. That all elections shall be free and equal; and that no property qualification for eligibility to office, or for the right of suffrage, shall ever be required in this State.

5. That every citizen may freely speak, write and publish his sentiments, on all subjects; being responsible for the abuse of that liberty; and no law shall ever be passed to curtail, abridge, or restrain, the liberty of speech, or of the press.

6. That the right of trial by jury, shall forever remain inviolate.

7. That the people shall be secure in their persons, houses, papers and possessions, from unreasonable seizures and searches; and that no warrant to search any place, or to seize any person, or thing, shall issue without describing the place to be searched, and the person or thing to be seized, as nearly as may be, not without probable cause, supported by oath, or affirmation.

8. That no freeman shall be taken, imprisoned, or disseized of his freehold, liberties, or outlawed, or exiled, or in any manner, destroyed, or deprived of his life, liberty, or property, but by the law of the land.

9. That all courts shall be open, and every person for an injury

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done him, in his lands, goods, person, or reputation, shall have remedy, by due course of law; and right, and justice, administered without sale, denial, or delay.

10. That in all criminal prosecutions, the accused hath a right to be heard, by himself, or counsel, or both; to demand the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and in all prosecutions by indictment, or presentment, a speedy and public trial, by an impartial jury of the County, or District, where the offence was committed; and shall not be compelled to give evidence against himself.

11. That all persons shall be bailable, by sufficient securities, unless in capital offences, where the proof is evident, or the presumption strong; and the privilege of habeas corpus shall not be suspended, unless when in case of rebellion, or invasion, the public safety may require it.

12. That excessive bail shall in no case be required; nor shall excessive fines be imposed; nor shall cruel or unusual punishments be inflicted.

13. That no person shall for the same offence, be twice put in jeopardy of life, or limb.

14. That private property shall not be taken, or applied to public use; unless just compensation be made therefor.

15. That in all prosecutions and indictments for libel, the truth may be given in evidence; and, if it shall appear to the jury, that the libel is true, and published with good motives, and for justifiable ends, the truth shall be a justification; and the jury shall be the judges of the law, and facts.

16. That no person, shall be put to answer any criminal charge, but by presentment, indictment, or impeachment.

17. That no conviction shall work corruption of blood, or forfeiture of estate.

18. That retrospective laws, punishing acts committed before the existence of such laws, and by them only declared penal, or criminal, are oppressive, unjust, and incompatible with liberty; wherefore, no *ex post facto* law shall ever be made.

19. That no law impairing the obligation of contracts shall ever be passed.

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20. That the people have a right, in a peaceable manner, to assemble together to consult for the common good; and to apply to those invested with the powers of government, for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

21. That the free white men of this state, shall have a right to keep and to bear arms, for their common defence.

22. That no soldier in time of peace, shall be quartered in any house, without the consent of the owner; nor in time of war, but in a manner prescribed by law.

23. That no standing army shall be kept up without the consent of the Legislature: and the military shall in all cases, and at all times, be in strict subordination to the civil power.

24. That perpetuities and monopolies, are contrary to the genius of a free State, and ought not to be allowed.

25. That no hereditary emoluments, privileges, or honors, shall ever be granted, or conferred in this State.

26. That frequent recurrence to fundamental principles, is absolutely necessary, to preserve the blessings of liberty.

27. That to guard against transgressions upon the rights of the people; we declare, that every thing in this article, is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or to the following provisions, shall be void.

ARTICLE II.

Distribution of the powers of Government.

1. The powers of the Government of the State of Florida, shall be divided into three distinct departments, and each of them confided to a separate body of Magistracy, to wit: Those which are Legislative to one; those which are Executive to another; and those which are Judicial to another.

2. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances expressly provided in this Constitution.

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ARTICLE III.

Executive Department.

1. The Supreme Executive Power, shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of Florida.

2. The Governor shall be elected for four years, by the qualified electors, at the time and place where they shall vote for Representatives; and shall remain in office until a successor be chosen and qualified, and shall not be eligible to re-election until the expiration of four years thereafter.

3. No person shall be eligible to the office of Governor, unless he shall have attained the age of thirty years, shall have been a citizen of the United States ten years, or an inhabitant of Florida, at the time of the adoption of this Constitution, (being a citizen of the United States;) and shall have been a resident of Florida, at least five years next preceding the day of election.

4. The returns of every election for Governor, shall be sealed up and transmitted to the seat of government, directed to the Speaker of the House of Representatives; who shall, during the first week of the session, open and publish them in the presence of both Houses of the General Assembly; and the person having the highest number of votes, shall be Governor; but, if two or more shall be equal, and highest in votes, one of them shall be chosen Governor, by the joint vote of the two Houses; and contested elections for Governor, shall be determined by both Houses of the General Assembly, in such manner as shall be prescribed by law.

5. He shall at stated times, receive a compensation for his services, which shall not be increased, or diminished, during the term for which he shall have been elected.

6. He shall be Commander-in-Chief of the Army and Navy of this State, and of the Militia thereof.

7. He may require information in writing, from the officers of the Executive Department, on any subject relating to the duties of their respective offices.

8. He may by Proclamation, on extraordinary occasions, convene the General Assembly at the seat of Government, or at a different place, if that shall have become dangerous from an enemy, or from disease; and in case of disagreement between the two Houses, with respect to the time of adjournment, he may adjourn them to such

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time, as he shall think proper, not beyond the day of the next meeting, designated by this Constitution.

9. He shall from time to time, give to the General Assembly, information of the state of the Government, and recommend to their consideration, such measures as he may deem expedient.

10. He shall take care that the laws be faithfully executed.

11. In all criminal and penal cases, (except of treason and impeachment,) after conviction, he shall have power to grant reprieves and pardons, and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law; and in cases of treason, he shall have power, by and with the advice and consent of the Senate, to grant reprieves and pardons; and he may in the recess of the Senate, respite the sentence, until the end of the next session of the General Assembly.

12. There shall be a seal of the State, which shall be kept by the Governor, and used by him officially, with such device as the Governor first elected, may direct, and the present seal of the Territory, shall be the seal of the State, until otherwise directed by the General Assembly.

13. All commissions shall be in the name, and by the authority, of the State of Florida, be sealed with the State seal, and signed by the Governor, and attested by the Secretary of State.

14. There shall be a Secretary of State appointed by joint vote of both Houses of the General Assembly, who shall continue in office during the term of four years; and he shall keep a fair register of the official acts and proceedings of the Governor, and shall, when required, lay the same and all papers, minutes, and vouchers, relative thereto, before the General Assembly, and shall perform such other duties as may be required of him by law.

15. Vacancies that happen in offices, the appointment to which, is vested in the General Assembly, or given to the Governor, with the advice and consent of the Senate, shall be filled by the Governor during the recess of the General Assembly, by granting commissions, which shall expire at the end of the next session.

16. Every bill, which shall have passed both Houses of the General Assembly, shall be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the House in which it shall have originated, who shall enter the objections at large upon the journals, and proceed to reconsider it; and if, after

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such reconsideration, a majority of the whole number elected to that House, shall agree to pass the bill, it shall be sent with the objections to the other House, by which it shall likewise be reconsidered; and if approved by a majority of the whole number elected to that House, it shall become a law; but in such cases, the votes of both Houses shall be by yeas and nays, and the names of the members voting for, or against the bill, shall be entered on the journals of each House respectively; and if any bill shall not be returned by the Governor, within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner, as if he had signed it; unless the General Assembly by their adjournment, prevent its return, in which case, it shall not be a law.

17. Every order, resolution, or vote, to which the concurrence of both Houses may be necessary, except on questions of adjournment, shall be presented to the Governor, and before it shall take effect, be approved by him, or being disapproved, be re-passed by both Houses, according to the rules and limitations prescribed in case of a bill.

18. In case of the impeachment of the Governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the President of the Senate shall exercise all the power and authority appertaining to the office of Governor, during the term for which the Governor was elected; unless the General Assembly shall provide by law for the election of a Governor to fill such vacancy; or, until the Governor absent, or impeached, shall return, or be acquitted.

19. If, during the vacancy of the office of Governor, the President of the Senate shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the Speaker of the House of Representatives, shall in like manner, administer the Government.

20. The President of the Senate, or Speaker of the House of Representatives, during the time he administers the Government, shall receive the same compensation, which the Governor would have received.

21. The Governor shall always reside, during the sessions of the General Assembly, at the place where their sessions are held, and at all other times wherever, in their opinion, the public good may require.

22. No person shall hold the office of Governor, and any other

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office or commission, civil or military, either in this State, or under any State, or the United States, or any other power, at one and the same time, except the President of the Senate, or the Speaker of the House of Representatives, when he shall hold the office, as aforesaid.

23. A State Treasurer, and Comptroller of public accounts, shall be elected by joint vote of both Houses of the General Assembly, at each regular session thereof.

ARTICLE IV.

Legislative Department.

1. The Legislative power of this State, shall be vested in two distinct branches, the one to be styled the Senate, the other the House of Representatives, and both together, "The General Assembly of the State of Florida," and the style of the laws shall be "Be it enacted by the Senate and House of Representatives of the State of Florida in General Assembly convened."

2. The members of the House of Representatives, shall be chosen by the qualified voters, and shall serve for the term of one year, from the day of the commencement of the general election and no longer, and the sessions of the General Assembly, shall be annual, and commence on the fourth Monday in November in each year, or at such other time, as may be prescribed by law.

3. The Representatives shall be chosen every year, on the first Monday in the month of October, until otherwise directed by law.

4. No person shall be a Representative, unless he be a white man, a citizen of the United States, and shall have been an inhabitant of the State, two years next preceding his election, and the last year thereof a resident of the county, for which he shall be chosen, and shall have attained the age of twenty-one years.

5. The Senators shall be chosen by the qualified electors, for the term of two years, at the same time, in the same manner, and in the same places, where they vote for Members of the House of Representatives; and no man shall be a Senator, unless he be a white man, a citizen of the United States, and shall have been an inhabitant of this State, two years next preceding his election, and the last year thereof, a resident of the District or County, for which he shall be chosen, and shall have attained the age of twenty-five years.

6. The Senators after their first election, shall be divided by lot, into two classes, and the seats of the Senators of the first class, shall

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be vacated at the expiration of the first year, and of the second class, at the expiration of the second year, so that one-half thereof, as near as possible, may be chosen for ever thereafter, annually, for the term of two years.

7. The House of Representatives, when assembled, shall choose a Speaker, and its other officers, and the Senate, a President, and its other officers, and each House shall be judge of the qualifications, elections, and returns of its members; but a contested election, shall be determined in such manner, as shall be directed by law.

8. A majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each House may prescribe.

9. Each House may determine the rules of its own proceedings, punish its members for disorderly behaviour, and with the consent of two-thirds expel a member, but not a second time for the same cause.

10. Each House, during the session, may punish by imprisonment, any person not a member, for disrespectful or disorderly behaviour in its presence, or for obstructing any of its proceedings, provided such imprisonment shall not extend beyond the end of the session.

11. Each House shall keep a journal of its proceedings, and cause the same to be published immediately after its adjournment, and the yeas and nays, of the members of each House, shall be taken and entered upon the journals, upon the final passage of every bill, and may, by any two members, be required upon any other question, and any member of either House, shall have liberty to dissent from, or protest against, any act or resolution, which he may think injurious to the public, or an individual, and have the reasons of his dissent, entered on the journal.

12. Senators and Representatives, shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest, during the session of the General Assembly, and in going to, or returning from the same, allowing one day for every twenty miles, such member may reside from the place, at which the General Assembly is convened; and for any speech or debate in either House, they shall not be questioned in any other place.

13. The General Assembly shall make provision by law, for fill-

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ing vacancies, that may occur, in either House, by the death, resignation, (or otherwise) of any of its members.

14. The doors of each House, shall be open, except on such occasions, as in the opinion of the House, the public safety may imperiously require secrecy.

15. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place, than that in which they may be sitting.

16. Bills may originate in either House of the General Assembly, and all bills passed by one House, may be discussed, amended, or rejected, by the other; but no bill shall have the force of law, until on three several days, it be read in each House, and free discussion be allowed thereon, unless in cases of urgency four-fifths of the House, in which the same shall be depending, may deem it expedient to dispense with the rule; and every bill having passed both Houses, shall be signed by the Speaker, and President of their respective Houses.

17. Each member of the General Assembly, shall receive from the public Treasury, such compensation for his services, as may be fixed by law, but no increase of compensation shall take effect, during the term, for which the Representatives were elected, when such law passed.

18. The number of Members of the House of Representatives, shall never exceed sixty.

ARTICLE V.

Judicial Department.

1. The Judicial power of this State, both as to matters of Law and Equity, shall be vested in a Supreme Court, Courts of Chancery, Circuit Courts, and Justices of the Peace: provided the General Assembly, may also vest such criminal jurisdiction, as may be deemed necessary in Corporation Courts; but such jurisdiction shall not extend to capital offences.

2. The Supreme Court, except in cases otherwise directed in this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions and regulations, not repugnant to this Constitution, as may from time to time, be prescribed by law; provided, that the said Court shall always have power, to issue writs of injunction, mandamus, quo-warranto, habeas corpus,

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and such other remedial and original writs, as may be necessary to give it a general superintendence and control of all other Courts.

3. For the term of five years from the election of the Judges of the Circuit Courts, and thereafter, until the General Assembly shall otherwise provide, the powers of the Supreme Court shall be vested in, and its duties performed by the Judges of the several Circuit Courts within this State, and they, or a majority of them, shall hold such sessions of the Supreme Court, and at such times, as may be directed by law.

4. The Supreme Court when organized, shall be holden at such times and places, as may be provided by law.

5. The State shall be divided into at least four convenient circuits, and until other circuits shall be provided for by the General Assembly, the arrangement of the circuits shall be the Western, Middle, Eastern, and Southern circuits, and for each circuit there shall be appointed a judge, who shall after his appointment, reside in the circuit for which he has been appointed, and shall, at stated times, receive for his services, a salary of not less than two thousand dollars per annum, which shall not be diminished during the continuance of such judge in office; but the judges shall receive no fees, or perquisites of office, nor hold any other office of profit under the State, the United States, or any other power.

6. The Circuit Courts shall have original jurisdiction, in all matters, civil, and criminal, within this State, not otherwise excepted in this Constitution.

7. A Circuit Court, shall be held in such counties, and at such times, and places therein, as may be prescribed by law, and the Judges of the several Circuit Courts, may hold courts for each other, and shall do so when directed by law.

8. The General Assembly shall have power to establish and organize a separate court or courts of original equity jurisdiction; but until such court or courts shall be established and organized, the circuit courts shall exercise such jurisdiction.

9. The General Assembly shall provide by law, for the appointment in each county, of an officer to take probate of wills, to grant letters testamentary, of administration, and guardianship; to attend to the settlement of the estates of decedents, and of minors, and to discharge the duties, usually pertaining to courts of ordinary, sub-

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ject to the direction, and supervision, of the courts of chancery, as may be provided by law.

10. A competent number of Justices of the Peace, shall be, from time to time, appointed or elected, in and for each county, in such mode, and for such term of office, as the General Assembly may direct, and shall possess such jurisdiction, as may be prescribed by law; and in cases tried before a Justice of the Peace, the right of appeal shall be secured, under such rules and regulations, as may be prescribed by law.

11. Justices of the Supreme Court, Chancellors, and Judges of the Circuit Courts, shall be elected by the concurrent vote, of a majority of both Houses of the General Assembly.

12. The Judges of the Circuit Courts shall at the first session of the General Assembly to be holden under this Constitution, be elected for the term of five years, and shall hold their offices for that term, unless sooner removed under the provisions made in this Constitution, for removal of Judges, by address or impeachment; and at the expiration of five years, the Justices of the Supreme Court, and the Judges of the Circuit Courts, shall be elected for the term of and during their good behaviour; and for wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment, the Governor shall remove any of them, on the address of two-thirds of each House of the General Assembly; provided however, that the cause or causes shall be stated at length in such address, and entered on the journals of each House; and provided further, that the cause or causes, shall be notified to the Judge, so intended to be removed, and he shall be admitted to a hearing, in his own defence, before any vote for such address shall pass; and in such cases, the vote shall be taken, by yeas and nays, and entered on the Journals of each House respectively.

13. The Clerk of the Supreme Court, and the Clerks of the Courts of Chancery, shall be elected by the General Assembly; and the Clerks of the Circuit Courts, shall be elected by the qualified electors, in such mode as may be prescribed by law.

14. The Justices of the Supreme Court, Chancellors, and Judges of the Circuit Courts, shall, by virtue of their offices, be conservators of the peace, throughout the State; and Justices of the Peace, in their respective counties.

15. The style of all process shall be, "the State of Florida," and

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all criminal prosecutions shall be carried on, in the name of the State of Florida, and all indictments shall conclude, "against the peace and dignity of the same."

16. There shall be an Attorney General for the State, who shall reside at the seat of Government. It shall be his duty to attend all sessions of the General Assembly, and, upon the passage of any act, to draught and submit, to the General Assembly, at the same session, all necessary forms of proceedings under such laws, which, when approved shall be published therewith, and, he shall perform such other duties, as may be prescribed by law. He shall be elected by joint vote of the two Houses of the General Assembly, and shall hold his office, for four years; but may be removed by the Governor, on the address, of two-thirds of the two Houses of the General Assembly, and shall receive for his services, a compensation to be fixed by law.

17. There shall be one Solicitor for each circuit, who shall reside therein, to be elected by the joint vote of the General Assembly, who shall hold his office for the term of four years; and shall receive for his services, a compensation to be fixed by law.

18. No Justice of the Supreme Court, shall sit as judge, or take part in the appellate court on the trial or hearing of any case which shall have been decided by him in the court below.

19. The General Assembly shall have power to establish in each county, a board of Commissioners, for the regulation of the county business therein.

20. No duty not Judicial, shall be imposed by law, upon the Justices of the Supreme Court, Chancellors, or the Judges of the Circuit Courts of this State.

ARTICLE VI.

*The Right of Suffrage and Qualifications of Officers;
Civil Offices; and Impeachments, and
Removals from Office.*

1. Every free white male person of the age of twenty-one years and upwards, and who shall be at the time of offering to vote, a citizen of the United States; and who shall have resided, and had his habitation, domicil, home, and place of permanent abode in Florida, for two years next preceding the election at which he shall offer to vote; and who shall have at such time, and for six months immediately preceding said time, shall have had his habitation, domicil,

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home, and place of permanent abode in the county, in which he may offer to vote, and who shall be enrolled in the Militia thereof, (unless by law exempted from serving in the Militia) shall be deemed a qualified elector, at all elections under this Constitution, and none others; except in elections by general ticket in the State or District prescribed by law, in which cases the elector must have been a resident of the State two years next preceding the election, and six months, within the election district in which he offers to vote: provided that no soldier, seaman, or marine in the regular Army or Navy of the United States, unless he be a qualified elector of the State, previous to his enlistment as such soldier, seaman, or marine in the regular Army or Navy of the United States, or of the Revenue Service, shall be considered a resident of the State, in consequence of being stationed within the same.

2. The General Assembly, shall at its first session, provide for the registration of all the qualified electors in each county; and thereafter from time to time, of all who may become such qualified electors.

3. No President, Director, Cashier, or other officer, of any Banking Company in this State, shall be eligible to the office of Governor, Senator or Representative to the General Assembly of this State, so long as he shall be such President, Director, Cashier, or other officer, nor until the lapse of twelve months, from the time, at which he shall have ceased to be such President, Director, Cashier, or other officer.

4. The General Assembly shall have power to exclude from every office of honor, trust or profit, within the State, and from the right of suffrage, all persons convicted of bribery, perjury, or other infamous crime.

5. No person shall be capable of holding, or of being elected to any post of honor, profit, trust, or emolument, civil or military, legislative, executive, or judicial, under the government of this State, who shall hereafter fight a duel, or send, or accept a challenge to fight a duel, the probable issue of which may be the death of the challenger, or challenged, or who shall be a second to either party, or who shall in any manner aid, or assist in such duel, or shall be knowingly the bearer of such challenge, or acceptance, whether the same occur, or be committed in or out of the State.

6. No person who may hereafter be a collector, or holder of public moneys, shall have a seat in either House of the General Assembly, or be eligible to any office of trust, or profit, under this State,

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until he shall have accounted for, and paid into the Treasury, all sums for which he may be accountable.

7 No Governor, member of Congress, or of the General Assembly of this State, shall receive a fee, be engaged as counsel, agent, or attorney, in any civil case, or claim, against this State, or to which this State shall be a party, during the time he shall remain in office.

8 No Governor, Justice of the Supreme Court, Chancellor, or Judge in this State, shall be eligible to election, or appointment, to any other and different station, or office, or post of honor, or emolument, under this State, or to the station of Senator, or Representative in the Congress of the United States, from this State, until one year, after he shall have ceased to be such Governor, Justice, Chancellor, or Judge.

9 No Senator or Representative, shall, during the term for which he shall have been elected, be appointed to any civil office of profit, under this State, which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices, as may be filled by elections by the people.

10 No Minister of the Gospel, shall be eligible to the office of Governor, Senator, or member of the House of Representatives of this State.

11 Members of the General Assembly, and all officers Civil and Military, before they enter upon the execution of their respective offices, shall take the following oath or affirmation: "I—do swear (or affirm,) that I am duly qualified, according to the Constitution of this State, to exercise the office, to which I have been elected, (or appointed,) and will, to the best of my abilities, discharge the duties thereof, and preserve, protect, and defend the Constitution of this State, and of the United States."

12 Every person shall be disqualified from serving as Governor, Senator, Representative, or from holding any other office of honor, or profit, in this State, for the term for which he shall have been elected, who shall have been convicted of having given, or offered any bribe to procure his election.

13 Laws shall be made by the General Assembly, to exclude from office, and from suffrage, those who shall have been or may thereafter be convicted of bribery, perjury, forgery, or other high crime, or misdemeanor; and the privilege of suffrage shall be supported by laws, regulating elections, and prohibiting under adequate penalties,

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all undue influence thereon, from power, bribery, tumult, or other improper practices.

14 All civil officers of the State at large, shall reside within the State, and all District or County officers within their respective Districts, or Counties, and shall keep their respective offices at such places therein, as may be required by law.

15 It shall be the duty of the General Assembly to regulate by law, in what cases, and what deduction from the salaries of public officers, shall be made, for neglect of duty in their official capacity.

16 Returns of elections for members of Congress, and the General Assembly, shall be made to the Secretary of State, in manner to be prescribed by law.

17 In all elections by the General Assembly, the vote shall be *viva voce*, and in all elections by the people, the vote shall be by ballot.

18 No member of Congress, or person holding, or exercising any office of profit under the United States, or under any foreign power, shall be eligible as a member of the General Assembly of this State, or hold, or exercise any office of profit, under the State; and no person in this State shall ever hold two offices of profit, at the same time, except the office of Justice of the peace, notary public, constable, and militia offices.

19 The General Assembly shall by law provide, for the appointment, or election, and the removal from office, of all officers Civil and Military, in this State, not provided for, in this Constitution.

20 The power of Impeachment, shall be vested in the House of Representatives.

21 All Impeachments shall be tried by the Senate; and when sitting for that purpose, the Senators shall be upon oath, or affirmation; and no person shall be convicted, without the concurrence of two-thirds of the members present.

22 The Governor and all civil officers, shall be liable to Impeachment for any misdemeanor in office: but judgment in such cases, shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the parties, shall nevertheless be liable to indictment, trial, and punishment according to law.

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ARTICLE VII.

Militia.

1 All Militia Officers shall be elected by the persons subject to military duty, within the bounds of their several companies, battalions, regiments, brigades, and divisions, under such rules and regulations, as the General Assembly may, from time to time, direct and establish.

2 The Governor shall appoint all the officers of the executive staff, except the Adjutant General, and Paymaster General, who shall be appointed by the Governor, by, and with the advice and consent of the Senate. The majors general and brigadiers general, and commanding officers of regiments, shall appoint such staff officers, as may be prescribed by law; provided, no person shall be eligible to any staff appointment, unless he hold a commission in the line.

ARTICLE VIII.

Taxation and Revenue.

1 The General Assembly shall devise and adopt a system of Revenue, having regard to an equal and uniform mode of taxation, to be general throughout the State.

2 No other or greater amount of Tax, or Revenue, shall at any time be levied, than may be required for the necessary expenses of Government.

3 No money shall be drawn from the Treasury, but in consequence of an appropriation by law; and a regular statement of the receipts, and the expenditures of all public monies, shall be published and promulgated annually with the laws of the General Assembly.

4 The General Assembly shall have power, to authorize the several Counties, and incorporated towns, in this State, to impose taxes for County and corporation purposes, respectively, and all property shall be taxed upon the principles established, in regard to State taxation.

ARTICLE IX.

Census and Apportionment of Representation.

1. The General Assembly shall, in the year one thousand eight hundred and forty five, and every tenth year thereafter, cause an enumeration to be made of all the inhabitants of the State, and to the

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whole number of free white inhabitants, shall be added three-fifths of the number of slaves, and they shall then proceed to apportion the representation, equally among the different counties, according to such enumeration, giving however one representative to every county, and increasing the number of representatives on a uniform ratio of population, according to the foregoing basis, and which ratio, shall not be changed until a new census shall have been taken.

2. The General Assembly shall also, after every such enumeration, proceed to fix by law the number of Senators which shall constitute the Senate of the State of Florida, and which shall never be less than one-fourth, nor more than one-half of the whole number of the House of Representatives; and they shall lay off the State into the same number of Senatorial Districts, as nearly equal in the number of inhabitants as may be, according to the ratio of representation established in the preceding section, each of which Districts shall be entitled to one Senator.

3. When any Senatorial District shall be composed of two or more counties, the counties of which such District consists, shall not be entirely separated by any county belonging to another District, and no county shall be divided in forming a District.

4. No new county shall be entitled to separate representation, until its population equal the ratio of representation then existing; nor shall any county be reduced in population by division, below the existing ratio.

5. Until the apportionment of representation by the General Assembly, as directed in the foregoing section, the several counties shall be entitled to the following Representatives, viz:—Escambia three; Walton one; Washington one; Jackson three; Franklin two; Calhoun two; Gadsden four; Leon six; Jefferson three; Madison one; Hamilton one; Columbia two; Alachua two; Duval two; Nassau one; St. Johns three; Mosquito one; Dade one; Monroe one; Hillsborough one:—And until the apportionment of Senators under the census as aforesaid, there shall be sixteen Senatorial Districts in this State, which shall be as follows;

The county of Escambia shall compose the First District.

The counties of Walton and Washington, shall compose the Second District.

The county of Jackson, shall compose the Third District.

The county of Calhoun, shall compose the Fourth District.

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The county of Franklin, shall compose the Fifth District.

The county of Gadsden, shall compose the Sixth District.

The county of Leon, shall compose the Seventh District.

The county of Jefferson, shall compose the Eighth District.

The county of Madison, shall compose the Ninth District.

The county of Hamilton, shall compose the Tenth District.

The county of Columbia, shall compose the Eleventh District.

The county of Alachua, shall compose the Twelfth District.

The county of Duval, shall compose the Thirteenth District.

The county of Nassau, shall compose the Fourteenth District.

The counties of St. Johns and Mosquito, shall compose the Fifteenth District.

The counties of Dade, Monroe, and Hillsborough, shall compose the Sixteenth District.

And each Senatorial District shall elect one Senator, and the Seventh District shall be entitled to two.

ARTICLE X.

Education.

1. The proceeds of all lands that have been or may hereafter be granted by the United States for the use of Schools, and a Seminary or Seminaries of learning, shall be and remain a perpetual fund, the interest of which together with all monies derived from any other source applicable to the same object, shall be inviolably appropriated to the use of Schools and Seminaries of learning, respectively, and to no other purpose.

2. The General Assembly shall take such measures as may be necessary to preserve from waste or damage, all land so granted and appropriated to the purposes of Education.

ARTICLE XI.

Public Domain, and Internal Improvements.

1. It shall be the duty of the General Assembly to provide for the prevention of waste and damage of the public lands now possessed, or that may hereafter be ceded to the Territory or State of Florida, and it may pass laws for the sale of any part or portion thereof; and,

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in such case, provide for the safety, security, and appropriation of the proceeds.

2. A liberal system of Internal Improvements being essential to the development of the resources of the country, shall be encouraged by the government of this State, and it shall be the duty of the General Assembly as soon as practicable to ascertain by law, proper objects of improvement in relation to roads, canals, and navigable streams, and to provide for a suitable application of such funds, as may be appropriated for such improvements.

ARTICLE XII.

Boundaries.

1. The jurisdiction of the State of Florida, shall extend over the Territories of East and West Florida, which by the treaty of Amity, Settlement, and Limits between the United States and his Catholic Majesty, on the 22d day of February, A. D. 1819, were ceded to the United States.

ARTICLE XIII.

Banks and other Corporations.

1. The General Assembly shall pass a general law, for the incorporation of all such churches, and religious, or other societies, as may accept thereof; but no special act of incorporation thereof, shall be passed.

2. The General Assembly shall pass no act of incorporation, or make any alteration therein, unless with the assent of at least two-thirds of each House, and unless public notice in one or more newspapers in the State, shall have been given, for at least three months immediately preceding the Session at which the same may be applied for.

3. No Banking Corporation shall be created or continue, which is composed of a less number than twenty individuals, a majority of whom at least shall be residents of the State; and no other corporation shall be created or continue, composed of a less number than ten, of whom at least five shall be residents of this State.

4. No Bank Charter, or any act of incorporation granting exclusive privileges, shall be granted for a longer period than twenty years; and no Bank Charter shall ever be extended, or renewed.

5. The Charters of Banks granted by the General Assembly, shall

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restrict such Banks to the business of exchange, discount and deposit; and they shall not speculate or deal in real estate, or the stock of other corporations or associations, or in merchandise or chattels, or be concerned in Insurance, Manufacturing, Exportation or Importation, except of Bullion or Specie; shall not act as Trustee in anywise, nor shall they own real estate or chattels, except such as shall be necessary for their actual use in the transaction of business, or which may be pledged as further security, or received towards, or in satisfaction of previously contracted debts, or purchased at legal sales, to satisfy such debts; of which they shall be required to make sale within two years after the acquisition thereof.

6. The capital stock of any Bank, shall not be less than one hundred thousand dollars, and shall be created only by the actual payment of specie therein; and no Bank shall borrow money to create or add to its capital, or to conduct its business, and no loans shall be made on stock.

7. All liabilities of such banks, shall be payable in specie, and the aggregate of the liabilities and issues of a bank, shall at no time exceed double the amount of its capital stock paid in.

8. No Bank shall make a note or security of any kind, for a smaller sum than five dollars; and the General Assembly may increase such restriction to twenty dollars.

9. No dividends of profits exceeding ten per centum per annum, on the capital stock paid in, shall be made, but all profits over ten per centum per annum, shall be set apart and retained as a safety fund.

10. Stockholders in a bank, when an act of forfeiture of its Charter is committed, or when it is dissolved or expires, shall be individually, and severally liable for the payment of all its debts, in proportion to the stock owned by each.

11. Banks shall be open to inspection, under such regulations, as may be prescribed by law; and it shall be the duty of the Governor to appoint a person or persons, not connected in any manner with any Bank in the State, to examine at least once a year into their state and condition; and the officers of every bank shall make quarterly returns to the Governor, of its state and condition, and the names of the stockholders, and shares held by each.

12. Non user for the space of one year, or any act of a corporation, or those having the control and management thereof, or in-

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trusted therewith, inconsistent with, or in violation of the provisions of this Constitution, or of its charter, shall cause its forfeiture; and the General Assembly shall by general law, provide a summary process for the sequestration of its effects and assets, the appointment of officers to settle its affairs, and no forfeited charter shall be restored. The foregoing provisions shall not be construed, to prevent the General Assembly from imposing other restrictions and provisions, in the creation of corporations.

13. The General Assembly shall not pledge the faith and credit of the State, to raise funds in aid of any corporation whatsoever.

14. The General Assembly shall at its first Session, have power to regulate, restrain and control, all associations claiming to exercise corporate privileges in the State, so as to guard, protect, and secure the interests of the people of the State, not violating vested rights, or impairing the obligation of contracts.

ARTICLE XIV.

Amendments and Revision of the Constitution.

1. No Convention of the people shall be called, unless by the concurrence of two-thirds of each House of the General Assembly.

2. No part of this Constitution shall be altered, unless a bill to alter the same shall have been read three times in the House of Representatives, and three times in the Senate, and agreed to by two-thirds of each House of the General Assembly; neither shall any alteration take place until the bill so agreed to, be published six months previous to a new election for members to the House of Representatives; and if the alteration proposed by the General Assembly shall be agreed to, at their first session by two-thirds of each House of the General Assembly after the same shall have been read three times on three several days in each house, then and not otherwise, the same shall become a part of the Constitution.

ARTICLE XV.

The Seat of Government.

1. The Seat of Government, of the State of Florida, shall be and remain permanent at the city of Tallahassee, for the term and time

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of five years, from and after the end of the first session of the General Assembly, to be holden under this Constitution; and after the expiration of the said five years, the General Assembly shall have power to remove the Seat of Government from Tallahassee, and fix the same at any other point; Provided, that the General Assembly shall immediately after the expiration of ten years, from the end of the said first session thereof, fix permanently the Seat of Government.

ARTICLE XVI.

General Provisions.

1. The General Assembly shall have no power to pass laws for the emancipation of slaves.

2. They shall have no power to prevent emigrants to this State, from bringing with them, such persons as may be deemed slaves, by the laws of any one of the United States: Provided, they shall have power to enact laws to prevent the introduction of any slaves, who may have committed crimes in other States.

3. The General Assembly shall have power to pass laws to prevent free negroes, mulattoes, and other persons of color, from immigrating to this State, or from being discharged from on board any vessel, in any of the ports of Florida.

4. Treason against the State, shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his confession in open court.

5. Divorces from the bonds of matrimony, shall not be allowed, but by the judgment of a court, as shall be prescribed by law.

6. The General Assembly, shall declare by law, what parts of the common law, and what parts of the civil law, not inconsistent with this Constitution, shall be in force in this State.

7. The oaths of officers directed to be taken under this Constitution, may be administered by any judge, or justice of the peace, of the Territory, or State of Florida, until otherwise prescribed by law.

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ARTICLE XVII.

Schedule and Ordinances.

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

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

2. All fines, penalties, forfeitures, obligations, and escheats, accruing to the Territory of Florida, shall accrue to the use of the State of Florida.

3. All recognizances heretofore taken or which may be taken before the organization of the Judicial Department under this Constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of the State; and all bonds, executed to the Governor of the Territory of Florida, or to any other officer in his official capacity, shall pass over to the Governor or other proper State authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for, and recovered accordingly; and all criminal prosecutions and penal actions, which have arisen, or which may arise before the organization of the Judicial Department under this Constitution, and which shall then be depending, may be prosecuted to judgment and execution in the name of the State.

4. All officers, civil and military, now holding their offices and appointments in the Territory, under the authority of the United States, or under the authority of the Territory, shall continue to hold and exercise their respective offices and appointments, until superseded under this Constitution; and all actions at law, or suits in

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chancery, or any proceeding pending, or which may be pending in any Court of the Territory of Florida, may be commenced in, or transferred to such Court of the State, as may have jurisdiction of the subject matter thereof.

5. This Constitution shall be submitted to the people for ratification at the election for Delegate on the first Monday of May next. Each qualified voter, shall express his assent or dissent to the Constitution, by directing the managers of said election to write opposite to his name on the poll book, either the word, "*Constitution,*" or "*No Constitution.*" And in case the time of election for Delegate, be changed to any other day than the first Monday of May next, then the Judges or Clerks of the County Courts respectively, shall appoint managers to hold an election on the said first Monday of May, for ratification of the Constitution, and said managers, shall conduct said election, in the manner provided by the laws of the Territory respecting elections, and make return of the result of such vote forthwith, by depositing the original Poll Book, in the clerks office of their Counties respectively, and by transmitting a certificate of the result to the President of the Convention; who shall forthwith make Proclamation of the same, and in case the Constitution be ratified by the People, and immediately after official information shall have been received that Congress have approved the Constitution, and provided for the admission of Florida, the President of this Convention shall issue writs of election to the proper officers, in the different counties, enjoining them to cause an election to be held for Governor, Representative in Congress, and Members of the General Assembly, in each of their respective Counties. The election shall be held on the first Monday after the lapse of sixty days, following the day of the date of the President's proclamation, and shall take place on the same day throughout the State. The said election shall be conducted according to the then existing election laws of the Territory of Florida: Provided, however, that in case of the absence, or disability of the President of the Convention, to cause the said election, to be carried into effect, the Secretary of this Convention, shall discharge the duties hereby imposed upon the President; and in case of the absence, or disability of the Secretary, a Committee consisting of five, to wit: Leigh Read, George T. Ward, James D. Westcott, Jr., Thomas Brown, and Leslie A. Thompson, or a majority of them, shall discharge the duties herein imposed on the Secretary of the Convention, and the Members of the General Assembly, so elected, shall assemble on the

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fourth Monday thereafter, at the Seat of Government. The Governor, Representative in Congress, and Members of the General Assembly, shall enter upon the duties of their respective offices immediately after their election, under the Provisions of this Constitution, and shall continue in office in the same manner, and during the same period, they would have done, had they been elected on the first Monday in October.

6. The General Assembly shall have power by the votes of two-thirds of both Houses to accede to such propositions as may be made by the Congress of the United States upon the admission of the State of Florida into the National confederacy and Union, if they shall be deemed reasonable and just, and to make declaration of such assent by law; and such declaration when made shall be binding upon the People and the State of Florida as a compact; and the Governor of the State of Florida shall notify the President of the United States of the Acts of the General Assembly relating thereto; and in case of declining to accede to such propositions or any part thereof, the General Assembly shall instruct the Senators and Representative of the State of Florida in Congress, to procure such modification or alteration thereof as may be deemed reasonable and just, and assent thereto, subject to the ratification of the General Assembly by law as aforesaid.

7. The Courts of this State, shall never entertain jurisdiction of any grants of land, in the Floridas, made by the King of Spain, or by his authority, subsequent to the twenty-fourth day of January, eighteen hundred and eighteen, nor shall the said Courts, receive as evidence, in any case, certain grants, said to have been made by the said King of Spain, in favor of the Duke of Alagon, the Count Punon Rostro, and Don Pedro de Vargas, or any title derived from either of said Grants, unless with the express assent of the Congress of the United States.

Done in Convention, held in pursuance of an act of the Governor and Legislative Council of the Territory of Florida, entitled "An Act, to call a Convention for the purpose of organising a State Government," passed, 30th day of January, 1838, and approved, 2d February, eighteen hundred and thirty-eight.

In witness whereof, the undersigned, the President of said Convention and Delegates, representing the People of Florida, do hereunto sign our names, this the eleventh day of January, Anno Domini, eighteen hundred and thirty-nine, and of the Independ-

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ence of the United States of America, the sixty-third Year; and the Secretary of said Convention, doth countersign the same.

ROBERT RAYMOND REID, *President.*

WALKER ANDERSON,
JOHN L. MCKINNON,
DANL. G. MCLEAN,
STEPHEN J. ROCHE,
E. ROBBINS,
COSAM EMIR BARTLETT,
THOMAS BALTZELL,
SAML. C. BELLAMY,
ALFRED L. WOODWARD,
RICHARD H. LONG,
RICH. C. ALLEN,
BANKS MEACHAM,
JOHN W. MALONE,
GEORGE T. WARD,
W. WYATT,
JAMES D. WESTCOTT, Jr.
LEIGH READ,
A. BELLAMY,
JOHN N. PARTRIDGE,
WILLIAM BUNCE,

E. CARRINGTON CABELL,
J. MCCANTS,
JOHN C. MCGEHEE,
JOSEPH B. WATTS,
WM B. HOOKER,
WILSON BROOKS,
GEORGE E. MCCLELLAN,
JOHN F. WEBB,
I. GARRISON,
E. K. WHITE,
A. W. CRICHTON,
OLIVER WOOD,
WM. HADDOCK,
JOSE SIMEON SANCHEZ,
EDWIN T. JENCKES,
DAVID LEVY,
W. H. WILLIAMS,
WILLIAM MARVIN,
J. B. BROWN,
EDMUND BIRD.

JOSHUA KNOWLES, *Secretary.*

I certify that the foregoing is a true copy from the original

JOSHUA KNOWLES
Secretary

* * *

NO. 18. MEMORIAL TO CONGRESS OF THE PEOPLE
OF THE TERRITORY OF FLORIDA²⁹

[January 11, 1839]

*To the Senate and House of Representatives of the United
States of America in Congress assembled:*

The memorial of the people of the Territory of Florida,

RESPECTFULLY SHEWETH:

That, before the cession by the King of Spain of the provinces of East and West Florida to the United States, a large portion of the

FLORIDA BECOMES A STATE

inhabitants of those provinces, being warmly attached to the Government of the United States, were anxious to become a part thereof, and to acquire the privileges of American citizenship. Many were natives of the States, who had been induced to change their residence by the genial climate and productive soil of the Floridas. The manifestation of their attachment to the Government of the Union, and to the principles of political liberty, when a high officer of the United States, with the approbation and authority of the national administration, attempted, in 1812, to effect a change in the government of East Florida, brought some of the most affluent of our citizens to poverty and ruin. The treaty of 1819 was hailed by them with joy, as the harbinger of the speedy consummation of their ardent but long-deferred hopes. The repeated assurances of statesmen, officers, and citizens of the States, (made in every manner calculated to inspire confidence,) that the Floridas would be admitted into the Union AS A STATE at an early period; the express stipulation in the 6th article of the treaty, "*that the inhabitants of the territories which his Catholic Majesty cedes to the United States by this treaty, shall be incorporated into the Union of the United States AS SOON as may be consistent with the principles of the Federal constitution; and admitted to the enjoyment of all the privileges, rights, and immunities of the citizens of the United States;*" the declaration of the King of Spain, in the royal order of the 24th of October, 1820,³⁰ announcing the final conclusion of the treaty, and "*that among the ADVANTAGES stipulated*" in favor of those inhabitants who might remain therein, and which he wished to give "*as a last proof of the protection and affection they had always experienced under the Spanish Government,*" was one, that they should "*be admitted AS SOON AS POSSIBLE to the enjoyment of all the rights of citizens of the United States;*" the reiteration of the pledge in the proclamation³¹ of that illustrious American citizen who was appointed commissioner to take possession of the ceded provinces, and their first Governor, on his arrival here to fulfil the duties of his high trusts, all awakened the most sanguine expectations among the inhabitants of the provinces, by whom they were received as ample guaranties that this auspicious measure would soon be adopted. In faith of the pledge being fulfilled, as the exploration and survey of the country developed its fertile lands and other valuable resources, emigrants crowded hither from all sections of the Union. Nearly twenty years have elapsed since the formation of the treaty of cession. During this period the people of Florida have, on different occasions, distinctly

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manifested their anxious desire to change the present institutions of government for others originating with and formed by themselves, to assume the rank of a sovereign State, and to be recognised as a member of the national confederacy.

Your memorialists would briefly direct the notice of Congress to those particular measures which have induced the present application. In the year 1837, the wishes of the people caused the Territorial Council to enact a law, (a copy of which is subjoined, page 49, pamphlet laws of 1837,) by which the question of "*State*" or "*Territory*," was to be voted upon at the election for Delegate to Congress, held in the month of May of that year. A decided majority of the suffrages given at that election was in favor of a *State*. It is believed there would have been little opposition, but that the desolation of a large portion of the country, caused by the Seminole war, then raging at its height, caused many to doubt our pecuniary ability, at that period, to establish and maintain respectably the State institutions. The Council of 1838, in obedience to the expressed will of the people, and to effect their wishes, enacted a law authorizing the holding of a convention to form and adopt a State constitution. (A copy of this law is subjoined, page 15, pamphlet laws of 1838.) In pursuance of this law, the citizens of every county in the Territory, in October, 1838, chose delegates to such convention, which assembled at St. Joseph on the 3d day of December, 1838, and continued in session till January 11th, 1839. The "CONSTITUTION OR FORM OF GOVERNMENT" herewith transmitted, was adopted by that body with but one dissentient vote; and a committee was appointed to transmit, with said constitution and the resolutions annexed hereto, this memorial in behalf of the people of Florida to Congress, and to ask, in their name, the recognition of THE STATE OF FLORIDA, and her admission and incorporation into the Union as an equal member of the confederacy.

To this statement of the facts upon which the people of Florida base their claim to be recognised as a State, and to be acknowledged as a member of the Union, it may be added, that, in 1838, the Territorial Council passed a law for taking a census of the inhabitants. A copy of this law, (page 8, pamphlet laws of 1838,) and a statement of the returns of the census as far as made, are hereto annexed. This census, it is well known, was but partially and imperfectly taken. The presence of a hostile and savage foe prevented in many counties the execution of the law; many of our citizens, with their families,

FLORIDA BECOMES A STATE

had been obliged to abandon temporarily their houses till the danger of massacre should become less imminent, and in other parts of the Territory the duty was entirely neglected. It is believed by many that an accurate enumeration would exhibit a population in Florida, estimated according to the basis of representation in the House of Representatives of the United States, fully equal to, if not greater than, the present ratio.

But the people of Florida respectfully insist that their right to be admitted into the Federal Union as a State is not dependent upon the fact of their having a population equal to such ratio. Their right to admission, it is conceived, is guarantied by the express pledge in the 6th article of the treaty before quoted; and if any rule as to the number of population is to govern, it should be that in existence at the time of the cession, which was thirty-five thousand. They submit, however, that any ratio of representation dependent on legislative action, based solely on convenience and expediency, shifting and vacillating as the opinion of a majority of Congress may make it, now greater than at a previous apportionment, but which a future Congress may prescribe to be less, cannot be one of the *constitutional* "PRINCIPLES" referred to in the treaty, consistency with which, by its terms, is required. It is, in truth, but a mere regulation, not founded on principle. No specific number of population is required by any recognised principle as necessary in the establishment of a free government. Delay in the recognition and admission of Florida is no longer justifiable, when, by the adoption of a form of government based upon the same broad principles of civil liberty as the constitution of the United States, all inconsistency in the union and confederation of the two Governments is removed.

It is in nowise "*inconsistent with the principles of the Federal constitution*" that the population of a State should be less than the ratio of congressional representation. The very case is provided for in the constitution. With such deficient population, she would be entitled to one representative. If any event should cause a decrease of the population of one of the States even to a number below the *minimum* ratio of representation prescribed by the constitution, she would still remain a member of the Confederacy, and be entitled to such representative. It is respectfully urged, that a rule or principle which would not justify the *expulsion* of a State with a deficient population, on the ground of inconsistency with the constitution, should not exclude or prohibit *admission*.

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Your memorialists would respectfully urge, that any supposed rule or practice of Congress founded upon or growing out of the ordinance of July 13th, 1787,³² in relation to the Northwestern territory, or in respect of new States formed out of other territory ceded to the National Government by different States, and in which cessions that ordinance was expressly referred to as containing the rules to govern in their admission, should not control or affect our right to be incorporated into the Union. That ordinance is not alluded to in the treaty, and it is conceived to be unjust to look beyond it and the constitution, which only is referred to in it, for prohibitory rules.

But wherefore should we be constrained to remain longer under institutions so hostile to the cardinal maxims of free government, so obviously at war with the vital principles of the Federal constitution, as those of a Territory? Can the denial to us of an equal portion of the blessings of free government benefit any of our fellow-citizens of the States? Can it be essential to their well-being and prosperity that we should be compelled to remain still longer in a state of galling and humiliating disfranchisement? Will our admission as a State inflict any injury upon them?

The people of Florida call, then, upon their fellow-citizens of the States, not to force upon them any longer the odious principle of "taxation without representation;" not to contradict, in practice, (by continuing the Territorial authorities after we have formed a government for ourselves,) the republican axioms, that man is capable of self-government, and that all free governments are founded upon, and derive their powers from, the consent and will of the people. They ask of Congress such act or resolution as, in its wisdom, it may deem meet, to recognise the State Government upon its complete organization, and for its incorporation into the Federal Union.

In behalf of the people of Florida, in convention assembled, at St. Joseph, this 11th of January, 1839:

ROBERT RAYMOND REID,
THOMAS BALTZELL,
LEIGH READ,
WILLIAM MARVIN,
DAVID LEVY,
JAMES D. WESTCOTT, Jr.
WALKER ANDERSON,

Committee of the Constitutional Convention of Florida.

FLORIDA BECOMES A STATE
NO. 19. ORGANIZATION PROCEEDINGS OF THE
DEMOCRATIC PARTY³³

[January 11, 1839]

FLORIDA JEFFERSONIAN REPUBLICAN MEETING

At a meeting of a number of Democratic Republican Citizens of Florida, consisting of several members of the Constitutional Convention, and other citizens, held at the Hotel of Capt. H. F. Simmons, in the city of St. Joseph, on Saturday evening, January 11th, 1839, Walker Anderson, Esq., of Escambia, was called to the Chair, and Col. Abram Bellamy, of Jefferson, Edwin T. Jenckes, Esq., of St. Johns, and Major Gabriel J. Floydd, of Calhoun, were chosen Vice Presidents, and Dr. E. R. Gibson, of St. Joseph, and Buckingham Smith, Esq., of St. Augustine, Secretaries.

Mr. James D. Westcott, Jr., of Leon, addressed the meeting, and offered the following Resolutions, which were also spoken to by Gen. Leigh Read, of Leon, Judge McCants, and Capt. J. N. Partridge of Jefferson, David Levy, Esq., of St. Johns, and Dr. Gibson, of Calhoun, and others, and after free discussion and interchange of opinions were unanimously adopted, viz:

Resolved, That we believe the existence of Political Parties, organized upon principle, and the action of which is governed and regulated by regard for the public welfare, so far from being deleterious is salutary in its effects, and in a republican government, is absolutely necessary for its purity and conservation.

Resolved, That we deprecate the personal excitements, not originating in principle, which have heretofore characterized the political contests in Florida, and hail as a bright omen of the future political prosperity of our State, the manifest disinclination of a large portion of our fellow citizens to suffer our future elections to depend upon such grounds.

Resolved, That we regard this as a proper crisis at which those citizens of Florida, who truly profess the Jeffersonian Republican faith, and friends of State Rights, should unite their efforts to produce union of sentiment, and concert of action, and that organization, so necessary in all political contests to ensure the triumph of correct principles.

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Resolved, That among the cardinal principles of Democracy, we hold that it is the duty of a free white people, to require of those who are candidates for political station, a full, unambiguous, and public declaration of their opinions, views, and principles on all subjects of public interest.

Resolved, That candidates should be selected, solely on account of their political principles, ability, and integrity, and that the support of republicans should be withheld from any aspirant, who evades making a full avowal of his sentiments; whose political tenets are not certainly known, and whose pretensions are placed on other grounds.

Resolved, That we regard the leading measures of the present General Administration, and particularly those supported by that distinguished statesman of the South, whose life of usefulness and devoted patriotism has created a deep debt of gratitude from his countrymen, as entitled to the undivided and ardent support of the whole Republican Party of the South.

Resolved, That the recent attempts of a fanatical and incendiary faction, in the Congress of the United States, to interfere with the domestic institutions of the South, calls for unceasing vigilance on our part, and decided action, exhibiting a fixed determination not to suffer such interference.

Resolved, That we have witnessed, with pleasure, the recent action in the House of Representatives of the United States, inducing the determination of the friends of the present administration, from all sections of the Union, to preserve inviolable the national compact, from the polluting hand of abolition and incendiarism.

Resolved, That for the promotion of Republican principles, and that hereafter less of personal feeling and personal prejudice, may influence our elections, it is proper and expedient, that a committee or committees be appointed in each county, to correspond with each other, and cause an interchange of political opinions, that a central committee of correspondence be appointed in Leon county, and that a committee be appointed to draft an address to the *Democratic Republicans of Florida*, in relation to the various political topics requiring discussion and action, and it was further resolved, that the President and Vice-Presidents, appoint said committee, and cause these resolutions to be published in all the Democratic newspapers of Florida.

FLORIDA BECOMES A STATE

The thanks of the meeting were then by resolution tendered to the officers, and the meeting then adjourned.

WALKER ANDERSON, *President.*

A. BELLAMY,
E. T. JENCKES, } *Vice-Presidents.*
G. J. FLOYD.

EDWARD R. GIBSON, }
BUCKINGHAM SMITH, } *Secretaries.*

* * *

NO. 20. PETITION TO CONGRESS OF MEMBERS OF
THE LEGISLATIVE COUNCIL³⁴

[*January 31, 1839*]

To the Hon the Senate & House of Representatives of the United States in Congress assembled

The Petition of the undersigned members of the Legislature of Florida Respectfully sheweth,

That your Petitioners actuated by a sense of duty to their constituents and the best interests of the Territory as well as the entire South beg leave respectfully to ask of your Honorable body a division of the Eastern District of the Territory from the Middle & Western Districts, & the erection of the said Eastern District into a separate Territorial Government under the name & style of the "Territory of East Florida."

Nature has never intended that the whole Territory should always remain united as one State or Territory.

The Western Branch of Suwaney River situated about One hundred & fifty miles East of the former line between the former Provinces of East & West Florida, presents a good and natural Boundary.

It leaves both in the best possible form for states. East Florida would than have about 1000 miles of Sea Coast, and its mean Breadth one hundred & fifty miles:

At this time, while we remain a Territory the process is simple, erect the whole into a state and the measure is more intricate, critical and dangerous, and its accomplishment more tardy and troublesome

We beg leave further to state that many of us were originally opposed to this division, at the time that a portion of the Citizens peti-

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tioned for the division last Winter; but the division of the Territory of Wisconsin & the creation therefrom of the Territory of Iowa,³⁵ presents the case to our Consideration in an entire new and different light; the necessity of keeping up the balance of power, renders this division extremely interesting to the whole South.

Your Petitioners therefore humbly pray your Honorable body to pass a law erecting and organizing that portion of Florida East of the Suwaney River, into a Territory, separate and distinct from the other parts of the Territory of Florida, and your Petitioners, as in duty bound will ever pray

Tallahassee January 31st 1839—

W J MILLS Senator from East Florida

J. L. THIGPIN

Represtatie Nassau County

A. MCNEILL from Alachua

GABRIEL PRIEST

Reprentive from Duval

S. L. BURRITT—Do.

WM COOLEY Representative
from Hillsborough

JOHN WARREN

Senator from the East

I. D. HART

Senator from East Florida

WM M REED

Representative from Hamilton

JAS. NIBLACK

Representative from Columbia

* * *

NO. 21. MEMORIAL TO CONGRESS OF CITIZENS OF
EAST FLORIDA³⁶

[August 29, 1839]

DIVISION OF THE TERRITORY,

or, EAST FLORIDA A DISTINCT TERRITORIAL GOVERNMENT.

At a full meeting of the Inhabitants of the City of St. Augustine, East Florida, held pursuant to public notice, at the Court House, on Thursday the 29th day of August, 1839, General JOSEPH M. HERNANDEZ was appointed President, and Major J. JOHN BEARD, Jr. and S. HILL WILLIAMS, Secretaries of the meeting.

The object of the meeting was explained, and the meeting addressed by Major PUTNAM, and several other gentlemen. On motion it was

Resolved, That the following gentlemen, viz:—Gabriel W. Perpall, Esq., Gen. Peter Sken Smith, Col. John M. Hanson, Bernardo Segui, Esq., and Col. Gad Humphreys, be a Committee to draft Resolutions, expressive of the sense of the meeting.

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The Committee having retired, reported the following resolutions, which were adopted by acclamation, and without a dissenting voice:

Resolved, That as Floridians—as American citizens—we are gratified at the presence at this time, of the same MEN and the same SPIRIT *that were present in the meeting of the fifth day of February, 1838*, to protest against the calling a Convention to form a STATE CONSTITUTION—and against the imposition of STATE TAXES—and, to organize in favor of “DIVISION.”

Resolved, That we have not, at any time, “yielded” our preferences, or compromised our principles—we are—as we were, in that first meeting—“one and all, opposed to being erected into a STATE with the MIDDLE and WEST—and one and all for separating THE EAST, from the Middle and West—making the SUWANNEE the dividing line.”

Resolved, That we have organized for ‘Division’ and nothing but “Division” and for the purpose of co-operating with our Fellow-Citizens of THE EAST, for the DIVISION of THIS VAST TERRITORY—comprising as it does, THE COUNTRY and THE CAPABILITIES sufficient for TWO STATES; the WEST being nearly equal in size to Massachusetts and Maryland combined: and nearly as large as South Carolina:—and the Territory lying EAST of the “Suwannee,” possessing an area approaching in extent Pennsylvania or New York, and equal in extent to Tennessee or Michigan.

Resolved, That a glance at our Geographical position, shows that the natural outlet of the MIDDLE and WEST, is to the Gulf of Mexico—while THE EAST has its natural outlet to the Atlantic coast—thus, *from the beginning*, nature designed THE SEPARATION—That subsequently, the conflicting and diversified interests of THE FLORIDAS demanded and obtained—and in seeking DIVISION, we only seek to establish THE RIGHT OF SEPARATION that had its foundation in the *Justice and Policy of the Spanish and English Governments*, under which, THE FLORIDAS were formed into TWO separate Provinces, each having its own Governor: and *they were so ceded by Spain to the United States*.

Resolved, That the Constitution and Laws of the United States having established the FEDERAL RATIO of STATE REPRESENTATION at *Forty-Seven Thousand Seven Hundred*—and as in the CENSUS that preceded the late Territorial Convention, the aggregate population of THE FLORIDAS fell *Ten Thousand short* of the FEDERAL NUMBER, we

DIVISION OF THE TERRITORY,

OR,

EAST FLORIDA A DISTINCT TERRITORIAL GOVERNMENT.

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RATIO of STATE REPRESENTATION at *Forty-Seven Thousand Seven Hundred*—and as in the CENSUS that preceded the late Territorial Convention, the aggregate population of the FLORIDAS fell *Ten Thousand short* of the FEDERAL NUMBER, we consider a "Constitution," emanating from the representatives of a minority, a DEAD LETTER—whether approved or rejected by the Territory at large.

Resolved, That adhering to the principle of "DIVISION," we do maintain the "birth right" of the EAST to a separate and Independent Territory, to be guaranteed; while with mingled indignation, we would say to the WEST, that they can appreciate the rights of the TWO STATES OF FLORIDA, to the same portion of the confederacy, and to the UNION.

Resolved, That these proceedings be signed by the President and Secretaries, and published in the papers of this City; the "Tallahassee Star," the paper at Jacksonville; the Charleston and Savannah papers; the "Globe," and the "National Intelligencer," Washington.

JOSEPH M. HERNANDEZ, *President*.

J. JOHN BEARD, Jr. } *Secretaries*.
S. HILL WILLIAMS. }

MEMORIAL.

To the Honorable the Senate and House of Representatives of the United States in Congress assembled:

YOUR Petitioners therefore humbly pray, that your Honorable body will give such consideration to the wishes of the Citizens of East Florida, as expressed in the sentiments of the Resolutions passed, and that you will pass a Law erecting and organizing that portion of Florida which lies East of the Suwannee River, into a Territory, separate and distinct from the other parts of the Territory of Florida—and your petitioners, as in duty bound, will ever pray.

FLORIDA.

MEMORIAL OF CITIZENS OF EAST FLORIDA

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consider a "Constitution," *emanating from the representatives of a minority*, A DEAD LETTER—whether *approved or rejected* by the Territory at large.

Resolved, That adhering to the principle of "DIVISION," we do maintain the "*birth right*" of THE EAST to a *separate and Independent Territory East of the Suwannee*; while with mingled feelings of kindness and respect we would say to the MIDDLE and WEST "Is not the whole land before us? Let there be no strife between us, for we be brethren."

Resolved, That again, as before, we enter our public and solemn Protest against the premature, impracticable, and ruinous scheme of precipitating the whole of this great Territory into a *single STATE*:—when the People of THE EAST have, with such commendable unanimity, *rejected* both THE STATE and THE CONSTITUTION, at the *Ballot-Box*.

Resolved, That the *inability*, as also the *indisposition* of THE EAST, to participate in the mere *pageant* of a STATE GOVERNMENT, *upheld by DIRECT TAXES*, is apparent to all—and we should be still more reluctant to exchange our Territorial Independence for *State* honors, purchased by the degrading and humiliating condition, that the *Middle and West pay the TAXES of the East!*

Resolved, That we shall support, for office, men who are opposed to forming THE FLORIDAS into a *single STATE*, and opposed to the system of TAXES, *inseparable* to the adoption of a STATE GOVERNMENT—and who are the uncompromising advocates of "DIVISION."

Resolved, That we respectfully solicit the inhabitants of the Towns and Counties of the East to hold similar meetings—and we most respectfully ask, for these proceedings, the attention of the Hon. CHAREES DOWNING; our delegate in Congress, with the assurance of our undiminished confidence in his ability and faithfulness to effect THE DIVISION, so ardently desired by his constituents in the East, and vitally important to the welfare of the East.

Resolved, That in petitioning for THE DIVISION OF THE FLORIDAS, we appeal with confidence to the wisdom, justice, and patriotism of the distinguished STATESMEN who represent OUR COMMON COUNTRY, IN THE COUNCILS OF THE NATIONS, at Washington. They can appreciate the importance of THE TWO STATES OF FLORIDA, to the Southern portion of the confederacy, and to THE UNION.

Resolved, That these proceedings be signed by the President and

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Secretaries, and published in the papers of this City; the "Tallahassee Star;" the paper at Jacksonville; the Charleston and Savannah papers; the "Globe," and the "National Intelligencer," Washington

JOSEPH M. HERNANDEZ, *President.*

J. JOHN BEARD Jr. }
S. HILL WILLIAMS. } *Secretaries.*

MEMORIAL.

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YOUR Petitioners therefore humbly pray, that your Honorable body will give such consideration to the wishes of the Citizens of East Florida, as expressed in the sentiments of the Resolutions passed, and that you will pass a Law erecting and organizing that portion of Florida which lies East of the Suwannee River, into a Territory, separate and distinct from the other parts of the Territory of Florida—and your petitioners, as in duty bound, will ever pray.

FLORIDA. JOSEPH M. HERNANDEZ & [378] others.³⁷

* * *

NO. 22. PROCLAMATION OF PRESIDENT OF THE
CONSTITUTIONAL CONVENTION³⁸

[October 21, 1839]

A Proclamation.

After a careful examination of the votes returned to me, I hereby PROCLAIM and DECLARE that the CONSTITUTION adopted by the Convention lately held at St. Joseph, has been APPROVED and RATIFIED by the people of Florida

Given under my hand at St. Augustine, Florida, this twenty-first day of October, in the year eighteen hundred and thirty nine.

ROBERT RAYMOND REID,
President of the Convention lately in session at St. Joseph.

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NO. 23. EXTRACT FROM A MESSAGE OF
GOVERNOR REID³⁹

[*January 13, 1840*]

The Constitution of the State of Florida adopted twelve months since at St. Joseph, having been approved and accepted by the People of Florida, the question of admission into the Union is added to those, by which we are agitated. It will be settled of course, as all questions should be, where Republican Institutions prevail, by the will of the majority. The people have several times announced their determination to claim admission into the Union, in which, if they still persevere, it is not for a minority, however respectable and intelligent, to oppose their wishes. But the time for admission might be so regulated, as to furnish a proof on the part of the majority, of a desire to accommodate as far as practicable, the lesser number who are opposed to immediate action. Our fellow-citizens of the East and the West, believe that their views and the sufferings, of our people, especially in the Eastern District, should be permitted to abate the eagerness, with which, many desire to hasten into the Sisterhood of the States. Whenever a favorable opportunity of successfully urging our claim to admission, before Congress presents itself, it should doubtless be embraced and improved; but the time at which the State Government shall go into operation, might be so arranged, as to satisfy the scruples of those of our fellow-citizens, who think that a speedy change in our form of Government, would be grievous and oppressive.

The proposition to divide the Territory and to establish two Territorial, and finally two State Governments, has been much urged and discussed by its Partizans, before the People. There are great and inherent difficulties attending the accomplishment of such a purpose. It is said there is little intercommunication and no community of interests between the Eastern and Western portions of the Territory; but if this be a good reason it is also valid to effect a division of the Country into numerous fractions. What common feeling and interest is there between Tallahassee and Pensacola—St. Joseph and Apalachicola Jacksonville and St. Augustine—Key West and Tampa? The truth perhaps is, there is no point at present prominently presenting itself, if we except the mouth of the Apalachicola or St. Joseph, where the products of an extensive and rich back country may be expected to concentrate and give life to commerce. The country is not calculated for the support of an Emporium, but of

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numerous small and flourishing towns, scattered along our rivers and around our bays, each the receptacle of commerce from abroad, and of the agricultural products of a circumjacent region. These geographical tendencies to the estrangement so to speak, of one section or portion of country from the rest, can only be counteracted by Rail Roads, Canals and other internal improvements, in after time, to be established—established, not for the purpose of favoring speculations, but for the general good; binding us together by the strong ties of kindness and interest, and making as one people. If such causes should be without effect, and the inclination to disunion shall remain, it will then be time enough, when each portion of the country possesses a permanent population and a fixed character—for the East to separate from the West:—and such a separation might be prospectively provided for, in the act admitting Florida into the Union.

It would seem difficult to decide upon the line of division—some would insist upon the Apalachicola, others the Suwannee, others again a line drawn across the Peninsula to the St. John's at or below Jacksonville or else where. No point of separation could be suggested without encountering grave objections and angry discussions.

But agree or disagree as we may upon this matter; Will Congress favor the project? Will sagacious Statesmen consent to an arrangement by which Florida may be retarded for a long series of years, in violation of the Treaty with Spain which evidently contemplated her speedy admission into the Union? That treaty it will be remembered refers to no ratio of representation, no such ration is declared to be necessary by the Constitution of the United States, to the admission of new states into the Union; but if it be necessary as some insist, it is obvious, that a continually increasing ratio connected with the division of the Territory may defeat for ever the intentions of the high contracting parties expressed in the Treaty of Session and the royal edict of the Spanish King which followed it. Besides, will it be acceptable to the United States to fasten upon themselves the expenses of two Territorial Governments instead of one, *ad infinitum*? Would it be acceptable to Florida, to remain so long in a state of Political nonage or pupillage, and dependent for support upon the General Government, when she might rise into importance and independence; exert her own energies, make herself heard in the Halls of Congress, govern herself, and aid in the Government of the Union.

But why is the State form of Government looked to with any apprehension or alarm? In the East the answer is, because it will pro-

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duce taxation and we are not prepared to pay taxes. It is perfectly true, that the East, covered with afflictions is unable to pay taxes; but is it true, that so soon as the Machinery of State Government is put in motion, the tax gatherer will be sent abroad to wring from our citizens the poor remains of what Indian devastation has left them? If the credit of the Territory has been invoked for the purpose of pouring millions into Bank coffers, would not the credit of a State—much more valuable, and in consequence much more effective be resorted to for providing the ways and means of Government, until our bleeding wounds are healed, and a capacity to support the Government returns with returning prosperity. And this fearful power of taxation: where does it abide? In the hands of the people! It would be their province and their privilege to controll it. Will they doubt their own patriotism, good sense and sound discretion?

But let us have a care—there may be more than meets the eye in this matter of division. Those beyond the Potomac who profess a heresy dangerous to southern rights and institutions will favour division: those who would palm upon us the great grant to the duke of Alagon—a grant annulled by Treaty, King and Cortes will zealously support the same measure.

Although expressing myself with freedom it is not intended to offer the slightest disrespect to the opinions of others—Theirs may be right and mine wrong; but sometimes the conviction presses upon me, that disastrous as her fortunes are, were Florida a State, this Indian War—our chiefest ill—would not be of long duration.

* * *

NO. 24. REPORT OF A SELECT COMMITTEE OF THE HOUSE OF REPRESENTATIVES⁴⁰

[February 4, 1840]

Report.

The select committee to whom was referred so much of the Governors message, as relates to the subject of State Government, and also the subject of division of the Territory, with instructions to report thereon as early as possible; report:

That in the fulfilment of the duties assigned them, they have in the first place sought to observe that cardinal rule of action for representatives of the people, *the will of their constituents*; and, to express in this report, the views and sentiments of those constituents.

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The people of Florida have for many years past, looked with great anxiety, to the organization of a State Government, and the recognition of Florida as a sovereign and independant member of the national Confederacy. It is true there are those who differ from the majority, as to the policy & expediency of such measure at this period, but the number of the minority upon this single question the Committee are entirely satisfied does not exceed one fifth of the Citizens of Florida. At several different sessions of the Territorial Legislature, prior to the year 1837 this subject was agitated but no definite action towards effecting such object was had, until the session of that year, when after an able report of a Committee of the Council in favour of it,⁴¹ a law was passed by a decided majority, which provided that at the Election for Delegate to Congress in May 1837, the vote of the people should be taken upon the question of "State" or no "State". That election resulted in the expression of the popular will, in favour of "A State" by thirteen hundred & Eighty two majority, out of thirty four hundred and twenty votes then given.⁴² At the time of this Election a large portion of the Territory had been laid waste by the hostile Indians, the War with whom was then raging at its height. Many of the inhabitants of East Florida, and of West Florida, had been driven from their homes by the Savages, and were not only thrown out of employment by the abandonment of their farms, and obliged to congregate near the forts occupied by troops for protection; but some were in fact relying upon the bounty of the General Government for subsistance for themselves and their families.⁴³ With such the apprehension that the establishment of a State Government to be supported by taxes, to be gathered in part from themselves would enhance the severity of their sufferings, had great weight. The fear to that the establishment of such Government forthwith, would be accompanied by a withdrawal of the aid of the General Government, in this destitute condition, was not without influence. Hence the majority was no greater than has been stated. It is believed that if the vote had been taken, before the breaking out of the War, it would have been nearly unanimous. In obedience to the will of the people, thus expressed, the Territorial Legislature at the first session after that election, enacted a law, providing for the election by the people of Deligates to a Convention to be held at the City of St. Josephs in December 1838 "to devise and adadopt "the most efficient speedy and proper measures for the formation "and establishment of an Independant State Government for the "people of Florida, and to frame and adopt a bill of rights

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“and Constitution for the same, and all needful measures preparatory to the admission of Florida into the national Confederacy” In conformity to that law the people of every County in the Territory, in October 1838 elected delegates to such Convention Its session was held as prescribed and “a Constitution or form of Government for the state of Florida” was adopted with but one dissenting vote. In deference to the wishes of a few not fully satisfied with some of its provisions, (altho such course was not required by the law under which the Convention was held) it was submitted for ratification or rejection by the people by direct vote at the next ensuing election for delegate to Congress in May 1839. A majority of the people decided at that election in favour of the Constitution. The official proclamation of the President of the convention (the present Executive of the Territory) of the ratification and acceptance of the Constitution is annexed to this report It is true that the majority thus given, in comparison with those at previous elections was considerably decreased. Some were dissatisfied with provisions of the Constitution, especially those in relation to Banks and other Corporations, and the powerful and influential interests of those concerned in these institutions, were excited to active opposition in its adoption. Those interested in Spanish grants the validity of which is disputed by the United States, found in that instrument and article calculated to thwart their views and which induced hostility from them. Combining together, creating and urging other objections to that instrument of varient and contrary characters in different sections of the Territory, as were best calculated to excite opposition, contriving various schemes to divert public attention, and mislead the public judgment from the true questions at issue, pressing in one section the insidious project of division, and in another contending that injustice had been done to it in the apportionment of representation, rallying with them the original opponents of State Government; most strenuous and active efforts were exerted to defeat the ratification of the Constitution. The brief period intervening between the promulgation of the Constitution and that election afforded but little opportunity to its friends to explain away or refute the representations and arguments of those who assailed it. By the next popular election in October 1839 for members of this House, time had been afforded the people of Florida to discover the truth. In most of the Counties of the Territory, the question of State Government was a prominent question in the Selection of Candidates, and the result has been, that at least *twenty three* out of *twenty nine* of the members

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of this House have been returned decidedly in favour of this measure. The most populous Counties have given the most decided majorities. The Committee are satisfied also from recent unerring indications of public sentiment, that since the last election (subsequent to which the ratification of the Constitution has been proclaimed) the decided majority in favour of State Government, has increased and is daily increasing. Many of the objections to the State Constitution are yielding their assent to that instrument, as it becomes better understood than when first promulgated as the journal of its proceedings has been published and full and free discussion had. Acquiescence in the legally declared will of the majority which should be a binding rule of action in all public communities, has doubtless induced many to forego their opposition, and the Committee do [not] hesitate to express the opinion, that at this time, at least four fifths of the whole people of Florida are decidedly in favour of immediate organization of a State Government and of the immediate admission of Florida into the Union

With respect to the right of the people of Florida to demand this admission, your committee can add but little to the unanswerable appeal of the people of Florida, to the Congress of the United States contained in the memorial of a "Committee of the Constitutional convention" laid before Congress at its last session: It may not however be without benefit to present some of the prominent arguments urged by the friends of State Government, in maintainance of the general positions there advanced, and in answer to those of its opponents.

The right of the people of Florida to demand admission as a State is based upon the sixth article of the treaty of cession by which the United States pledge "that the inhabitants of the Territories which "his Catholic Majesty ceded to the United States by this treaty shall "be incorporated into the Union of the United States *as soon* as may "be consistent with the principles of the Federal Constitution, and "admitted to the enjoyment of all the priveleges and immunities of "the Citizens of the United States

Those opposed to the establishment of a State Government contend that the expression in the treaty "as soon as may be consistent with "the principles of the federal Constitution" has reference to the increase of the inhabitants of Florida, to the ratio of representation to Congress at the time of application for admission, and that unless our population equals the number of such ratio we are not entitled

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to admission. The treaty in its terms refers to the inhabitants of Florida at the time it was concluded.

They were not *then* "Citizens of the United States" and this clause was to secure them that privilege in its most desirable form. Such provisions could not have reference to those already Citizens of the United States and who should subsequently remove to Florida. Emigrating hither in confidence that the treaty pledge would be faithfully fulfilled, they have equal right to claim its benefits with the old residents; but the rights of neither were made dependent upon the increase of population to any specific number by the article of the treaty referred to. The treaty refers simply to the adoption of a republican State Constitution by the inhabitants of Florida, consistent with the Constitution of the United States, with those of her sister States, and the application for admission in proper form to Congress. Some of the ablest statesmen of the Nation put such construction upon a similar clause in the treaty Ceding Louisiana to the United States and it is believed it was correct. At the time the Treaty ceding Florida was signed, the ratio of representation to Congress was but 35,000, it has since been increased by law first to 40,000 and since to 47,000⁴⁴ It will probably be again increased next year. The Committee cannot believe that this rule founded upon considerations of mere convenience and expediency, continually changing under which we could at one session of Congress be admitted without objection, and which the next session could be urged to debar us [is] one of the *Constitutional principles*, the clause in the treaty was framed to preserve inviolate. Those principles to which consistency is required are the general broad principles of republican liberty upon which it is based, and which are immutable and fixed.

Can it be said that these principles require any fixed number of population to justify a people to exercise the right of self Government. The little population⁴⁵ of San Marino, with a population of but 7000 souls, has defied the power of the crowned despots around her for upwards of thirteen hundred years. Power to establish and ability to sustain such Government, and of which the people are the exclusive Judges are the only rules of right upon general principles.

Those who urge our population is not sufficient to entitle us to claim admission as a right are then driven to the resort of searching for express prohibition in the Constitution of the United States, which excludes us. An examination of that instrument will show

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such position equally untenable. The third section of the second article of the Constitution of the United States provides that "*the representation to Congress shall be apportioned among the several States, according to their respective numbers.*" It prescribes a rule for estimation, and that an enumeration shall be made once every ten years; and it also prescribes that "*the number of representatives shall not exceed one for every 30,000; but each State shall have at least one representative.*" The provision that a State should have at least one member, although her population might be below 30,000, shows it was not considered necessary that all should have that number. Could it be urged if Rhode Island or Delaware should have her population decreased to 29,900, by war or by pestilence she would loose her representative and Senators in Congress, and be expelled from the Union? Do not the *express terms* of the Constitution forbid such conclusion? The committee cannot discover any reason for a distinction between the *Old* and *new* States in this respect.—The treaty guarantees to the people of Florida admission upon equal and consistent principles. Such distinction would be inequitable, unequal and inconsistent. If one of the *old* States could continue in the Federal Union with a population of less than thirty thousand "consistently with the principles of the Constitution" there can be no inconsistency in admitting a *new* State in similar condition. The power of Congress (see 3rd sec. of Article 44 [*i.e.*, Art. 4]) to admit new States into the Union, when not created out of the old States is general and unqualified.

Although the committee have presented these views as to the right of the people of Florida to form and establish a State Government and to be admitted as a member of the Union even with a population of less than 30,000, it must not be supposed it is intended to admit, that our population is insufficient to entitle us to become a State under the ratio contended for by those who urged different rules. A census taken under a Territorial law in 1837 was laid before Congress at its last session. Owing to the Indian war an enumeration of several Counties was omitted. In most of of the others it was loosely and imperfectly taken. This census gave us a population at that time of about 90,000,⁴⁶ souls, which after the deduction according to the Constitution for the slave population left about 41,000

The committee do not doubt, if a full and accurate census could now be taken, of all our inhabitants, it would show the population of Florida estimated according to the federal ratio to exceed the present number of Congressional representation

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But we would ask why this unwarranted vigilant search for rules and principles upon which to predicate opposition to our admission, and the rigorous application of those rules, which at most are of doubtful soundness to exclude us. Such course was not pursued in regard to other States, and even a strict compliance with the terms of the compact, under which they were ceded from other States was waived. Why not as in those cases consult the true spirit of the Constitution—Why avoid the adoption of the liberal and generous principles, which caused that compact and on which it is founded. The primary object of that instrument was to secure to each State *equal* rights and powers; and to each citizen “equal rights” immunities and privileges” in whatever section of the Union he might reside. While the mere Corporation or institute called the “Territorial Government” is in Existence, our most important “rights privileges and immunities” as American Citizens, pledged to us in the treaty of cession, if not dead are in obedience. Our officers Executive, Judicial and Military, are placed over us by presidential mandates—our participation in the enactment of laws for our Government is permissive on the part of Congress—and we are totally disfranchised, as it regards the national Government. Viewing the different and exalted situation of our fellow Citizens of the States, our feelings as free men press upon us. We see around us every where free institutions, but their blessings are denied us. Our emotions are like those of the prisoners of ancient Venice, who were tantalized by the inscription of “Liberty” in golden letters on the walls of their dungeons. The existence of a Territorial Government is hostile to the true principles of the Constitution. Its toleration for an hour beyond the period when stern and imperative necessity ceases to demand its continuance should not be permitted, and it cannot be conceived how American freemen, alive to the principles which impelled our ancestors to throw off the yoke of Colonial vassalage to Great Britain should seek to effect the perpetuation of similar authority in Florida. The odious principle of “taxation without representation” is sanctioned and practised as much under our system of Territorial regulation as under the Colonial Government of that Kingdom.

The committee coincide with the Executive of the Territory in the opinion expressed in a part of the message referred to them that “Were Florida a State, the Indian War, our chief ill, would not be of long duration.

It is believed that the establishment of a State Government in Florida, would induce the immediate emigration of considerable popula-

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tion from the adjoining and contiguous States, now deterred from removing hither by repugnance to incur disfranchisement of political rights of an invaluable character to freemen who have once enjoyed them; and by the dread that their property may be rendered insecure while we remain under a Territorial Government, by attempts of misguided philanthropists, blind fanatics or reckless politicians to enforce their asserted but unfounded right of interference with such property. With the shield of State Sovereignty for their protection, they could defy such attempts. This population naturally settling upon the frontier, and causing its advancement, would soon be of sufficient force to drive back the foe, and confine him to limits in which our army could find and conquer him.

The Committee feel it their duty to present this consideration to the attention of the House, and to recommend that it should be urged upon Congress as of paramount importance in the decision of the question of Admission of Florida as a State. It is of high consequence as well to the nation at large, as to the people of this Territory. The experience of the last four years the melancholy history of the murders of the families of hundreds of our Citizens—of the devastation of their homes—of the defeat and massacre of detachments of the regular army and of the want of success and discomfiture of other troops employed has conclusively proved, that under the plans and systems heretofore pursued, this war will in all human probability continue for many years. These systems must be changed. The character of the foe—of the Country, and of the Climate, deny under them, success to the bravest soldiers, led by the ablest Generals. The Savages can only be subdued, and forced to migrate by the contiguous settlement of a hardy population of Citizen Soldiers, *permanent residents*, near to their fastnesses and by gradual encroachments upon them. This will be a work of time, and although the aid of regular troops, at posts judiciously located may be necessary, much of the vast expence, now incurred will be saved to the National Treasury. It will be as idle to continue the effort to drive out the Seminoles either with armies of regulars or militia, without such course being adopted, as it would be with such force alone to attempt to catch all the wild animals in the peninsula, and transport them to the West. Admit us as a State—encourage the emigration of permanent settlers, by liberal donations of land, and at three years at most, the war will be at an end, and with one twentieth of the expence that will otherwise be incurred. The fear that we have not sufficient ability to support the expences of a State

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Government, the Committee regard as causeless. The agricultural advantages and resources of this Territory, are not surpassed, if equaled in value by any portion of the Union. Our genial climate gives to soil which further North, would be deemed worthless for cultivation high value. The experience of the last few years has proved, that in Florida, there is comparatively but a small portion of what is usually termed pine barrens, which will not amply repay the industrious planter either in the crops of corn or cotton. Our Country is well adapted to the raising of stock of every kind. The facilities for shipment of our products to foreign markets, are equal to those of any portion of the Union, and the cost as small. If our population is yet inconsiderable in comparison with that of several of the States, so also the necessity for large expenditures to maintain our State Government will be less. The committee find that notwithstanding the calamity of the Indian war, the pressure and embarrassment of the times bearing heavily upon all the people of this Territory, and that although in consequence of the devastation of some Counties by the foe, it has omitted to enforce the payment of taxes rigorously upon them, upwards of thirty two thousand four hundred and forty nine dollars, of taxes assessed under the act of the last Legislature for Territorial purposes, has already been paid into the hands of the proper officers during the past year.⁴⁷ The Auditor of public accounts,⁴⁸ an officer well acquainted with the resources of the Territory, and whose known sentiments on the question of State Government, would not incline him to express such opinion unless well founded, has not hesitated in his official report at this session to say "that the resources of this Territory are ample to defray all necessary expenses of Government with a very moderate rate of taxation if faithfully collected and accounted for"

But the Committee regard this question as one of mere expedience and policy for the decision of the people of Florida alone that it has been thrice solemnly decided by them, and is not open for discussion here or elsewhere

In reference to a division of the Territory of Florida as is urged by a portion of the Citizens of East Florida, the committee consider it so vitally connected with the question of our speedy admission into the Union, and establishment of the State Government that the determination of the latter conclusively decides the former. If Florida is divided all hope of a State Government in either portion for many years must be extinguished. It is true it has been proposed by some of the advocates of division, that the middle and West may be formed

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into a State, and that East and South Florida should remain a Territory; but the Committee fear that there is cause for apprehension this proposition apparently of compromise, and plausible to those unacquainted with our situation, contains more than is at first discovered. The prospect of effecting the admission of the Middle and West alone would be hopeless. The considerable decrease of population caused by such excission of the East and South, would so strengthen the opposition made to the admission of the whole of Florida, on the ground of deficiency of population as to cause its defeat. But if all objections were waived, to the admission of the Middle and West as a separate State, such a course should not be pursued. It would occasion an increase of expence and further delay to them. Although the people of those sections, have by an overwhelming majority approved of the Constitution formed at St Josephs, the adoption of such course would create the necessity of forming a new Constitution adapted to such Geographical organization? The minority opposed to that instrument are not entitled again in this manner and by this process to invoke the sovrein will on this question, so decisively declared against them. It would also be impolitic on other grounds. East and South Florida should not remain a Territory. The preservation of the federal Union, the security of the South demands that they should be placed under the protecting aegis of State Sovereignty. The Committee commend the remarks of his Excellency the Governor in the message referred to them to the attention of the House and to the friends of Southern rights in Congress. He wisely admonishes us "to have a care in this subject—there may be more than meets the eye in this matter of division. Those beyond the Potomac who profess a heresy dangerous to Southern rights and institutions will favour division. Those who would palm upon us the great grant to the Duke of Alagon—a grant annulled alike by treaty, *King and Cortez*—will zelously support the same measure." Florida is the only remaining Southern Territory. With her admission as a Sovereign State, the pretext that Congress have a Constitutional right to interfere with our domestic institutions while a Territory would be destroyed, and much of the excitement now growing out of this subject would cease. Is it not to be feared that if East and South Florida should longer remain a Territory, they may be made the pathways by which the enemies of Southern rights may approach in their attacks?

The Committee do not believe that more than one tenth of the whole people of Florida, are in favour of the project of division. Although

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some who find in the Constitution of the State already formed, provisions so destructive to the schemes of ruinous character for the promotion of their private interests, without regard to the public good as to induce them to aid in *any* project to defeat that instrument, besides them its friends are mostly confined to one section and are only a portion of that section

It has occurred to the Committee that if the doctrine and principles contended for by some of those most hostile to the St Josephs Constitution are sound, there exists insurmountable difficulties to the effectuation of this project growing out of those very doctrines and principles. If the bonds and guarantees issued to Corporations in pursuance to past Territorial Legislation, are valid and binding upon the people of Florida, it is *the whole people* who are thus bound. In case a division of this Territory is effected, how, we would ask is the obligation of the faith bonds and guaranties to be divided? Who is to make the allotment? Congress? The Legislature of the two portions thus dissevered? or the holders of those securities? it has been urged in favour of this project, that East and South Florida have [no] community of interest with the middle and West, but the committee do not yield their assent to such assumption. The trade and intercourse of the Western side of the peninsula, is naturally and will continue to be, chiefly with Middle and West Florida. As intimate connection and community of interests of every character—political, agricultural or commercial, [exists as] between the inhabitants of different sections of any of the larger states, remote from each other and if united, under one State Government, they would become in a few years, still more closely and inseparably connected. The Committee accord with the views expressed by the Governor on this subject, and in regard to the contemplated works of internal improvements, to which he alludes as calculated to bind these sections together, and have been regarded as of high importance to the nation, they would observe that the advocates of division, would do well to consider whether the success of such project may not postpone the period of accomplishment of such works and even totally defeat them. If the feelings and interests of the Middle and West are alienated from the East by separation, they may without any effort, to repress their pride as Floridians which now restrains them, look elsewhere than to that section for copartners in such undertakings, and consult their own interests more exclusively. The Committee have been totally at a loss to discover, any considerations of policy, which should induce even the people of Florida, or, the Con-

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gress of the United States to consent to such division of the Territory, except the gratification of the wishes of the meagre minority who have heretofore favoured such measure. The pride and interests of the south have been appealed to in its favour, on the ground that each section would be formed into a new Southern State. It is to be feared that this argument may mislead some who do not fully understand the true situation and condition of the Country, and who anxious to promote Southern interests, may be induced to favour it. As before stated, we are satisfied that the success of this project, will defeat the admission of any new Southern State for many years to come. There are cogent arguments in favour of the certain speedy organization of one new State in this section, in preference to postponement upon the expectation of doubtful realization of having two at some distant period.

While the decrease of the patronage of the Federal Executive and retrenchments of the expences of the National Government are avowed by all parties to be objects of high importance, it is sought to adopt a measure which will double the expenditures from the national treasury in regard to Florida without any additional benefit to the people. With the organization of the new additional Territory, an additional Governor, Secretary, Judge, Attornies, Marshalls and other officers must be appointed. The expences of erecting an additional Capitol, and of having another Legislature must be incurred. If Congress is disposed to be thus prodigal of the national Treasure to Florida it could be more justly and beneficially bestowed in relieving her Citizens who have been ruined by the Indian War, or by donations in aid of the organization of its State Government. Such course might not be as acceptable to aspirants for political office, but it would be to the people whose burthens would be lightened

Could those who press a division adduce considerations entitled to weight in favour of the project, altho the duty of acquiescence in the declared will of the majority would not be less imperative, yet there would be some excuse for its being so pertinaciously adhered in after the decission against them. The people of Middle and West Florida will not object that East Florida if she can do so, may procure from Congress the incorporation in the act of admission of Florida as a State, a declaration or pledge that hereafter when the East and South desires to form a separate State Government, they shall have the right to part from us. This course would not retard or defeat the consummation of the wishes of the Middle and West. Beyond this concession the minority on this subject have no claim upon the

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majority. The right of this title of the people to interpose their *veto* against the immediate organization of the State of Florida, because they may prefer the dependence disfranchisement and thralldom of a provincial Government cannot be connected. They should accede to the expressed wishes of the majority. Most of those composing that majority have enjoyed and can appreciate the blessings of liberty under a State Government, and they are not bound to yield their rights guaranteed to them by treaty, merely to indulge the capricious fancy of their opponents. entertaining these views the Committee present the following resolutions for the consideration of the House and recommend their adoption—viz⁴⁹

[H. V. SNELL, Chairman.]

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NO. 25. REPORT OF A MINORITY OF A SELECT COMMITTEE OF THE HOUSE OF REPRESENTATIVES⁵⁰

[February 4, 1840]

K. B. GIBBS, the minority of the committee to whom was referred so much of the Governor's message as relates to "the Constitution of the State of Florida, and the division of the Territory," begs leave to present to the House the following report, to wit:—

It is with diffidence I present this report, especially when I reflect on the importance of the subject referred, and that six out of the seven of whom the committee consists,⁵¹ differ with me in opinion; but entertaining as I do a firm belief adverse to the views of the majority of the committee, in which I am joined by at least *eight tenths* of my fellow citizens of East Florida, I have felt it a duty to them and to myself, to present a minority report to the House.

The first subject which presents itself, under the resolution, is that relating to the Constitution of the State of Florida, recently framed at St Joseph.

At the session of the Legislature of this Territory held in 1837, the first step was taken towards the formation of a State Government in Florida. By that act it was provided, that the question of "State" or "No State" should be submitted to the people at the first election thereafter for Delegate in Congress. On the vote being taken on that question in the county which I have the honor in part to represent, but *one* vote was given for "State;" the people were unanimous against so suicidal a measure. In truth they could not believe that

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the people of Florida seriously intended to assume the burthens of a State Government, and therefore but little interest was felt throughout the Eastern District, on the question. Subsequently, however, and after the passage of the act of the Legislature calling the Convention, the people of the Eastern district elected their members to the Convention; but it was then well understood that their feelings were still against a State Government, and that in electing their members they did so but in obedience to the will of the Legislature, whose acts they would not disregard or disobey. This was a reason urged at the time of the election of members of the Convention. The opposition of the people, of the Eastern District to a State Government, has been uniform from the time that question has been first agitated. But a Constitution has been framed, and submitted to the people: to it the majority of the people of East Florida have many objections. I will enumerate but a few of them.

Too much power is placed in the hands of the Executive—All power is stripped from the people, who are not allowed the direct election of but few of their officers, that power being almost entirely vested in the General Assembly. It provides that no convention of the people shall be called, unless by a concurrence of two thirds of each House of the General Assembly.—This deprives the people of a valued right; and will exclude those parts of the country now sparsely populated from ever increasing the representation fixed by the Constitution,—for hereafter, though East Florida might double the population of the Middle and West, she could not increase her representation, should those two districts combine against her in the Legislature (that is to say for ten years after the year 1845). The seat of government of the State is permanently located, for at least ten years, at a distant and inconvenient place. That the Constitution can be altered by the Legislature.

I admit that there are also provisions in the Constitution, which reflect credit upon its framers. Let the Constitution however, be as it may, good or bad, that is not a matter I will discuss, because I believe it has not received the sanction of the people of Florida, and is, therefore, not a subject open for discussion.

In accordance with the requirements of a resolution of the Convention, the Constitution was submitted to the people for their ratification; and upon the returns received by the President of the Convention, he has proclaimed that the Constitution has been ratified by the people. That it has been so ratified, as appears by the returns

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that have come to the hands of the President of that Convention, and which he considered regular, I *for one*, do not doubt; but I do believe that returns of votes have been drawn out, by inspectors of elections on this subject, which never have reached the hands of the President, occasioned, doubtless, by the deranged state of the mails, the disturbed state of the country, and the ignorance of some of the inspectors of election, in giving them a wrong direction. Of these difficulties, the President of the Convention seemed to have been aware, for he justly postponed the Proclamation to allow time for all the votes to come in; but notwithstanding this delay, we are led to believe that evidence can be produced, to show that some votes have been given against the ratification of this Constitution, which it was not in the power of the President of the Convention, officially know existed. To have this contested question forever quieted, I introduced a joint resolution for the appointment of a committee to examine *all* the returns of votes given for or against the ratification of this instrument, and to make report thereof to this Legislature—This reasonable request was denied by the House. Had it been granted I had hoped that the votes not received by the President with those received by him, might be collected, and a correct statistical table made out, showing all the votes which were given for and against the ratification of the Constitution. Has any such table or statement been seen by any of us, except the *garbled* statements, which have appeared in the papers of the day? coming before us without any of the formalities which would carry credit:—and if we look to them, we are left in the same state of uncertainty. By some it is made out that the Constitution is rejected; by others adopted.

The adoption of this resolution was resisted on two grounds: that it was reflecting on the integrity of the President of the Convention and because such a step would be to sit in judgement upon the acts of the sovereign people. Neither of these motives prompted me in the presentation of the resolution; and with regard to the latter ground, I would remark that it appears strange that so much sensitiveness should be manifested by those who did not hesitate to place the rights of the people in the hands of their agents, and forbid the sovereign people from ever assembling in convention, unless by permission of two thirds of their agents in each House of the General Assembly, and any alteration or amendment of the Constitution being made but by authority of these agents. With regard to the former ground, the calling for all reasonable information on this subject,

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ought not to be considered as a mark of disrespect to the President of the Convention, but rather as a legitimate and proper enquiry—

Different opinions prevail as to the proper construction to be given to the resolution of the Convention, submitting the Constitution to the people for their adoption or rejection. It is insisted that the President of the Convention had no right to proclaim the adoption of the Constitution unless the election for Delegate had been changed to some day or other than the first Monday in May; and that it was only upon such a contingency that such authority was conferred upon him: that the day of election not having been changed but the election having taken place at the time prescribed by law, then, either by implication the returns were to be made to the Governor, who became the proper organ of communicating the result, or it was a *casus omisus*, and the true result could with propriety only be ascertained by the Legislative Council and through them made known to the people. If this latter construction be correct, then the Proclamation of the President is no evidence of the adoption of the Constitution; and the information sought for by the resolution, was necessary and indispensable to ascertain the truth of its adoption or rejection. And, if the Constitution has been legally adopted, why should we not know by what majority? Would not a great majority give the instrument more weight and consideration than a smaller one? Should not an instrument which is to be our future rule of action, forever, be ratified by more than a bare majority? We have sought for evidence on this subject, in the proper way: we cannot get it, and must look abroad; and in doing so, we of the East are inclined to believe that, when all the votes are canvassed, it will be found that the Constitution has been rejected by the people. And, in concluding this branch of my report, let me ask, what obligation was there upon inspectors to make returns to the President of the Convention? The Legislature, in calling the Convention had made no provision for the taking of this vote; and the Convention could impose no obligation of that character upon the people.

Nearly the whole of East Florida is now in possession of the Indians, and has been so, notwithstanding the efforts of the General Government with her army and volunteers, for the last four years: and is wholly unable to take upon herself any part of the enormous taxation which will be necessary to be imposed for the support of a State Government: and the people of East Florida are not disposed to invoke the credit of the state by the borrowing of money for its support. They feel deeply the effects of the credit of the Territory al-

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ready invoked for the support of Banks, and are not disposed to invoke it further for the elevation of political aspirants.

But has Florida any right to claim admission into the Union? By the treaty between Spain and the United States, it is declared that "the inhabitants of the ceded Territories shall be incorporated into the Union of the United States, as soon as may be consistent with the principles of the Federal Constitution."—The Congress of the United States, in carrying out the principle in the Constitution, which provides that the ratio of representation shall be equal, have declared what number shall be necessary to entitle them to a Representative in Congress. The number thus fixed by the apportionment bill exceeds the population of Florida; and to carry out the proposition contended for by the majority, would lead to manifest error and inconsistency,—because, if any number less than that affixed by the apportionment bill, will enable them to claim admission and present a Representative, *one* is as good as *forty* thousand. But I will not urge this objection; the East is not anxious to contend on this subject:—she is willing that Middle and West Florida may, at once, be admitted into the Union, and a separate Territorial Government, organized for East Florida, East of the West, or main branch of the Suwannee river.

And this leads me to the next branch involved in the labors of the committee viz Division.

The active measures taken by many to force this Territory into a State Government, have induced the people of East Florida to examine into the history of these provinces, and to claim the rights secured to them by the treaty of cession between Spain and the United States, in 1819.

In 1763 Spain ceded to Great Britain, East and West Florida as separate and distinct provinces,⁵² and with distinct and marked boundaries—the boundary of the former being on the East of the Atlantic, and on the West by the Apalachicola river; and that of the latter, West of the said river: the boundary of both on the North being the then colony of Georgia and vacant territory. These provinces remained under the dominion of Great Britain for about twenty years; and while so under her dominion, were known as the provinces of East and West Florida, and had separate governors over each.

In 1783 Great Britain recedes these two provinces to Spain, and they are held by Spain till the treaty of 1819. During all the time of their dependency upon the Spanish crown, they were governed by

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different Governors, one for East Florida and one for West Florida; and the boundaries of the jurisdiction of the two Governors were the boundaries before set forth, of the two provinces. Independent of each other, they were, in fact, viceroys of the crown, responsible but to their master, the King and the Captain General of the Island of Cuba; and the King of Spain, in communicating to the Governor of East Florida, styles him "my Governor of East Florida," and doubtless expressed himself in the same manner to his governor of his other province of West Florida.

If we look to the treaty of 1819, between Spain and the United States, we find the same idea carried out. They are ceded, by that treaty as the Floridas; are mentioned in it as the ceded Territories; and in no part of that treaty is the *singular* used, when speaking of the country ceded. But let us look to the action of our own government, in relation to the ceded provinces. They were surrendered by different governors to the United States; and the surrender of different provinces was received by different officers, Calava surrendering West Florida to Jackson, and Coppinger East Florida to Butler.

After the delivery of these provinces to the United States, General Jackson was appointed by our Government, not as Governor over *Florida*, but over the *Floridas*, thereby acknowledging them as distinct provinces; and General Jackson appointed two Lieutenant-Governors, one for the province of East, and the other for the province of West Florida.

The ceded *Territories* thus remained distinct and separate from each other, till March, 1822, when the Congress of the United States passed the act organizing the two Territories into one, to be called the Territory of Florida; and to that act, and to that alone, does the Territory of Florida now owe its present limits. No opposition was made at the time of the passage of the act, to their being incorporated into one Territory: indeed, the population of the ceded provinces did not, in all, exceed eight thousand souls; and the population being so small, motives of convenience or economy, or some other good reason, induced Congress to organize the two provinces as one Territory. The act of Congress did not of course weaken the claims of either province, secured by treaty stipulations, the supreme law of the land.

I have thus far endeavored to show the *right* of East Florida to

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this division; let us now say a few words as to its *policy* and *expediency*.

The division sought for, and the ultimate creation of two States out of Florida, are emphatically measures dictated by the policy of the South. The admission of new States at the North West soon to take place, whose principles are adverse to the interests of the South, point out to us the necessity of endeavoring (as far as we can) to balance that power in the Congress of the nation. Florida, now our only southern Territory, is fully capable of being made two States, having an extent of Territory which will admit of its division, and the making of two States, each of which will be larger, than one fourth of the States of the confederacy. With a soil and climate capable of supporting a large agricultural population; with rivers and bays, and more than a thousand miles of Sea coast for the pursuits of commerce—its extensive fishing grounds, yet to be rendered profitable, shall we hesitate in making two States, of large size and convenient shape out of one now misshapen Territory, part on the Gulf of Mexico part on the Atlantic ocean, and now without unity of interest or feeling between the two extremes?

In Conclusion let me say one word in answer to that oft repeated, hackneyed and now stale Charge, and which the majority have thought proper to suggest in their report, Viz: "That those beyond the Potomac who profess a heresey dangerous to Southern rights and institutions, will favor division." The idea is far fetched an novel to talk of abolition or abolitionists to slaveholders or of a free state or Territory in the midst of slave States. It is but a weapon used in the East untill it has become blunted and harmless, to drive the people from their asserted rights—rights which a distinguished Southern Senator has declared the Government to have acknowledged, and which the people claim under the treaty of cession.

In furtherance of the views submitted, I submit these resolutions.

Resolved, That the Constitution for the State of Florida, framed at St Joseph, has not been adopted and ratified by the people of Florida.

Resolved, That the interests of the people of Florida, require that the Territory should be divided; and that the country East of the Suwannee ought to be organized as a separate Territory.

Resolved, That in conformity with the expressed wish of the people of East Florida, set forth in their various memorials and petitions,

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the Delegate in Congress from this Territory use all his exertions to effect the division thereof; and that he endeavor to procure the passage of an act of Congress, organizing a Territorial Government East of the West, or main branch of the Suwannee river.

Resolved, That our Delegate in Congress be requested to endeavor by all means in his power to effect the admission of Middle and West Florida into the Union as a State

K B GIBBS

* * *

NO. 26. RESOLUTIONS OF THE HOUSE OF REPRESENTATIVES⁵³

[February 14, 1840]

Whereas a memorial has been introduced into the Senate of the United States, by an Hon: Senator from the State of Mississippi, purporting to be from "numerous Citizens of Florida" praying that the Territory shall be divided into two parts, and representing that the interests both require such a measure, and that there was Territory enough for two wide and populous States of "Separate and distinct interests,"⁵⁴ And Whereas such a measure would be in the opinion of this Legislative Council a virtual denial of the rights secured to the inhabitants of Florida by the treaty of Cession—be it Resolved—

1st That the interests of Florida do not require that the Territory should be divided, but on the contrary that it should remain *one* and *undivided*; and that there are not, and ought not to be any separate and "distinct interests" in Florida

2nd That a majority of the people of Florida have long been and are now in favour of a State Government, and that in pursuance of this disposition to assume a Government of their own, they sent Delegates from every County in the Territory to a Convention; held at St Josephs, under the authority of law passed by the Legislative Council, and a Constitution was there formed, it has been publicly announced through the several News-papers by the President of the Convention, that the said Constitution has been ratified by the people of Florida

3rd That the treaty making power is paramount to any power delegated to Congress, by the Constitution of the United States, and that Congress has no right to divide Florida without the free and

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unanimous consent of all the people in the Territory; that any act to that effect without the consent of all the people thereof, would be a violation of their most sacred rights, and a violation of the treaty of cession; and contrary to the meaning and intentions of the high contracting parties thereto.

4th That our Deligate in Congress is hereby requested to urge by every means in his power, the admission of Florida into the Union as a State at the present Session of Congress, with all the rights and privileges, and upon the same footing as all other States; and that he do strenuously oppose any and every attempt to divide the Territory of Florida in any manner whatever; and that he do wait upon the President of the United States and request him not to give his sanction to any act of Congress for the division of Florida

5th That the Chief Clerk of the House shall make out and transmit immediately to Washington, propely Certified, four copies of the report and resolutions, and to direct one to the President of the United States; one to the President of of the Senate, to be laid before that body, one to the Speaker of the House of Representatives to be laid before that House; and one to our Deligate in Congress—.

Adopted by the House of Representatives
of the Legislative Council of
Florida

Febry 14th 1840—

JAMES H. GIBSON
Clerk H. Repres

* * *

NO. 27. PROTEST OF REPRESENTATIVES FROM
EAST FLORIDA⁵⁵

[*February 14, 1840*]

We the undersigned Representatives from East Florida, for ourselves and in behalf of our constituents, do make and enter our solemn protest against the resolutions offered by the Hon Richard Fitzpatrick and the report of the majority of the select committee, disapproving a division of the Territory of Florida, and urging its immediate admission, as one State into the Federal Union:—

First. Because in doing so, we act in obedience to the wishes and instructions of our constituents.

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Secondly. Because we consider that by the treaty of cession between Spain and the United States in 1819, the Floridas were ceded by the latter as separate provinces; and the right of admission into the Federal Union, as soon as is consistent with the principles of the Federal Constitution, is guarantied and secured, not to the inhabitants of Florida, but to the inhabitants of East and West Florida as separate Territories or provinces.

Thirdly. Because to go into the Federal Union as one State, will be considered an abandonment of the right secured to us, as aforesaid by the treaty of cession; and we shall be stopped from hereafter asserting it

Fourthly. Because the formation of two States at the South, is a measure calculated to increase our political strength in the Councils of the Nation; and is prompted by Southern interests and policy.

Fifthly. Because we believe that the political, commercial and agricultural interests of the people of East Florida will be promoted by a division of the Territory.

Sixthly. Because we consider that a State Government at this time in the desolated condition of East Florida, and distressed state of its inhabitants, caused by the continuation of a harrassing and depopulating Indian War, would impose a burthensome and onerous taxation, unequal, oppressive, and ruinous to the people.

(Signed) BENJ A PUTNAM, Rep from St Johns county.
 ALEX MARTIN do Columbia do
 K B GIBBS do St Johns do
 J B MASON do Duval do
 J L THIGPIN do Nassau do
 AUGUSTUS STEELE do Hillsboro do
 JOS B LANCASTER do Duval do

* * *

NO. 28. RESOLUTIONS OF THE SENATE⁵⁶

[February 24, 1840]

Regarding any law of Congress, dividing the Territory of Florida, without the consent of the majority of our whole people as unjust to us, unconstitutional and invalid—

We hereby respectfully, but solemnly and earnestly protest against the passage of any such law as militating against those rights secured to us by the treaty with Spain and the laws of the land, and

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Be it Resolved by the Senate of the Territory of Florida, That our Delegate in Congress be instructed to oppose the passage of any law dividing our Territory by separating East and South Florida from Middle and West Florida and making them two Territories—

Be it further Resolved, That copies of this protest and resolution, after due authentication be forwarded to the Honorable Charles Downing our Delegate in Congress, the President of the Senate of the United States and the Speaker of the House of Representatives to be by them laid before the respective bodies over which they preside—

GEORGE S. HAWKINS.
President of the Senate—

Adopted by the Senate
of Florida Feby 24th 1840

attest

J. S. ROBINSON
Secy Senate

* * *

NO. 29. AN ENABLING BILL FOR MIDDLE AND
WEST FLORIDA⁵⁷

H. R. 112. (No report.)

March 5, 1840.

Read twice, and committed to the Committee of the Whole House on
the State of the Union.

Mr. POPE, from the Committee on the Territories, reported the
following bill:

A BILL To authorize the people of Middle and West Florida to form
a constitution and State Government, and to provide for the ad-
mission of said State into the Union.

*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled, That the inhabi-
tants of the Territory of Florida north and west of the Suwanee
river be, and they are hereby, authorized to form for themselves a
constitution and State government, and to assume the name of West
Florida; and the said State, when formed in the manner hereinafter
provided, shall be admitted into the Union upon an equal footing with
the original States, in all respects whatsoever: Provided, That the
constitution and State government so to be formed shall be republi-*

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can, and in conformity to the principles contained in the Constitution of the United States.

SEC. 2. *And be it further enacted*, That said State shall comprise all that territory usually known as Middle and West Florida, and which was a part of the Floridas ceded to the United States by Spain, by treaty between the United States and his Catholic Majesty, bearing date twenty-second February, eighteen hundred and nineteen.

SEC. 3. *And be it further enacted*, That it shall be lawful for the governor of said Territory to issue his proclamation directing an election to be held, in the manner hereinafter prescribed, for the purpose of electing delegates to a convention, and fixing the time of holding said election, which shall not be over three months and not less than one month from the first publication of said proclamation, as hereinafter directed; and the said proclamation shall be published in all of the newspapers in said Territory, and in such other way as the governor may deem proper; and, thereupon, an election shall be held, in in the manner hereinafter prescribed, to devise and adopt proper measures for the formation and establishment of an independent State government for the people of Middle and West Florida, and to form and adopt a bill of rights and constitution for the same, and all needful measures preparatory to the admission of West Florida into the national confederacy.

SEC. 4. *And be it further enacted*, That the apportionment of members to the said convention shall be as follows: the county of Leon shall be entitled to eight members; the county of Gadsden to four members; the county of Jefferson to four members; the county of Madison to two members; the county of Hamilton to two members. The county of Jackson shall be entitled to four members; the county of Escambia to four members; the county of Walton to two members; the county of Washington to two members; the county of Franklin to four members; and the county of Calhoun to four members.

SEC. 5. *And be it further enacted*, That it shall be the duty of the judges or clerks of the county court of the several counties to advertise said election at least thirty days before the day fixed by the proclamation of the governor for holding the same, and to appoint inspectors thereof, who shall be sworn to conduct said election in the manner and form as prescribed for members to the Legislature Council, not contrary to the provisions of this act; and the inspectors so appointed shall seal up and transmit the returns of said election, within ten days thereafter, to the governor of the Territory, at Tallahassee,

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to be laid before the convention; and they shall, within thirty days, file with the clerks of their respective counties a copy thereof.

SEC. 6. *And be it further enacted,* That the governor of the Territory shall announce by proclamation the names of the persons elected to said convention, and in case the returns from any county shall not be completed by that day, as soon thereafter as practicable; and in case of a tie, a new election is to be ordered by the judges or clerks of the county court, giving five days' notice thereof, under qualified inspectors, appointed for said special election; and that said convention shall be held at the city of St. Joseph, on such day as the governor shall by proclamation appoint, not exceeding three months after the said election; and the said convention, after they shall be duly organized and ready to proceed to business, shall first determine, by vote to be duly taken, whether it is or is not expedient to form a constitution and State government for the people of Florida aforesaid; and if, by a majority of the votes of all the members elected to said convention, they shall determine that it is expedient to form such constitution and State government for the people of Florida, then the said convention shall be, and are hereby, authorized to form such constitution and State government.

SEC. 7. *And be it further enacted,* That two-thirds of said convention shall be necessary to constitute a quorum; and that the said convention shall determine upon the returns and qualifications of its members, and shall have and exercise all the rights, privileges, and immunities incident to such bodies, and may adopt such rules and regulations for its government as a majority thereof may direct: and provided two-thirds of said convention do not assemble on the day appointed therefor, a less number is authorized to adjourn from day to day.

SEC. 8. *And be it further enacted,* That in case of the death, resignation, or non-attendance of any delegate chosen from any district of the Territory, within the limits hereinbefore prescribed, the delegation present from such district thus partially represented, shall be entitled to elect from their own number a proxy to vote in the place of such absent member; and that all white male inhabitants, citizens of the United States, above the age of twenty-one years, who have resided in the Territory of Florida north and west of the Suwanee for the space of six months immediately preceding the day of election, shall be entitled to vote for delegates to said convention; and all white male inhabitants, citizens of the United States, above the

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age of twenty-one years, who have resided in the said portion of the Territory of Florida for the space of twelve months immediately preceding the day of election, shall be eligible as delegates to said body.

SEC. 9. *And be it further enacted*, That on the adoption of a constitution for the State of West Florida, the convention shall transmit an authenticated copy thereof to the President of the United States, to the presiding officers of both Houses of Congress, and to the delegate from Florida; and, if the same be ratified and approved by Congress, the said State shall then be admitted into the Union, upon an equal footing with the original States.

SEC. 10. *And be it further enacted*, That the members of the convention shall receive as compensation the same rates as are allowed to members of the Legislative Council.

SEC. 11. *And be it further enacted*, That, until the next general census of the United States shall be taken, the said State shall be entitled to one representative in the House of Representatives of the United States.

SEC. 12. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said convention of the Territory of West Florida, when formed, for their free acceptance or rejection, and which, if accepted by the said convention, shall be obligatory upon the United States, and also upon the said State, when formed, and the people thereof, to wit:

First. Section numbered sixteen in every township of the public lands within said State, and when such section has been sold, or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, to be selected by the President of the United States, shall be granted to the State for the use of schools.

Second. That of the two townships of land, one in East Florida and the other in West Florida, which have been heretofore set apart and reserved for the use and support of a university, by the eleventh section of an act of Congress passed March third, eighteen hundred and twenty-three, that in West Florida shall be granted and conveyed to said State, to be appropriated solely for the use and support of such university, in such manner as the legislature of said State shall prescribe.

Third. That five per cent. of the net proceeds of the sales of all public lands belonging to the United States, lying within said State,

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which shall be sold by the United States from and after the time when the said State shall be finally admitted into the Union, after deducting all expenses incident to the same, shall be appropriated by Congress for making such public roads and canals, or other internal improvements within said State, as the legislature thereof may direct.

Fourth. That all salt-springs in said State, not exceeding, however, twelve in number, with six sections of land adjoining, or as contiguous as may be, to each, shall be granted to the said State for its use; the same to be selected within four years after the said State shall have been finally admitted into the Union; and the same, when so selected, to be used on such terms and conditions, and under such regulations, as the legislature of said State shall provide: *Provided, however,* That the said legislature shall never sell or lease the same for a longer period than ten years without the consent of Congress: *And provided, further,* That no salt-spring, the right whereof is vested in any individual or individuals, shall, by this section, be granted to said State: *And provided, further,* That the four foregoing propositions herein offered are upon the condition that the legislature of said State, by virtue of powers to be conferred upon it by the aforesaid convention, shall provide, by an ordinance which shall be irrevocable without the consent of the United States, that the people inhabiting said Territory of West Florida do agree and declare that they for ever disclaim all right and title to the waste or unappropriated lands lying within said Territory or contemplated State, and that the same shall be and remain at the sole and entire disposal of the United States; and that the said State shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations which Congress may see fit to make for securing the title in such soil to the bona-fide purchasers thereof; that no tax shall be imposed on the lands or soil the property of the United States; that in no case shall non-resident proprietors be taxed higher than residents; and that bounty lands granted, or hereafter to be granted, by the United States for military services, shall, while they continue to be held by the patentees, or their heirs, remain exempt from any tax to be laid by order or under authority of the State government, for any purpose whatever, for the term of three years from and after the date of the patents respectively.

SEC. 13. *And be it further enacted,* That so soon as West Florida shall be admitted into the Union as a State, East Florida shall be established and constituted a separate Territory of the United States.

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NO. 30. PETITION TO CONGRESS OF INHABITANTS
OF EAST FLORIDA⁵⁸

[April 22, 1840]

To the Honorable the Senate and House of Representatives of the United States, in Congress convened.—Your Petitioners would respectfully represent.

That the God of Nature, made the Suwannee River the Division Line or Boundary, between East and West Florida: and all subsequent earthly governments that have held these Territories, have sanctioned and confirmed “The Division”, except the Government of the United States, which placed the two Territories under one Governor.

Your Petitioners have read with deep satisfaction and interest “The Bill” reported by the Hon Mr. Pope in the House of Representatives “To authorise the People of Middle & west Florida to form a “constitution and State government, and to provide for the admission “of said State into the union:” and most cordially do your Petitioners wish success and bid God speed to the middle & west, and to their project of a New State.—and with all of that Bill, your Petitioners are well suited, except with the last—or section thirteen, which reads as follows.

“Sec 13. and be it further enacted, That so soon as West”
“Florida shall be admitted into the Union as a State, East”
“Florida shall be established and constituted a a separate”
“Territory of the United States.”

Now Your Petitioners do most respectfully and earnestly ask and petition your Honorable Body, so to amend “the Bill” aforesaid, as that East Florida shall be “established and constituted a separate Territory” immediately after the Said Bill shall have become a Law of Congress, and that, without regards to, or dependence upon the action of West Florida.—In short, Your Petitioners respectfully ask and pray your Honorable Body to grant to East Florida Her ancient birthright—*Division*—independent of the policy or action of the Middle & west—and independent of any apprehended or threatened procrastination designed to put off or defeat the just, wise, patriotic and simple measure of *Division*. And your Petitioners will ever pray.

Dated at St. Augustine East Florida

April 22d—1840.

GABL. W. PERPALL [and 240 others]

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NO. 31. PETITION TO CONGRESS OF CITIZENS OF
ESCAMBIA COUNTY⁵⁰

[*Ordered to lie on the table, May 25, 1840*]

To the Honorable the Senate, and House of Representatives, of the United States, in Congress assembled.

The memorial of the Undersigned, citizens of Escambia County, in West Florida, respectfully represents, that they have seen, that it has been recently agitated in the honorable House of Representatives to divide, or dismember this Territory, and as that portion of it, in which this County is embraced, ought by its geographical position, to be annexed to the adjoining State of Alabama, as well as for other reasons, of the most vital importance to the interests of this Section of the Territory:—among which, the following are the most prominent.—

The aforesaid County of Escambia, in which your memorialists reside, is situated at the extreme Western end of this Territory:—the rivers which empty into its spacious bay, have their rise, and the greater part of their course, in the said State of Alabama, and down these streams descend all the Cotton, and the other articles of produce, which your memorialists receive:—thus furnishing the only back country which they have, and their natural source of supply.—

In almost every thing, except what appertains to the attributes of Government, there exists a natural unity of connection, and it is the most anxious, and ardent wish of your memorialists, that nothing should be wanting to render that unity, still more perfect,—unity of interests,—feeling,—legislation,—entire & complete identity.—

From the other parts of the Territory they are, in a measure, separated.—In the first place, an almost desert region of nearly one hundred miles in extent, intervenes between your memorialists, and a denser population,—and even with that portion, there exists little, or no community of interests, or communication, and still less with the other settlements.—

Your memorialists have been long impressed with the conviction, that it is important to their interests, both politically, and commercially, that this part of Florida should be attached to Alabama.— —

Our annexation would be hailed by that State with the most cordial satisfaction.—It would be its policy, its pride, and interest, to foster and promote our welfare:—then, would our resources become devel-

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oped:—then, would new life, and vitality be infused into our whole community:—then, would our enterprize be stimulated, and our industry be rewarded:—then, would our magnificent Bay take rank among the finest ports in the world: and all these advantageous results would only be in the natural order of things.—

Every thing is at present inert.—Our harbour is, as it were, locked up from want of communication with the interior:—that interior is the State of Alabama:—and all that is wanting, is the opening of the Rail Road, which has been already commenced, but for which our own individual efforts, are altogether inadequate.—Its accomplishment must be promoted by the adjoining State, through which it has to run.—A single glance at the map, will suffice to show how greatly it would redound to the interest of Alabama.—To that State, otherwise so rich in resources, nothing is wanting but a good port, or outlet, for the immense amount of her staple export.—Both in a Commercial, and political point of view, the almost unrivalled importance of Pensacola Bay, cannot be too highly appreciated.—On its vast consequence as a Naval Station, we will not comment:—it is too well known to your Honorable Body. We will merely mention incidentally, its commanding Situation on the Gulf:—its proximity to the West Indies:—to the coast of Mexico:—its being the point d'appui for the protection of the Trade, & Commerce of the whole Western region:—And a no less important consideration is the facility, in which provisions, military and naval Stores, can be drawn from the interior, at one third of the expense of introducing them by the present circuitous rout of New Orleans, which might even be obstructed, or intercepted, in time of War.—&c.—&c.—

These, and many other, considerations, of which we omit the detail, in order not to be diffuse, animate us to entreat that your Honorable body will sanction the desired annexation to the State of Alabama,—as there is nothing in the Treaty of Cession, which in any way militates against such amelioration of our present condition, which would be favored by the third section, article fourth of the Constitution of the United States:—Nor would such separation retard, except in a very slight degree, the admission of Florida into the Union, as the present population of this County does not number three hundred votes.

And your Petitioners will ever pray &c.

JOHN B. FOSTER [*and 254 others, including 11 citizens of Alabama*]

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NO. 32. A BILL FOR THE ADMISSION OF FLORIDA⁶⁰

S. 384. (Pub.) IN SENATE OF THE UNITED STATES, July 2, 1840.

Mr. WALKER, from the Select Committee, to whom the subject was referred, reported the following bill; which was read, and passed to a second reading.

A BILL For the admission of Florida into the Union, on certain conditions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Florida shall be admitted as a State into this Union, on an equal footing with the original States, in all respects whatever, upon the following fundamental condition, namely: That the legislature of Florida shall pass an act to be irrevocable without the consent of Congress, disclaiming all title to the public domain of the United States or any part thereof, and all right to tax the same, and shall transmit to the President of the United States an authentic copy of the said act, upon the receipt whereof, the President, by proclamation, shall announce the fact; whereupon, and without any further proceedings on the part of Congress, the admission of said State into this Union shall be considered as complete.

SEC. 2. *And be it further enacted, That, until otherwise provided by Congress, or authorized by a new apportionment under the census, the said State shall be entitled to one Representative in the House of Representatives of the United States.*

SEC. 3. *And be it further enacted, That section number sixteen in every township, or other lands equivalent thereto, shall be granted to the State for the use of the inhabitants of such township, for the use of schools; also, eight entire sections of land for the purpose of fixing their seat of government, to be selected by the Legislature of said State; also, three entire townships of land, to be selected by the Legislature of said State for the use of a seminary of learning; also, five per centum of the net proceeds of the sale of lands within said State, which shall be hereafter sold by Congress, after deducting all expenses incident to the same, and which said net proceeds shall be applied by said State for the purpose of education.*

SEC. 4. *And be it further enacted, That said State shall embrace the Territories of East and West Florida, as described in the constitution adopted by the people of Florida, in convention, on the eleventh day of January, eighteen hundred and thirty-nine.*

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NO. 33. A BILL FOR THE FUTURE DIVISION
OF FLORIDA⁶¹

S. 385. (Pub.) IN SENATE OF THE UNITED STATES, *July 2, 1840.*

Mr. WALKER, from the Select Committee, to whom the subject was referred, reported the following bill; which was read, and passed to a second reading.

A BILL Providing for the division of Florida, and the future admission of the States of East and West Florida, on certain conditions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever Florida shall have been fully admitted as a State of the Union, it shall be lawful for the Legislature of said State to pass a law dividing the State of Florida into two States, making the Suwannee river the dividing line; and all that portion of Florida east of the Suwannee river, shall be designated as East Florida; and all that portion of Florida west of said river, shall be designated as West Florida; and all that portion designated as East Florida, shall be admitted as a State by the name of the State of East Florida; and all that portion designated as West Florida, shall be admitted as a State by the name of the State of West Florida, without any further proceedings on the part of Congress: Provided, nevertheless, That the fundamental conditions prescribed in the act of Congress providing for the admission of Florida shall be continued in force after the division as aforesaid, in the same manner as prior thereto: And provided also, That said act providing for the division as aforesaid, shall not be passed by the Legislature as aforesaid, except with the assent of the majority of the members of the Senate and House of Representatives of the Legislature of Florida, east as well as west of the Suwannee river; nor until it shall have been first ascertained, by a census taken under the authority of the State of Florida, that the population, east as well as west of the Suwannee river, shall exceed thirty thousand; and each of said States shall be entitled to one Representative in the House of Representatives of Congress, until otherwise directed by law.

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NO. 34. PROCEEDINGS OF A MEETING OF CITIZENS
OF CALHOUN COUNTY⁶²

[December 7, 1840]

At a meeting of the citizens of Calhoun County held at the Pavilion in the City of St. Joseph on Monday December 7th, 1840. The meeting was organized by calling E. J. Hardin Esq. to the chair, when T. J. Whaley was appointed Secretary, the chairman stated the object of the meeting in a brief and lucid manner when the following Preamble and resolutions were introduced and unanimously adopted.

Whereas the Public mind throughout the Territory appears to be earnestly directed to the admission of Florida as one of the United States, It becomes her citizens, freely to express their views upon a subject, so deeply interesting to them. Be it therefore,

1st. Resolved by the Citizens of Calhoun County that the admission of Florida as a State of the Union, has already been too long protracted and that our Delegate be earnestly requested to urge her admission into the national Confederacy at an early period of the next session of Congress.

2d. Resolved, that as the population of Florida is at best but barely sufficient, to authorize our admission as a Sovereign state we are decidedly opposed to a Division of the Territory at this time. But while we entertain the Kindest feelings for our fellow Citizens of East Florida we by no means wish to constrain them to a connection with us any longer than she shall have population and resources sufficient to justify a division of the State.

3d. Resolved, that the proceedings of this meeting be signed by the Chairman and Secretary and that a Copy be immediately forwarded to our Delegate in Congress, one to the President of the Senate, and one to the speaker of the House of Representatives.

4th. Resolved, that the proceedings of this meeting be published in the St. Joseph Times.

E. J. HARDIN
Chairman

T. J. WHALEY
Secty

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NO. 35. STATEMENT OF THE VOTES FOR AND AGAINST
THE CONSTITUTION⁶³

EXECUTIVE DEPARTMENT, Tallahassee, 10th Feby., 1841.

To the Legislative Council of Florida

I respectfully transmit, in obedience to your wishes, a Statement of the Votes taken for & against the Constitution. The returns are all on file in the Executive Department, & were so for many months, before I came into office. They are open to the inspection of the Legislative Council, or of any individual who takes an interest in the subject. Copies of the whole would have been presented to you, had there been time to prepare so voluminous a document.

Counties	Precincts	Constitution	No Constitution
Escambia	Pensacola,	27	166
"	Navy Yard 2d	3	27
Calhoun	St Joseph,	50	233
"	Iola,	15	33
"	Chipola,	8	9
Washington	Jones' Store, Econfenee,	12	18
"	Hickory Hill,	3	3
"	Roches Bluff,	00	32
Walton	Pea River,	10	00
"	Court House,	28	27
Jackson	Ocheesee,	39	00
"	M C Nealeys,	5	9
"	Campbeton,	40	41
"	Webbville,	2	15
"	Mariana,	103	46
"	Browns Ferry,	58	3
Franklin	Appalachicola,	94	117
Gadsden	Sadbury's,	10	00
"	Chattahoochie,	33	00
"	Thomas' Store,	20	28
"	Quincy,	141	67
Leon	St. Marks,	91	17
"	Magnolia,	42	2
"	Shell Point,	24	00
"	Micasukie,	83	14
"	Tallahassee	242	109
Jefferson	Precinct No 1,	175	13
"	" No 2,	14	38

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Counties	Precincts	Constitution	No Constitution
Jefferson	Precinct Nos 3,-4,-5,-6,-7,- (34-33-34-5-32-)	138	00
Madison	San Pedro,	13	00
"	Court House,	38	16
Hamilton	Bells House,	16	45
"	Bells & Johnson's Store	3	6
Columbia	Mineral Springs,	11	33
"	Sapp's Store,	3	34
"	Fort Call,	24	15
"	Alligator Tackers,	3	40
"	Carvers House,	00	17
Nassau	Court House 11 Kings Ferry 28,	00	39
Alachua	Newnansville,	42	6
"	Fort Clark 16, Fort Crane 24, Ft. White 18	58	00
"	Fort Harlee,	00	26
Duval	Cedar Creek 3, Mandarin 24, 18 agst.	27	18
"	St Johns Bluff,	0	28
"	Whitesville 108/7-Jackson-Ville 147/8,	15	255
St Johns	St Augustine,	24	224
"	North River,	56	4
"	Moccasin Branch,	11	18
Dade	Indian Key 59—Key Vaccas 5	64	00
Munroe	Pine Key 6/7 agt. Key West 91/11 agt.	97	18
Hillsborough	Tampa Bay	56	49
		2071	1958

Majority in favor of the Constitution, 113

from the above statement 26 Votes returned from Fort Harlee, in Alachua County, "No Constitution," should be deducted; they were given in as no "State Votes"

The following irregular returns have not been admitted into the Calculation, viz:—

At Parrishe's, Columbia County,	"No State,"	22
At Fernandina, Nassau County,	"No State,"	14
At Finks " "	"No Convention,"	9
At Kirklands " "	"No State,"	25

F L O R I D A B E C O M E S A S T A T E

A mistake has, perhaps, occurred in the return from Fort Crane—the Vote may have been 14, instead of 24, for the Constitution.

The provision of the Constitution, under which the above Votes must be rejected is as follows:—“Each qualified voter shall Express his assent or dissent to the Constitution, by directing the Managers of said Election to write opposite to his name on the Poll Book, either the word “Constitution” or “No Constitution”.—Of Course the votes not in the form thus prescribed are void.

I will only add, that by the 17th Article of the Constitution, the President of the Convention is required to make Proclamation of *the result*, which was done as soon as it was ascertained that the popular vote was in favor of the Constitution.

ROBT RAYMOND REID

* * *

NO. 36. MEMORIAL TO CONGRESS OF THE HOUSE
OF REPRESENTATIVES⁶⁴

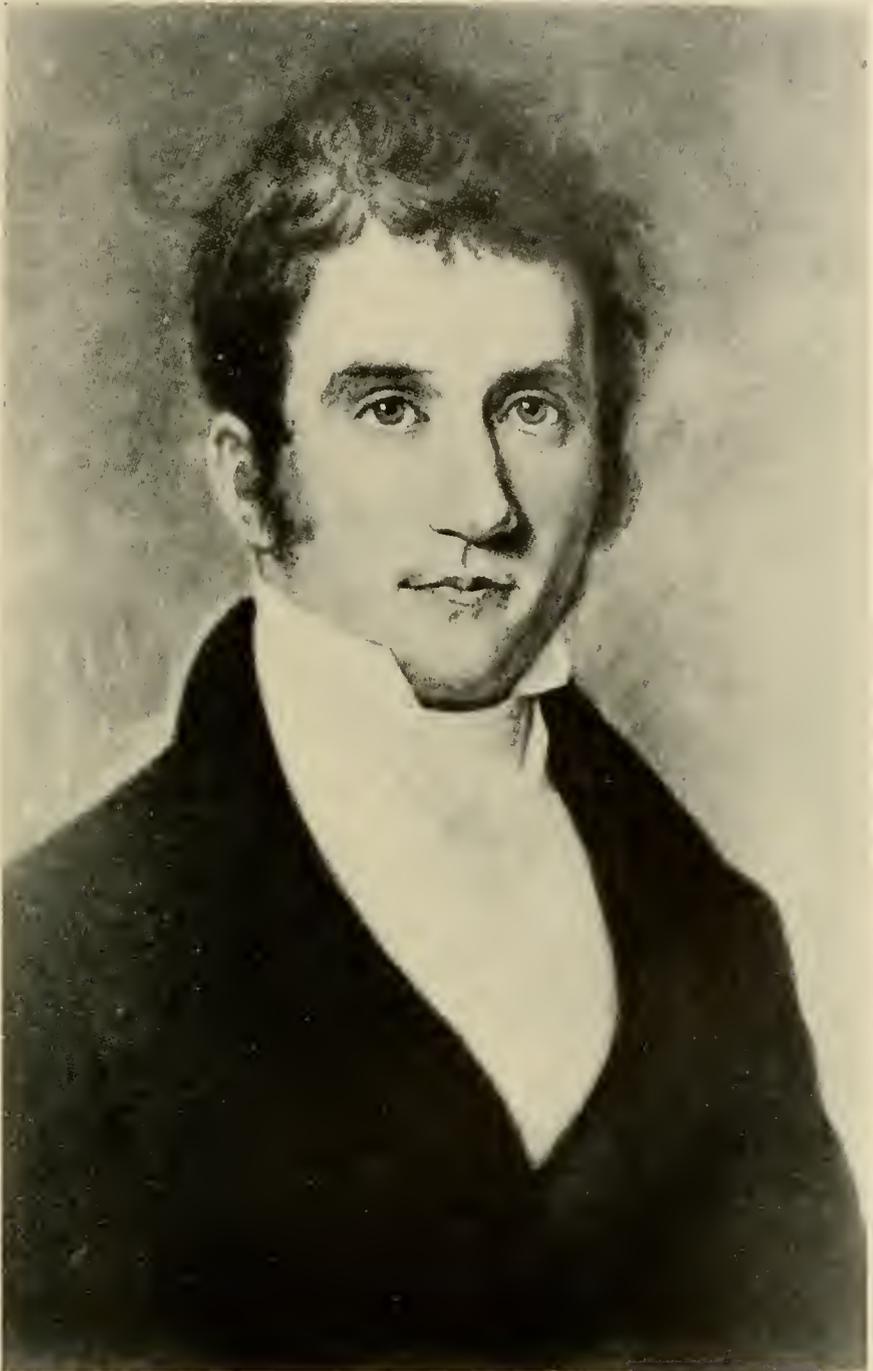
[February 22, 1841]

To the Senate & House of Representatives of the United States, in
Congress assembled

The Memorial of the House of Representatives of the Territory of Florida, in behalf of the People of said Territory, *Respectfully Sheweth*:—

That the People of this Territory, while they remain under a Territorial Government, are in a great Measure disfranchised, & deprived of some of the most important privileges of American Citizens. The state of dependence & vassalage incident to such government, without Choice in the Election of their officers, without power of Correction of abuse of official authority, or punishment for outrage of their rights by those sent hither to govern them:—such government is abhorrent to the freemen who have emigrated hither from the States, and strongly calculated to deter large numbers of others from adding to their population.

For several years past, the people of Florida have in various modes appealed to the National Government to redeem the honor of the Nation, plighted to Spain & to them, by the treaty of cessions, by which the inhabitants of the ceded provinces had deemed their recognition as a State, after they should have adopted the initiatory Measures



JOHN BRANCH
Governor of Florida, 1844-1845

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for the organization of such government, & their admission into the Union, *A Right*, which must be yielded when the demand was made. As yet but little effect has been produced by these appeals, as the following statement of facts, & the referances made in support of it will show.

In 1834, the Legislative Council took action on this subject. The Committee on the State of the Territory, in that body, being instructed to enquire & report as to the propriety of submitting the question of State Government, to the People of Florida, made a report:—a Copy of which, & extracts from the Journals, showing the action of the Council thereon, is hereunto annexed.

In 1837, the Legislative Council having been disappointed in the expectation that Congress would, (in compliance with the often & variously expressed wishes of the People of Florida to them) have provided for the adoption, of the preliminary measures necessary to form & organise a State Government, by a vote of twenty three to three—(see extract from Journal of Council annexed, page 101 of Journals) passed an act entitled “an act to take the sence of the People of this Territory on the policy and propriety of becoming a State,”—a copy of which act is to be found page 23d of printed documents No. 208 of House of Representatives United States, 3d Session, 25th Congress, hereunto annexed,—a certified statement of the popular vote under this law, & of the proclamation of the Governor, is annexed, shewing that the Majority in favor of a State was in an aggregate vote of three thousand four hundred & eighty-five, upwards of one thousand.

In 1838 the Legislative Council again took up this subject, & a select Committee, made a report, of which a Copy is annexed, & the action of Council in regard to which is shown by the Extracts from the Journals also annexed.

At the same Session a law was passed entitled “an act to Call a Convention for the purpose of organizing a State Government,” to be found page 25th of said documents 208, hereunto annexed.

Elections were held in every County of the Territory under this law in October, 1838, for the delegates to the constitutional convention.

In December 1838, the Constitutional Convention assembled at St Joseph. Hereto appended is a Copy of the Constitution, or form of State Government adopted by it, & in behalf of, & for the people of the State of Florida, & also the Copy of the Journal of their proceedings.

Under the order of the Convention a special Committee trans-

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mitted a Memorial to Congress in behalf of the People of Florida, demanding admission as a State, which was, Feby. 20th 1839, read in the House of Representatives, laid on the table & ordered to be printed. a Copy of that Memorial is contained in document 208, before mentioned.

In 1838 the Legislative Council of Florida considered the project mooted by the Legislature of the State of Alabama, to annex West Florida to that State, & a select Committee made a report adverse to the project, a Copy of which is annexed & the action of the Council upon which, is shown by the extracts from the Journal also annexed.

In May 1839, the Constitution formed at St Joseph, was, under its provisions, submitted to the people for rejection or ratification, & as is shown by the official statement of the votes given thereon, & the Proclamation of the President of the Convention, hereunto annexed, it was accepted & ratified by a majority of the People.

In 1840, the Legislative Council again considered the subject of State Government. In the Senate, a report of a Select Committee in favor of it, was agreed to by a large Majority. A copy of this report is annexed, & the final action of the Senate thereon, is shown by extracts from its Journals, also annexed. The House of Representatives appointed a Select Committee, which made a report, of which a Copy is annexed, as also extracts from the Journals, showing the action of the House thereon. The report, adopted by vote of 19 to 8, is decidedly in favor of the speedy organization of the State Government.

All these documents have been heretofore specially laid before Congress, & in addition thereto, many memorials from citizens, expressing the same wishes.

Hitherto, to these appeals, for recognition of our rights, & for Justice, have been unavailing, to procure for the people of Florida scarcely notice from Congress. It would seem that, on the stormy sea of political contention, the preservation of the ship of party, so engrossed the action of all, that the people of a remote Territory, having no Voice, & little influence in the pending conflict, should not have expected the consumation of their hopes. Delay, neglect, scarcely notice, is the treatment their earnest & repeated calls have received. Some of their appeals have not even been printed.

At the session (1841) the Council of Florida have adopted the

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measures indicated in the Copies of the reports & instructions, & extracts from their Journals annexed.

The attention of Congress is asked to those proceedings, & to all the foregoing documents—and it is asked that they may be printed for the information of the American people, & such action is earnestly solicited in behalf of the people of Florida, as may prevent any possible necessity for the exercise by them of their inalienable rights, & that sovereign power, never extinct, & with freemen, ever competent & efficient for their protection against injustice & wrong.

* * *

NO. 37. PROTEST OF MEMBERS FROM EAST FLORIDA⁶⁵

[February 22, 1841]

PROTEST.

We, the undersigned members of the Legislative Council, representing the Territory East of the Suwanee, make this our solemn PROTEST, in behalf of the majority of our constituents, against the act of the Legislature, memorializing Congress for an early admission of the Floridas, as one of the States of the Confederacy.

They claim the right of separation by limits which have long existed, and such as have ever been observed by the nations that have held the destinies of this country; and they maintain that so much is conceded by the high authority of the Treaty of Cession, between Spain and the United States, in the expression therein contained—"the Floridas."

In years past, they beheld, with indifference, portions of the Western Province united to the States adjoining it; and they silently acquiesced in the act of national expediency that united the Floridas for a time, into one Territory, while the treaty received a sanction by the division of the country into two counties, separated in their approach by the river Suwanee.⁶⁶

The union that now exists, is no where over the Territory, regarded as permanent; it affords no present or prospective advantages to either section of the country—except only so far as the population of the East may answer for a time, the convenience of the aspiring and more prosperous West.

They regard the division of the Territory by the Suwanee river, as the natural and proper boundary, and they urge the differences

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of policy, of feeling, and of society, that as strongly interpose. The diversity of soil, climate and natural resources that exist, give no common object of pursuit, encourage little intercourse, and lead to none of those social relations, such as tend to a common welfare and harmony. They represent the great inconveniences, fatigues and expenses attending the travel from populous neighborhoods to a remote central capitol.

We represent the East as borne down by the devastations committed by the Indians, for a succession of years, upon property and life; and so far from its inhabitants being able to bear up with the expenses incident to a State Government, many of them are incapable of gaining a subsistence for themselves and families, without the constant aid of the General Government.

In obedience to that majority of the free voters of the East who advocate a Division of the Floridas, we present this Protest, and put forth some of the reasons they urge in its support.

J. G. COOPER,
JOHN C. PELOT,
Members of the Senate.

JOHN M. FONTANE, of St. Johns;
BUCKINGHAM SMITH, of St. Johns;
GABRIEL PRIEST, of Duval;
S. D. FERNANDEZ; "
J. L. THIGPIN, of Nassau;
W. H. WILLIAMS, of Musquito;
Members of the House.

* * *

NO. 38. RESOLUTIONS OF THE GOVERNOR AND LEGISLATIVE COUNCIL⁶⁷

[*March 5, 1842*]

Whereas in pursuance of an act of the Legislative Council of the Territory of Florida, entitled an act to Call a convention for the purpose of organizing a State Government, passed 3d of Jany 1838, and approved 2nd Feby of the same year, the several delegates elected by the people from the different counties of the Territory did assemble at St Joseph according to the provisions of said act on Monday the 3d day of Decbr 1838 for the purpose of devising and adopting the most efficient speedy and proper measures for the formation and es-

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tablishment of an independent State Government for the people of Florida and to form and adopt a bill of rights and a Constitution for the same and all needful measures preparatory to the admission of Florida into the national Confederacy. And whereas the intention of the Legislative Council and the wishes of the people were carried out and complied with by said Convention in the formation and adoption of a Constitution which in order to test more fully the sentiments of the people of Florida on the subject of State Government was submitted to them in the year 1839. And whereas said ratification was confirmed by a majority of the Legally qualified voters of this Territory we conceive it highly necessary expedient and wise to throw of our territorial vassalage and assume an independent State Government not only from motives of Policy but from the repeated declaration of the will of the people on this subject and in order to do so an early application was made to the Congress of the United States for the admission of Florida into the Union as a sovereign and independent State which has been heretofore neglected by Congress

Be it Therefore resolved by the Governor and Legislative Council of the Territory of Florida that our Delegate in Congress be requested to again submit it, the Constitution adopted at St Joseph and subsequently ratified by the people of Florida to the Congress of the United States and to urge upon that body its reception and our desire to be admitted into the national Confederacy as an independent State at an early period of the present session

Resolved secondly that a copy of this preamble and resolutions be forwarded to the Hon David Levy properly certified by both Houses

Passed the House March 1st 1842

H ARCHER
Chief Clk

Passed the Senate 5th March 1842

Att J S ROBINSON
Secy Senate

N. W. WALKER
Speaker of the House of Representatives

WM H. BROCKENBROUGH
President of Senate

Approved 5 March 1842

R K CALL
Gr of Florida

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NO. 39. PROCEEDINGS OF A MEETING OF CITIZENS
OF GADSDEN COUNTY⁶⁸

[April 30, 1842]

PUBLIC MEETING AT QUINCY.

At a meeting of a respectable number of citizens of Gadsden county, held at the Court House in Quincy, on Saturday, 30th April, 1842, on the subject of the immediate organization of a State Government, under the constitution formed at St. Joseph, CHARLES H. DUPONT, Esq., was called to the Chair and ISAAC R. HARRIS appointed Secretary.

The object of the meeting was explained by the Chairman; after which the following resolution, offered by James M. Gilchrist, was unanimously adopted, to wit:

Resolved, That a committee of thirteen be appointed by the Chair, to make report at a meeting of the citizens, to be held at this place, on Wednesday next, expressive of the views of the people of this County on the subject of immediately organizing a State Government.

Whereupon, the Chair appointed the following gentlemen as said committee, to wit: James M. Gilchrist, Samuel B. Stephens, James Thomas, Robert L. Edmonds, George W. Bruton, James H. Gibson, Uz Wood, Robert L. Harrison, Zabel Fletcher, Philip Blount, Daniel G. Smith, Wm. B. M'Call, and Marcellus Morgan.

Resolved, That the Secretary be requested to inform said Committee of their appointment, and request their attendance at the Court House, as early as convenient, on Wednesday next.

On motion, this meeting is adjourned till Wednesday next, 12 o'clock.

Wednesday, May 4—12 o'clock.

The citizens of Gadsden County convened at the Court-House, agreeably to the adjournment of the meeting on Saturday last. In the absence of the Chairman, (Chas. H. Dupont, Esq.,) Dr. B. MEACHAM was called to the chair.

The minutes of the proceedings of the meeting on Saturday last were read.

The committee of thirteen, appointed on Saturday last, reported

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through their chairman the following preamble and resolutions, which were unanimously adopted, viz :

Whereas the period has arrived when, as citizens deeply interested in the future welfare and prosperity of Florida, we feel called upon to demand as a right, from the General Government, our admission as one of the sovereign states of this Union, so solemnly guaranteed to us by the 6th article of the Treaty between the United States and Spain, (said Treaty expressly stipulating for our admission as soon as it could be done consistently "with the principles of the Federal constitution.")

And whereas, having adopted and submitted our constitution to Congress for their sanction or rejection, and they having refused or neglected to do so, after being repeatedly called on by memorials, resolutions, &c., of our Legislative Council, and by primary meetings of the people for the last three or four years, we, therefore, feel justified in organizing a State Government, and taking upon ourselves all the rights and privileges secured to us by said Treaty, and which have been so unjustly withheld from us.

Be it therefore resolved, That we most heartily approve, and will co-operate with our fellow citizens in other parts of the Territory, in any measure or measures, (not illegal and irregular,) that may be deemed necessary or proper, for the purpose of immediately organizing a State Government.

Resolved, as the sense of this meeting, that the contingency has now happened, as contemplated by the Convention, for its reassembling at Tallahassee, as provided for in its proceedings, and that our Delegates to said convention be instructed to take all necessary and proper steps for the meeting of said convention, with as little delay as possible.

Resolved, That our fellow citizens in every part of the Territory, be requested to call meetings on the subject, and take such action as they may deem proper to carry into effect the objects of this meeting.

On motion of Col. John C. Love,

Resolved, That the editors of the newspapers at Tallahassee be requested to publish the proceedings of this meeting.

B. MEACHAM, Ch'n.

I. R. HARRIS, Sec'y.

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NO. 40. ADDRESS OF THE COMMITTEE OF THE LEON
COUNTY STATE GOVERNMENT MEETING⁶⁹

[*May 26, 1842*]

To the People of Florida!!!

The people of Leon County, responding to their patriotic fellow-citizens of Gadsden, with whom the measure originated, at a public meeting, held on the seventh day of the present month, convened at the Capitol in Tallahassee, for the purpose of adopting measures for the immediate organization of a State Government, and consequent admission to the Federal Union, appointed the undersigned a committee, with instructions to address you, that they may obtain your co-operation in the preliminary procedure of recommending a meeting of the Constitutional Convention, to issue writs for the election of Governor, and members of the General Assembly of the State of Florida.

In urging the claims of Florida to be received as a State, reliance is confidently rested on the assurances of the United States, in the sixth article of the Treaty of Cession. By that article, it was solemnly guaranteed, on the faith of the confederacy, that "the inhabitants of the ceded Territories shall be incorporated in the Union of the United States, as soon as consistent with the principles of the Federal Constitution." By the formation of a Republican Constitution, the persons, in that treaty denominated inhabitants, connected with their willingness to assume, and ability to maintain, a State Government, have complied with the terms on which admission was stipulated; because, after such action, it is "consistent with the principles of the Federal Constitution."

But, independent of the stipulations of the Treaty, the wants and welfare of Florida demand that "a government should be instituted, deriving its just powers from the consent of the governed." In taking measures for the institution of such a government, the people of Leon County deny that their course is revolutionary or unprecedented. The measures they propose are similar to those adopted by the State of Tennessee, under like circumstances, and by which that State, in 1796, during the administration of the revered Washington, preferred and obtained her admission to the Federal Union. As Tennessee did, so do the people of Leon County propose that Florida organize a State Government, and present herself for admission. Such, too, at a later day, was the course pursued by Michigan, and with the like success

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to the precedent she followed; and it is the only one that commends itself, as being consistent with those principles on which all republican governments, particularly that of the United States, are based. It is again demonstrating that great political and fundamental truth, that all just governments emanate from, and are created by the people, "to secure the blessings of liberty to themselves and their posterity," and, last of all, the people of Florida will thus evince a zeal, an earnestness, and a determination worthy of one division of the great American family.

The only objection to the proposed measure proceeds from a fear of the inability of the people to support a State Government, without increasing the embarrassments under which they labor. The committee, impressed with its importance, have given this objection their most serious consideration; and, while they confess that some expenses unknown to a Territorial Government will be incurred, a careful examination into the resources of the country has convinced them that it cannot be sustained. For let no one imagine that it is designed to establish an independent government, either for the purpose of creating lucrative offices, or of gratifying the thirstings of a depraved ambition. The committee are confident that they express the sentiments of the people of this part of Florida, when they declare that a rigid economy, in every department of the government, will be strictly enforced; and that they will commence with the determination to reduce every item of public expenditure to the lowest point consistent with the purposes of good government. At all events, if disappointed in this, the people will have the remedy within their own control, and can exercise it as their disposition may dictate; and if the expenses should become too great nothing will be easier than to reduce them. The committee have confidence, also, that by devoting themselves to public affairs, with that pride which ever actuates citizens living under a State Government, the people may even diminish the cost of a mismanaged Territorial administration. Influenced by these considerations, a belief is entertained that the amount of the taxes directed to be assessed by the Legislative Council in the year 1839, would, of itself, be sufficient to meet all the charges of good government.

The public expenses attendant on a State organization, according to the estimates of men of great experience, and with whom the committee have advised, would reach about thirty thousand, and not exceed fifty thousand dollars per annum. In evidence that neither of these sums is beyond the resources of Florida, the committee refer

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to the official returns of 1839, which show that under the Territorial Law of that year, upwards of the sum of \$20,000 was paid into the Treasury from the six counties, Gadsden, Leon, Jefferson, Jackson, Franklin and Alachua.⁷⁰ From the other counties throughout the Territory no returns were received. But, if the taxes had been fully assessed, in all probability the gross receipts would have amounted to the sum of \$40,000. Were a greater amount than this required for State purposes, there are abundant sources from which the deficit could be made up. However, to prevent even the appearance of vagueness, the Committee have deemed it advisable to present a statement of the contemplated resources of the State of Florida, and to which they invite attention, it being hereunto annexed, that it may be seen that the anticipated burthens of taxation would neither be exorbitant nor excessive.

To these clear and decisive evidences of the ability of the people to defray the expenses of a State Government, it is but fair to add the proceeds of the property already granted to Florida by the Federal Government, and also to estimate the value of that to which, as a State, she would become entitled. She would become entitled to the immediate use of the two townships of land, given by Congress, and which are already located, to found a College, or Seminary of Learning. The sixteenth section in each township has also been appropriated for the purposes of education, and the establishment of common schools. These advantages, in the opinion of the committee, by securing the blessings of a good education, to the children of the citizens of Florida, at a cheap rate, would more than counterbalance any possible increased cost attendant on the establishment of a State Government, on which, it was the condition of the gifts, they shall entirely depend.

The committee would also present to the consideration of the people of Florida the experience of other Territories, after their erection into States, and consequent admission to the Union. Their history teaches us that the organization of a State Government has been immediately followed by a rapid increase of wealth and development of resources. The population of Arkansas, which is the case most directly in point, on its admission in 1832, amounted to only 44,557 souls; but at the census in 1840, her people numbered 97,574—thus more than doubling in four years. Michigan in 1834, only two years before her admission, had a population of 87,278; in 1840 it was ascertained to be 212,276. Judging from these statements, although the committee do not anticipate a proportionate increase in the popu-

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lation of Florida, that it would be great, may be reasonably expected. Even under all the disadvantages of a Territorial Government, the tide of emigration has set in to East Florida; and were it certainly ascertained that hostilities against the Indians had ceased, the influx of settlers would greatly increase. But it must be borne in mind, that it depends in a great measure, on the admission of the State of Florida to the Union, whether these valuable acquisitions of citizens will feel that deep and abiding patriotic interest in the welfare of their adopted country, that is evinced by men whose natural and political rights are unrestricted.

It is these considerations, which are common to all, that have induced the people of this county to ask the co-operation of their fellow-citizens throughout the Territory, in the course they have recommended, and propose shall be pursued. But the committee would not disguise it, that there are reasons of a particular character, important chiefly to individuals, why a State Government should be organized at this time. These particular reasons have arisen out of the relations which many of our citizens, in East Florida more especially, hold toward the Federal Government, in consequence of the long-protracted Indian hostilities, which there is now a probability of being brought to a speedy close.—During the continuance of these hostilities, the claims of private individuals on the Federal Government, for services, losses, and supplies, have been increasing. Now they amount to so large a sum that it is important to the welfare of East Florida that these claims should be settled speedily, while the events out of which they arose are fresh in men's memories, and while the evidences by which they can be sustained may be easily procured. But, reasonable as is the hope of a prompt discharge of these liabilities, unless the people are adequately represented in Congress, these claims will, most assuredly, be long delayed, and probably entirely neglected—or, what is equally common, utterly disregarded. Should the Federal Government be thus tardy in its justice, the evils to individuals will be greater than the Committee dare trust themselves to represent. Not only will many of the most useful and worthy citizens of Florida be irretrievably ruined, but the widows and orphans of many who have fallen in battle, will be compelled to suffer all the privations of gnawing poverty—to endure all the afflictions of pining destitution. Special as these considerations may be esteemed, surely the committee do not misunderstand the character of their fellow-citizens, in believing and declaring them to be such as should, and of right ought to, influence a humane and generous

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people. But it is only by having them introduced and supported by Senators and a Representative in Congress, backed by the influence of a State Government, that it can be hoped that the just claims of citizens of Florida will either be provided for or attended to.

Than the course recommended by the citizens of Gadsden, Leon, and the adjacent counties, there is none other that the people of Florida can pursue, consistently with their self-respect. For years they have been resolving, petitioning and remonstrating, and without effect. But a crisis has arrived, when considerations arising out of the political character of this particular period, **MUST** induce them to act, or prove themselves not only indifferent to their own welfare, but to the harmony of the American People. In a short time, Iowa, a Territory that has sprung into existence since Florida, will apply for admission as a non-slaveholding State. From the nature of the Federal Government, and the peculiar character of the domestic institutions of the South, it is almost imperative, if we would preserve their existence, that the present equilibrium of power, between the two great divisions of the Union, in the United States' Senate, should be preserved. Were Iowa received and Florida rejected, the balance would be destroyed—the South placed at the mercy of the North. This consideration will induce every true friend of the South to urge and demand the prompt admission of Florida. But the action of others will avail nothing to this Territory, unless seconded by the exertions of its people. If we do not organize this year, nearly two years will be lost; for the General Assembly cannot assemble until November in any year, that month being appointed by the Constitution for its session. Delay, then, would prevent the admission of Florida, hand in hand with Iowa, in which event, may not the non-slave-holding States of the North be enabled to exclude Florida, for many years yet to come.

Deeply impressed with the importance of these considerations, the committee conjure each and all, who have an interest in Florida and in Southern institutions, to reflect seriously and maturely on their position, and aid their fellow-citizens of Leon county, and Middle Florida generally, in proportion as the happiness and prosperity of each individual may be dependent on the enjoyment of his most unquestionable rights. It is these circumstances, peculiar to the present times, that renders the support and influence of even the humblest citizen important—it is for these reasons that the committee earnestly solicit the aid of all. The crisis demands action, both prompt and vigorous—but, if there be any so servile as not to desire

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the accomplishment of a work on which so many important issues depend, and which shall secure "the blessings of Liberty to himself and his posterity," such, the advocates of the proposed measure will willingly excuse:—if there be any so careless of the future, that not even the prospect of Independence will arouse him to take part in an achievement so truly noble, with him the friends of Florida may cheerfully dispense.

But the committee cannot persuade themselves that any portion of their fellow-citizens is so recreant to the principles on which civil liberty is founded, as to endure with patience, the dependence, servility and restriction incident to a territorial and subordinate government. Neither can they believe that any are indifferent to the enjoyment of their rights as freemen; or that any American is ignorant of the advantages arising from a Government emanating from, and responsible to the governed. The committee have confidence that even twenty-three long years of deprivation of political rights and the consequent humiliation and subjection, have neither eradicated nor smothered those manly, noble and generous feelings to which the free, republican institutions of America owe their being, and on the development of which, their existence depends. It is these feelings that teach every true Floridian, that it his is proud prerogative to be the master, not the slave—the ruler, not the ruled—the sovereign, not the vassal.

The objection based on the expense of a State Government, the committee regard as successfully met; but, had they failed in that attempt, surely the People of Florida would not wish to be maintained at the cost of the Federal Government. When the population was sparse, necessity forbade the imposition of taxes as onerous, and the establishment of a Territorial Government was consistent with the best interests of the country, but this condition is changed. Florida now contains 54,477 persons. That a population of this magnitude should continue in a state of dependence, is repulsive to every truly American feeling. It is contrary to every principle of freedom, that such a people should live under a Government not proceeding from—not supported by them: it is degrading that they should receive their supplies from abroad, and subsist on the contributions, or, more properly, the alms, of a superior.

Even if a doubt did exist as to the ability of Florida to meet the expenses of a State Government without great embarrassment, there are considerations of a *moral* character, deeply affecting the pros-

FLORIDA BECOMES A STATE

perity and happiness of the people and their posterity, which, in the opinion of the Committee, should incite the patriotic to the contemplated change.—These arise from the effects of Independence on every people. Independence infuses pride and manliness of feeling—confidence and buoyancy of action—strength and power of thought—purity and steadfastness of purpose. These truths the history of the world has demonstrated again and again; whilst the experience of all nations, and past ages, have taught us that dependence discourages manliness, and begets indifference; smothers noble and virtuous resolutions; represses every aspiration for the high and the pure; paralyzes exertion in the pursuit of sternly honest purposes, and prepares nations either for receiving a dictator, or submitting to a tyrant. In the opinion of the committee, the past history of Florida affords conclusive evidence that its citizens cannot hope to escape the common fate of a dependent people. Sad as is the truth, and painful as is the confession, they have seen the laws, which should be the defence of the weak and the terror of the strong, first administered inefficiently, then defied, next powerless, and now all but despised.—These the committee believe and represent to be the result of that feeling of dependence, which arises from the nature of a Territorial and subordinate Government; and regard them as another demonstration of that great political truth, that a government not emanating from the people, inasmuch as it fails to unite itself with their sympathies, can neither gain their support, nor command their respect.

Such are the considerations which the committee, in obedience to their instructions, have conceived it to be their duty to address to you, and to your calm reflection they confide them, not doubting but that an all-wise Providence, whose aid we invoke, will guide you to a result which shall promote the safety and honor, welfare and prosperity of our common country.

THOMAS BALTZELL,

JOSEPH BRANCH,
E. C. CABELL,
B. CROOM,
J. A. BERTHELOT,
F. H. FLAGG,
ARTHUR BURNEY,

JOHN MILLER,
S. S. SIBLEY,
H. W. BRADEN,
R. A. SHINE,
N. W. WALKER,
E. BRADFORD,

Tallahassee, May 26, 1842.

D O C U M E N T S

APPENDIX

TO THE ADDRESS TO THE PEOPLE OF FLORIDA, PUBLISHED
IN THE SENTINEL OF LAST WEEK.

*Statement of the estimated expenses of the Government of the
State of Florida.*

Governor of Florida, annual salary,	\$ 2,000
Auditor, Treasurer, and Secretary of State, \$500 each,	1,500
Contingent expenses of Executive Department, 57 members of General Assembly, for four weeks, at \$2 per day and mileage,	3,762
Contingent expenses of General Assembly, including all other expenses of the Government,	20,000
Four Judges, at a salary of \$2,000 each,	8,000
Attorney General, annual salary,	500
	\$43,762

*Estimate of the revenue to be derived from taxation in support
of a State Government.*

250,000 acres first quality land, at 3 cents per acre,	\$ 7,500
600,000 acres second quality land, at 2 cents per acre,	12,000
2,150,000 acres third quality land, at 1 cent per acre,	21,500
Tax on town lots in cities,	5,000
\$1,500,000 stock (merchandise) in trade at 30 cents per \$100,	4,500
17,681 slaves over 10 years of age, at 50 cents each,	8,840
250 pleasure carriages, at \$2 each,	500
250 lawyers and physicians, at \$10,	2,500
Auction sales,	10,000
Tax on writs, licenses, &c.,	5,000
Poll tax, \$1 each,	10,000
Hawkers, pedlers, exhibitions, &c.,	1,000
Corporations, Banks, &c.,	5,000
Tavern licenses,	5,000
Fines and forfeitures,	10,000
	\$108,340

Total estimate of revenue that may be collected,

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Amount of land, and the proceeds of the sales of public lands, to which Florida will become entitled on being erected into a State.

Two townships of land, of 23,040 acres each, already located for a University.

The sixteenth sections in each township, granted for the use of the people for the purposes of education.

500,000 acres of land, under the distribution law of 1841, and 10 per cent. of the nett proceeds of sales.

Five per cent. of the nett proceeds of the sales of government lands in Florida, for internal improvements.⁷¹

* * *

NO. 41. PROCEEDINGS OF A MEETING OF CITIZENS
OF ESCAMBIA COUNTY⁷²

[May 28, 1842]

Public Meeting in Escambia.

A large and highly respectable meeting of the citizens of Escambia County was held at the City Hall on Saturday evening, 28th ult., pursuant to a call from those who were members from this county at the Convention held at St. Joseph, to ascertain the sense of the people in this section, in regard to State Government. Charles Evans, Esq., Mayor of the city, was called to the Chair, and R. A. Mitchell appointed Secretary.

After the Chair stated the object of the meeting, Mr. Anderson rose and said, that he, with other gentlemen of the Convention from this County, were requested to ascertain the views of the people here, on this question, and after a speech of some length in favor of State Government, closed by offering a sett of resolutions favorable thereto. Mr. Parsons replied to Mr. Anderson, and closed by offering a preamble and resolutions against a State Government.

After some desultory debate, Mr. Anderson's resolutions were rejected by a large majority.

The following Preamble and Resolutions submitted by Mr. Parsons, were then taken up and carried by an overwhelming majority:

Preamble and Resolutions.

Whereas, the Convention assembled at St. Joseph, pursuant to a

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resolution of the Legislative Council, did form and adopt a State Constitution for Florida, which Constitution was duly submitted to the people for their acceptance or rejection; and notwithstanding it has been proclaimed that the people did duly ratify and accept of the said Constitution, yet strong doubts exist whether a majority of voters were then in favor of it; and whereas, at that time, our population was increasing, our prospects were flattering, and every branch of business seemed in a flourishing condition—now, the “whole country groans under evils and embarrassments, and the times are gloomy and appalling beyond a parallel;” public opinion, therefore, has evidently undergone a great change, and the settled conviction obtains, that the additional burdens of a State Government would prove oppressive upon all classes: And whereas, a portion of our fellow-citizens in Middle Florida are getting up public meetings for the express purpose of “organizing and establishing a State Government,” and proceeding to elect Senators and a Representative to Congress, therefore be it

Resolved, That we deem it premature and inexpedient, at the present gloomy period, to adopt *any* measures towards establishing a State Government.

Resolved, That the effort now making to “set the Territory up for herself,” previous to an act of Congress to that effect, and without credit and means, is rash, uncalled for and unjustifiable.

Resolved, As it appears the people of Florida are not able to meet the current expenses of the Territory, common prudence and wisdom should admonish us to “look well before we leap” into State Government.

Resolved, That the re-assembling of the Convention, as proposed, would be unavailing and unjustifiable, and so far as we are concerned, we hereby protest against such a high-handed movement.

Resolved, That the people in other parts of the Territory, opposed to a State Government at this time, are requested to hold similar meetings, and to forward their proceedings to our Delegate, and to the Legislative Council at their next session.

Resolved, That a copy of the proceedings of this meeting be forwarded to our Delegate, and that he be requested to abstain from all further efforts to have Florida admitted into the Union; and that a copy of these proceedings be sent to our Legislature at their next session.

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Resolved, That the proceedings of this meeting be published in the Pensacola Gazette, and all other papers in the Territory be requested to copy.

C. EVANS, Chair'n.

R. A. MITCHELL, Secretary.

* * *

NO. 42. CALL FOR A GENERAL MEETING OF THE FRIENDS OF STATE GOVERNMENT⁷³

[June 3 (?), 1842]

State Government.

There being reason to fear that the Constitutional Convention will not be fully attended, in consequence of the unexpected opposition of our fellow citizens in East Florida to the immediate organization of a State Government, the undersigned recommend that a General Meeting of the friends of the measure from all parts of the Territory, without reference to party, be had at Monticello, in Jefferson County, on Saturday, the 11th day of June inst. to propose and adopt such measures as may remove this opposition. They think proper to state, it has been suggested, as a means of effecting this, to propose that East Florida may be organized as a separate State at a future time, or be formed into a Territory hereafter, when she desires it and Congress passes the necessary laws; and to communicate proper assurances to our fellow citizens of East Florida, that a provision to that effect will be made by the Convention, by the adoption of an ordinance therefor.

THOMAS BALTZELL,

JOSEPH BRANCH,
E. C. CABELL,
B. CROOM,
J. A. BERTHELOT,
F. H. FLAGG,
ARTHUR BURNEY,

JOHN MILLER,
S. S. SIBLEY,
H. W. BRADEN,
R. A. SHINE,
N. W. WALKER,
E. BRADFORD,

Committee of the Leon County State Government Meeting.

P. S. It is respectfully requested that distant neighborhoods send one or more delegates to the meeting.

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NO. 43. PROCEEDINGS OF THE GENERAL MEETING
OF THE FRIENDS OF STATE GOVERNMENT⁷⁴

[June 11, 1842]

STATE GOVERNMENT!

Public Meeting of Citizens of the Middle District, without distinction
of party, in favor of Immediate Organization of the
State Government!

At a meeting of citizens of the Middle District of Florida, held at the Court-house in Monticello, Jefferson County, on Saturday, the 11th day of June, 1842, pursuant to public notice, and a call made by the Committee of the State Government meeting of Leon County, and published throughout said District, Dr. BANKS MEACHAM, of Gadsden County, was called to the chair, WILLIAM BELLAMY, Esq., of Jefferson County, chosen Vice President, and SAMUEL S. SIBLEY, of Leon, JAMES M. GILCHRIST, of Gadsden, and WILLIAM R. TAYLOR, of Jefferson requested to act as Secretaries.

The meeting was addressed by the chairman and other citizens, in relation to the objects for which it was convened.

On motion, Judge J. N. Partridge, of Jefferson, Leonidas W. Spratt, and A. K. Allison, Esqs. of Gadsden, Capt. Z. Bailey, Capt. J. Scott, Thomas Smith, Walter R. Blackburn, Wm. R. Taylor, Esquires, and Major John L. Taylor, of Jefferson, were selected a committee to draft Resolutions expressive of the views and sentiments of the meeting, who, having retired, after sometime reported the following for the consideration of the meeting:—

WHEREAS, in 1837, in pursuance of an act of the Territorial Legislature, an election was held to ascertain the wishes of the people of Florida on the subject of the formation of a State Government for Florida, and the admission of such State into the National Confederacy, and it appeared that a large majority of the people were in favor of such measure: AND WHEREAS, to carry out the wishes of the people thus expressed, the Territorial Legislature in 1838 enacted a law providing for the election of Delegates to a Convention of the people of Florida, to form a Constitution for the State of Florida, and to devise measures to effect the admission of the State into the federal Union: AND WHEREAS, elections were held in every county of the Territory for such Delegates, and the Constitutional Convention assembled in pursuance of law, in December, 1838, at St.

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Joseph: AND WHEREAS, the people of Florida assembled in Convention, as aforesaid, did form, and, on the 11th day of January, 1839, did adopt a CONSTITUTION, or form of Government, for the people of said State, and said Convention did submit it for ratification by popular vote, at an election in May, 1839: AND WHEREAS, said Constitution was ratified by a majority of the legal voters of the Territory of Florida at said election: AND WHEREAS, the people of Florida, by and through said Convention, in eighteen hundred and thirty-nine submitted to Congress their acts above recited, and respectfully applied for the recognition of their right to admission into the Union as a State, solemnly guarantied to them by the U. States in the 6th article of the "Treaty of Cession:" AND WHEREAS, ALSO, since that period memorials and petitions have been preferred to Congress by the Territorial Legislature, in behalf of their constituents, and by citizens acting in their individual capacities, praying for the admission of Florida into the Union as a State: AND WHEREAS, all these applications, memorials and petitions have hitherto been treated by Congress with such inexcusable neglect and slight as not merely to justify, but to call upon the people of Florida to adopt measures to maintain the rights and to secure a proper respect for them on the part of Congress: AND WHEREAS, it is believed that a *very large majority* of the people of Florida are at this time in favor of the *immediate organization* of the STATE GOVERNMENT OF FLORIDA under the Constitution framed at St. Joseph: AND WHEREAS, the Constitutional Convention, by a resolution adopted by a large majority, provided for the re-assembling of said Convention, upon the requisition of one third of its members in case Congress should refuse the admission of the State of Florida into the Union, and appointed a committee to make the call of the Convention; and when said Convention adjourned, it did adjourn subject to such call by a vote of 42 ayes to 7 noes: AND WHEREAS, the citizens of the counties of Gadsden, Leon, Jefferson, Jackson, Calhoun, Madison and Hamilton, have already, by resolutions adopted at public meetings held in said counties, and heretofore published in the newspapers of this Territory, instructed the delegates from said counties to sign such requisition, to the end that said Convention may, when assembled, adopt measures for the *immediate organization of the State Government*, and to secure the admission forthwith of said State into the Union: AND WHEREAS, more than one-third of the members of the Convention have signed such requisition as said committee:

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It is therefore resolved, That concurring with the sentiments expressed in the several resolutions of the citizens of the counties above mentioned, this meeting hereby requests said committee forthwith to make said call, and that *the 25th day of July next*,* be recommended as the most proper time for the reassembling of said convention; and that the officers of this meeting do transmit a copy of the proceedings of this meeting to said committee.

II. *Resolved*, That whilst we will not believe that East Florida, after having joined with her fellow-citizens of the Western, Southern and Middle Districts, in the formation of a State Constitution, and in the application of the convention for admission into the Union, will now be recreant, and oppose the earnest and anxious wishes of a majority of the people of the Territory, who are so strenuously urging "*immediate organization*," and whilst we indulge the hope that the course of our fellow-citizens of the East will be more consistent with those republican principles, which should actuate American freeman, yet we deem it proper to declare, *as the sense of this meeting*, in deference to the alleged wishes of a portion of the people of East Florida, as to the immediate organization of a State Government, the admission of the State of Florida into the Union, and the "division" of Florida,—that the Middle and West will be entirely satisfied with the organization of East and South Florida into a Territory forthwith, or as soon as it can be done by Congress, after the establishment of the State Government under the St. Joseph Constitution, and the admission of the State into the Union,—so as to secure the ultimate formation of two separate states; and that the people of the Middle and West will give their full assent to such measure; and that the delegates to the convention from this District, be requested to urge such provision to be inserted in an "ordinance," to be passed by the convention, if desired by the East and South and proposed by them in the convention; and also, that the Delegate in Congress from Florida, be requested to urge the adoption of a provision, in any act or resolution proposed in Congress, for the admission of the State of Florida into the Union, allowing the ultimate division of Florida, and the creation of a separate Territory or State out of East and South Florida.

III. *Resolved*, That a committee of five be appointed by the Chair, to prepare and procure to be printed, copies of public documents and

*Altered to 2nd of November.

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papers, showing the course of the people of Florida with respect to the organization of their State Government, and the admission of the State of Florida into the Union, and to append thereto copies of such proceedings of public meetings, as they may deem expedient to further the desired object.

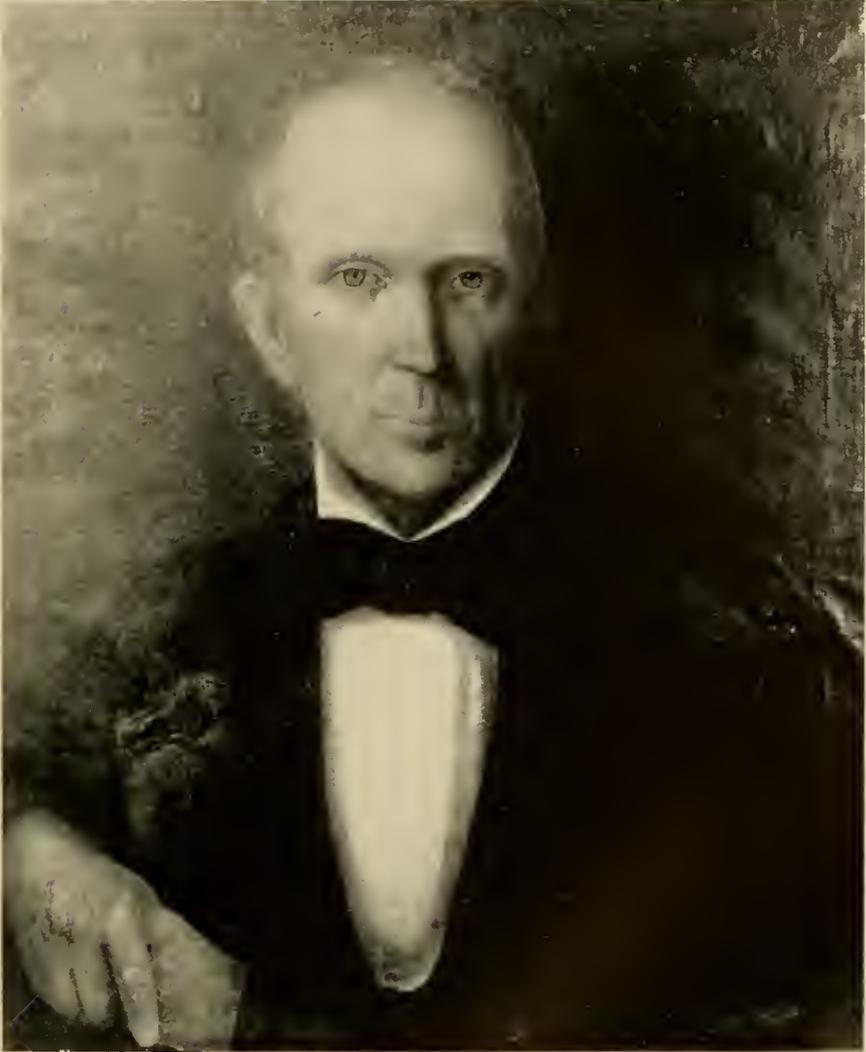
IV. *Resolved*, That a committee of five be appointed to draft and procure to be printed, a Memorial to Congress for the admission of the State of Florida into the Union, AT THIS SESSION OF CONGRESS, copies whereof, said committee are to have circulated, for signatures, throughout the Territory forthwith, during this month, and by the 5th day of July next, to be forwarded to the Delegate in Congress, to be laid before them forthwith; and that duplicate memorials be prepared, to be signed by the friends of State Government at Tallahassee, and a copy of all said documents and papers mentioned in the last preceding resolution, be attached to each duplicate, and the same transmitted by the fifth of July, by the said committee, to the President of the United States, with a respectful request that he submit the same by Message forthwith, to the Senate and House of Representatives of the United States.

V. *Resolved*, That a Committee of Correspondence of the Friends of State Government, be appointed by the Chair, in each county of this Territory, where such committees have not been previously named, who are requested to correspond with each other on this subject, and further the object desired to be attained, in all proper and honorable modes, and to collect funds to defray printing and other necessary expenses, and the names of the members of such committees be published as the appointments are made, from time to time.

The said resolutions being under consideration, after considerable discussion by Messrs. E. C. Cabell, J. M. Partredge, J. M'Cants, T. Baltzell, A. K. Allison, J. M. Gilchrist and J. D. Westcott, and other citizens, the time named for the meeting of the constitutional convention, in the first resolution, was changed from "the 25th day of July next," as reported by the committee, to *Monday, the second day of November, 1842*, and the 1st resolution, thus amended, was unanimously adopted.

The adoption of the second resolution was opposed by Col. John A. Cuthbert and Joseph M'Cants, Esq. of Jefferson, and advocated by Messrs. Cabell, Baltzell, Gilchrist, Westcott and others, and after considerable debate, was adopted.

The third, fourth and fifth resolutions were adopted.



WILLIAM D. MOSELEY
Governor of Florida, 1845-1849

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Committee appointed by the Chair under the third resolution:—S. S. Sibley, Dr. E. Bradford, T. J. Heir, J. M. Gilchrist, and I. Ferguson, Jr.

Committee under the fourth resolution:—J. D. Westcott, T. Baltzell, E. C. Cabell, L. W. Spratt and J. M'Cants.

Committees of correspondence under the fifth resolution, to be published hereafter.

On motion, the Secretaries were desired to request the several newspapers in Florida to publish these proceedings, and the meeting adjourned.

BANKS MEACHAM, Chairman.
W. BELLAMY, Vice President.

S. S. SIBLEY,
J. M. GILCHRIST, } Secretaries.
W. R. TAYLOR, }

* * *

NO. 44. MEMORIAL TO CONGRESS OF INHABITANTS
OF LEON COUNTY⁷⁵

[July 1, 1842]

*To the Honorable the Senate and House of Representatives of the
United States of America in Congress assembled:*

The Memorial of the undersigned, citizens of the United States, inhabitants of the County of Leon in the Territory of Florida, respectfully sheweth:

That notwithstanding the solemn pledge of the nation made to Spain, and to the inhabitants of Florida in the 6th article of the Treaty of Cession; and although in 1837 the People of Florida, by popular vote, decided to become a State; and although upwards of three years ago, they formed, adopted, and ratified a republican Constitution or form of government for themselves as the State of Florida; and although the Convention of the People preferred their respectful memorial to Congress for admission into the Union as a State; and although that memorial has been followed up by respectful petitions of the inhabitants of the Territory, and of the Territorial Legislature in behalf of their constituents at each session of Congress since; yet these several and repeated applications have not been granted, and on the contrary have, as your memorialists humbly

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conceive, been treated with neglect and indifference, undeserved by the People of Florida, and which they were not justified as American citizens in anticipating, when they preferred them.

The undersigned respectfully renew said applications, and ask of the Federal Government to take action on this subject at the present session of Congress, by the admission of Florida into the Union *as a State*, under the Constitution formed and adopted at St. Joseph, January 11th, 1839, and ratified by a popular vote of the people. *This course is desired by a very large majority of the people of Florida.* When the Constitution was submitted to the people in May, 1839, for ratification, little time had been afforded to examine and discuss its merits, and hence many voted against it, and amongst them several of the undersigned, who now, after reflection, approve of its provisions, and are decidedly in favor of the immediate organization of the State Government, and admission into the Union under it. A project has been started for the *Division of Florida* into two Territories before the State Government is established, the East and South to compose *one*, and the Middle and West the other.—Against this scheme we respectfully beg leave to *enter our solemn protest.* The East and South have *joined* in the formation of the Constitution—they should carry out the work and aid in the *establishment* of the State Government under it, instead of throwing it away and thus obliging the Middle and West to encounter the expense and incur the delay incident to the formation of another Constitution. Besides but a small portion of even the East favors this project. But we most cheerfully express our acquiescence in the insertion of a provision in the act of admission, that the inhabitants of the East and South shall, after the organization and establishment of the State, become a separate Territory or State as soon as practicable, and we would desire for their security that the pledge should be made in as strong and explicit language as can be used.

The undersigned would respectfully urge upon Congress the justice and the policy of making, in the act admitting Florida as a State, a liberal donation of the public lands within her boundaries, to enable her to get the State Government into operation efficiently, beneficially and successfully. Florida has been deeply injured, nay well nigh ruined, by the deplorable war which has raged here for six years past. Without reference to the immense individual losses by the destruction of property, and without looking to the sufferings sustained by thousands of her citizens being made houseless and home-

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less, and by having their families and friends barbarously murdered by the savage foe, *as a community* we have likewise been deeply injured. Millions of dollars would not repair the losses sustained by the people in the aggregate, without including individual cases as above mentioned.

These things are manifest to all who can compare our present condition with that before the war. Our most fertile fields, then in profitable cultivation, are now lying waste, with nearly every house and cabin, on a frontier of upwards of four hundreds miles, burned to the ground, and hundreds of the best plantations deserted by their former possessors and grown up in bushes. *Florida has been put back ten years by this war.* Thousands who hold property in Florida have been deterred from removing hither, and many peaceful citizens have sought a less disturbed and dangerous residence elsewhere. Her energies have been crippled, her resources are reduced, and all those means by which a people advance to prosperity and happiness have been diminished and weakened.

Surely when it is considered that this war was not commenced through the fault of the people of Florida, these facts should commend them to the nation as being entitled to its generous and liberal aid. Such aid would encourage emigration, and to afford it would be a policy, wise in itself, and worthy the Federal Government. With such aid the State of Florida would be rendered fully competent for her own protection and defence. Florida will be a frontier State, distant from the seat of Government. From her geographical position, and her extensive seaboard, in time of war, she will be an exposed point of attack, and should be prepared to meet an invading enemy. She should have arms, but arms are useless without men to bear them, and to supply and sustain men she must have means. The State of Florida should be encouraged; her speedy settlement should be promoted; she should be afforded aid in the outset of her career, and the appeal is now made because such assistance will be of greater value than at any time hereafter. Nor can it be supposed that this appeal of her people will be made in vain. Surely something is due to a people who, while all the rest of the citizens of the United States have been enjoying the inestimable blessings of peace, have been exposed for six long years to the devastations of a murderous, savage, and relentless warfare, and deprived of those advantages which have been common to all the rest of their fellow citizens.

The undersigned, however, forbear making further suggestions

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upon matters which they are satisfied will be manifest to the wisdom of Congress, and they respectfully ask a decision upon their application at this session.

And as in duty bound your memorialists will ever pray, &c.

H. V. SNELL [*and 44 others*]

Saint Marks, July 1, 1842.

* * *

NO. 45. RESOLUTIONS OF THE GOVERNOR AND
LEGISLATIVE COUNCIL⁷⁶

[*February 17, 1843*]

Preamble and Resolutions State Government

Whereas great pecuniary distress and embarrassment prevail in this Territory tending to paralyze industry, retard improvement, and destroy confidence:—And Whereas, State Government if assumed, would necessarily impose additional burthen and taxes on a people already laboring under accumulated difficulties:—And Whereas, four years have elapsed since the formation of the Constitution prepared at St. Joseph's for the people of Florida in which period important changes have taken place in the population of this Territory:—And Whereas, the country heretofore in the possession of the Seminole Indians is now fast filling up by a full tide of emigrants, which population should have a due influence in the formation of a Constitution for the permanent Government of the State of Florida.

Be it therefore Resolved, by the Governor and Legislative Council of Florida that it is unwise, impolitic, and improper to enter into a State Government at this time.

Be it further Resolved; that the objection to going into a State Government under the St. Joseph's Constitution is greatly strengthened by the well known fact that said Constitution was adopted by a meager majority of the voters of Florida, and has at all times been highly exceptionable to a large portion of the people of Florida, whose opposition to State Government has in part originated in opposition to that instrument:—

Be it further Resolved, that our Delegate in Congress, be, and he is hereby requested to oppose the admission of Florida into the Union as an independent State, until the people in Convention shall have formed a new Constitution, or until they have expressed by a vote,

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at the polls their willingness to adopt the St. Joseph's Constitution.
Adopted by the Senate

January 31st 1843.—THOMAS T LONG

Secretary of the Senate

Adopted by the House of Representatives

February 9th 1843.—H. ARCHER

Secty Ho Rep

JOS. B. LANCASTER

Speaker of the House of Representatives

GEO. WALKER

President of the Senate

Approved 17 Feb 1843

R K CALL

Gvr of Florida

* * *

NO. 46. RESOLUTIONS OF THE GOVERNOR AND
LEGISLATIVE COUNCIL⁷⁷

[*Certified March 16, 1844*]

Whereas, present indications admonish us, in the most significant manner, of the necessity of preserving a just balance of power or influence between the Slaveholding and non-Slaveholding States, and make it most manifest that the true interest of the South generally, as well as of Florida, require that the Floridas should come into the Union as *two* States whenever they are admitted; and to that end, as well as for convenience, better Government and general welfare of the people of this Territory in the mean time, the division of the Territory, and the establishment of two separate Territorial Governments, would be highly proper and satisfactory to the people:

It seems to be suggested by its practicability and expediency, and because it is strongly promotive of Southern policy and tends to our own political good. Each of the Territories is much larger than several of the States, and each capable of receiving and sustaining a much larger population. The present union appears to be unnatural, and their geographical position will present a State of a most awkward shape, creating a controversy and confliction of interest which will destroy that harmony so essential to the prosperity of a political

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body. This seems to have been the view taken of the Floridas by every other government which has had dominion over them.

Originally, as Spanish Provinces, they were separately governed and were independent of each other. In this way they were ceded by Spain to Great Britain in 1768. They continued separate provinces under that Government; and when they were re-ceded by Great Britain to Spain, in 1783, no change was made.

By the Treaty of Cession in 1819, between Spain and the United States, they were ceded to the latter as separate Territories, known as East and West Florida. The Government of the United States seem to have regarded them in this light, for immediately after the cession, although Genl. Jackson, clothed with the authority of Captain General of Cuba, was appointed to govern them; yet two separate officers, denominated Lieutenant Governors, were appointed to each of these Provinces, and their present union was originally a measure only of temporary convenience.

It is most manifest that the Treaty does not contemplate the admission of the Floridas as one State, but in language that cannot be misunderstood, it secures to the inhabitants of each of these Territories the right of admission as separate States, as soon as shall be consistent with the principles of the Federal Constitution:

Therefore, be it resolved by the Governor and Legislative Council of the Territory of Florida, That our Delegate in Congress do urge, and use his utmost exertion to procure the passage of a law dividing the territory of Florida, and establishing two separate Territorial Governments, to be called respectively East Florida, and West Florida—commencing on the Gulf of Mexico at the mouth of the Suwannee River, and running up the main branch of said river to the Georgia line; and all East of said River, to constitute the Territory of East Florida; and all west of said River to constitute the Territory of West Florida.

And be it further resolved, That after this preamble and resolutions shall have passed the Senate and House of Representatives, and have been signed by the Governor, copies of the same be made and duly authenticated by the proper officers, and one copy be sent to our Delegate in Congress, one to the President of the United States, one to the President of the Senate, and one to the Speaker of the House of Representatives of the Congress of the United States.

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Office of the Secretary

I, Thomas H. DuVal, Secretary of the Territory of Florida, do hereby certify that the foregoing Preamble and resolutions, are true copies of the original, passed by the Legislative Council of Florida, at the present session, now on file in my office.

[Seal] In testimony whereof I have hereunto set my hand and affixed the seal of said Territory at the Capitol in the City of Tallahassee this sixteenth day of March A D. Eighteen Hundred and forty four.

THO. H. DUVAL
Sec'y of Florida

* * *

NO. 47. MEMORIAL TO CONGRESS OF CITIZENS
OF ST. JOHNS COUNTY⁷⁸

[April 1, 1844]

DIVISION OF THE TERRITORY OF FLORIDA.

Public Meeting, in favor of Division.

A numerous public meeting of the citizens of St. Johns County, East Florida, was held agreeably to previous notice at the Court House in the city of St. Augustine, on the 27th of March, 1844, to take into consideration the Resolutions adopted by the Legislative Council of Florida in relation to a *Division of the Territory*, and the propriety of Memorialising Congress on the Subject.

The meeting was organized by the appointment of THOMAS DOUGLAS Esq. Chairman: B. A. PUTNAM, Esq. Secretary.

The object of the meeting was stated by Mr. DOUGLAS, in a brief and pertinent address.

The following Preamble and Resolutions of the Legislative Council, were then read by the Secretary:

[Here follows the text of Document No. 46.]

After the reading of the resolutions, Governor WM. P. DUVAL, in a forcible and eloquent address presented the great advantages that will result from a division of the Territory, both in a general and local point of view; and in the course of his remarks he disclosed some most interesting and important facts, which were calculated to im-

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press all who were present with a deep sense of the expediency and necessity of an immediate Division of Florida, and the establishment of two Territorial Governments.

On motion of Jas. M. Gould, Esq., seconded by Chas. E. O'Sullivan, Esq., a Committee, consisting of Dr. D. W. WHITEHURST, WM. P. DUVAL, WM. A. FORWARD, and O. M. DORMAN, Esqrs. were appointed to draft Resolutions expressive of the sense of the Meeting—they presented the following, which were unanimously adopted:

Resolved, That we hail the adoption by the Legislative Council at its late session, of resolutions for the division of the Territory, as a most auspicious event, and which gives encouragement to increase our efforts for the success of a measure involving the best and highest interest of the people of Florida.

Resolved, That we ratify and confirm each and all of said resolutions; and whilst we do in the strongest terms approve the conduct of our Representatives in advocating them, we do also cordially tender our thanks to the whole Eastern Delegation, and the few friends from Middle and West Florida who so magnanimously supported them in this measure, for the zeal and fidelity with which they have in this matter represented the interest of their fellow citizens.

Resolved, That a Committee of five be appointed to prepare a suitable memorial to the National Congress praying a speedy division of the Territory in accordance with the resolutions of the Legislative Council of Florida.

Resolved, That the proceedings of this meeting be published in the papers of this city, and that a copy thereof be forwarded to the Delegate from Florida, and that he be requested to lay the same before Congress at the earliest period, and to urge a division of the Territory as speedily as practicable.

In accordance with one of the preceding resolutions, B. A. PUTNAM, D. W. WHITEHURST, JOHN M. FONTANE, D. R. DUNHAM and WM. H. SIMMONS, Esqrs. were appointed by the Chairman a Committee to prepare and report a suitable Memorial to the Congress of the United States on the subject of the Division of the Territory.

The Meeting then adjourned to Monday next a 4 o'clock to receive the report of the Committee.

THOS. DOUGLAS, Chairman.

B. A. PUTNAM, Secretary.

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A meeting of the citizens of St. John's County, in East Florida, was held pursuant to adjournment at the Court House in the city of St. Augustine, on Monday the 1st of April, 1844, at 4 o'clock, P. M.

The Committee appointed at the previous meeting to prepare and report a suitable Memorial to the Congress of the United States, on the subject of a Division of the Territory, reported the following Memorial, which was read and adopted unanimously:

Memorial.

To the Senate and House of Representatives of the United States of America in Congress assembled:

The Memorial of the citizens of the County of St. John in East Florida, most respectfully represents that they entirely concur in the Resolutions which have been adopted by the Legislative Council of the Territory at its late session, in relation to a DIVISION of the said Territory, and which your Memorialists are informed have been transmitted to Washington for the action of Congress.

While your Memorialists concur in the Resolutions above referred to, as disclosing the general grounds on which they urge such Division; they yet pray leave, in addition thereto, to submit for your consideration other prominent reasons which they think demonstrate most satisfactorily and conclusively the expediency and necessity of the proposed Division, and the establishment in Florida of two Territorial Governments. They would refer in the first place, to the great inconveniences which result to the people of East Florida from the existing Government, and their inability to participate in or derive any substantial benefit or protection from it. This inconvenience and these disadvantages result in part from the peculiar geographical formation of the country; from the great distance which they are removed from the seat of Government, and also from the dissimilarity in the habits, pursuits and commercial or business relations of the people of the two Floridas, as well as other causes of less moment.

A glance at the map will show that nature seems to have intended the Suwannee River as the proper dividing line between East and West Florida, and to any person at all acquainted with the country, this geographical demarkation recommends itself with peculiar force. The whole of the two Floridas has usually been estimated to contain about 57,000 square miles, of which at least 37,000 is East of the Suwannee and within the proposed Territory of East Florida, (say

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about 24,000,000 acres of land) and allowing nine tenths for bad and waste land, which is by far too great a deduction, still it would show that East Florida proper is abundantly capable of sustaining a population of over half a million.

By the census of 1840, the population of the Districts of East and South Florida was a little short of 15,000; at present it is probably 20,000, and constantly increasing. This population is spreading over the more Southern portion of the peninsula that has heretofore been occupied by the Indians, and particularly along the Eastern Atlantic coast, all of which region is far removed from the present seat of the Territorial Government, and so remote that practically it is almost inaccessible to them. Even from the old settled portions of the Eastern District, Tallahassee is inconveniently remote. From any point on the St. Johns River, the distance is two hundred and thirty miles or upwards, by the nearest travelled route. The mail is ordinarily seven days in coming from Tallahassee to the St. Johns, and eight or nine to St. Augustine. Except, therefore, in the winter season when the Delegates from East Florida are compelled to attend the Legislature, or the people are forced to go there on business connected with the Territorial Government, there is little or no communication between the East and Middle Districts; for ordinary business or commercial purposes, none whatever.

It may safely be assumed that in respect to the inhabitants of East Florida living on or in the vicinity of the St. Johns River, or on the Atlantic seaboard, the city of Washington or even New York is, for all practical purposes, more easy of access than Tallahassee. This results not only from the fact that the means of communication or facilities of travelling are greater in that direction, but that the business or pursuits of the people of the East, (except such as may arise from the present forced political connexion,) never calls them West of the Suwannee. It should be borne in mind that the products of the country West of the Suwannee are necessarily sent to the ports or outlets upon the Gulf, and exported thence—and the imports for that region brought in by the same channels. On the other hand, the products of almost all East Florida are brought to the Atlantic coast, and even from the County of Hamilton, West of the Suwannee, much of the Cotton and other crops find their way to the St. Johns and thence to markets on the Atlantic. In a word, the business and commercial operations of the people of the two districts imperatively requires that the line of Division should be drawn in

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the direction here indicated, and the necessity for this becomes daily more urgent as the country continues to be settled farther South. Already many of the settlers on the Eastern coast are more than 500 miles removed from the Territorial Capitol, and even 700 or 800 miles by the nearest practicable route; their extreme remoteness from the seat of Government, and want of easy and ready communication with it is necessarily attended with inconveniences and disadvantages that tend to render the Territorial Government almost useless to them. Among other things, it should be noticed that the laws annually passed by the Territorial Legislature, (which usually closes its session about the middle of March,) do not reach, and are not distributed in the Eastern District until some time in May or June following, and often much later—and it is usually the case that all the Spring Terms of the Superior Courts in East Florida are closed before the Court or the Bar are able to procure the laws of the last preceding session. And when they are at last received, it is frequently the case that they are such laws as are in no wise suited to the condition, habits, and wants or requirements of the people of the East. It may also be said in no spirit of unkindness towards the people West of the Suwannee, and without any disparagement of them, that laws which may be very appropriate for them, and well fitted to their condition, pursuits, or habits, are by no means suitable or wholesome for the people of East Florida. The frequent instances in which, by existing statutes, particular portions of the country have been exempted from the operation of laws originally general in their character, shows more clearly than any argument can do, the irreconcilable dissimilarity in the circumstances and pursuits of the people, and the impolicy of forcing them into a political connexion where there exists no real community of feeling and interest to make such connexion desirable or expedient.

Again, it is a fact entitled to strong consideration, that these two portions of Territory were never united under one provincial Government, either during the Spanish or British occupation. This was not done until the cession of the Territory to the Government of the United States by Spain, by the Treaty of 1819. They had always, up to that time, enjoyed the advantages of two separate Provincial Governments, and no thought had been entertained that they could be united in one. In all the negotiations leading to that Treaty, as well as in the Treaty itself, they were uniformly spoken of as the two Floridas, or two separate provinces—and the cession itself is of the "Territories" known as East and West Florida. And though it was

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not in explicit terms stipulated that they should be so continued, yet such was the fair implication of the Treaty, and the seventh [*i.e.*, sixth] article provides that "the inhabitants shall be incorporated in the Union of the United States as soon as shall be consistent with the principles of the Federal Constitution." Yet it is by no means to be inferred that this was to be done by admitting them as *one* State—any such inference would be a most strained construction of that stipulation of the Treaty. On the contrary, the fair and liberal import obviously is, that they were to be admitted as two separate and independent Governments, as they always had existed, and as was manifestly consistent with their best interests, and in fact essential to secure to them a good Government.

The union of the two Floridas under one Territorial Government was an arrangement hastily adopted under pressing exigencies, or as a temporary measure, until Congress could make a more suitable and permanent provision. Even, however, when Congress did so, the crude and very general provisions of the first Organic Law, as well as the frequent alterations or amendments which it subsequently underwent, show very clearly that the character of the country, and the true interests of its inhabitants, were but very imperfectly understood. The original establishment of one Territorial Government for the whole country was in other respects under a state of things very different from that which now exists. The Indian tribes then occupied a large part of the Peninsula of East Florida; their Northern boundary line was about seven miles North of Fort King, and no white settler could occupy the interior of the country South of that line. The settled or inhabited part of East Florida was principally North of that line, and extending to that of Georgia, and was the country really and originally intended to be connected with Middle and West Florida. The subsequent removal of the Indians has opened nearly the whole of the Southern portion of the Peninsula to settlement, and the emigration Southward is such as to warrant the belief that in a very few years the whole of that region which is capable of cultivation will be dotted over with the habitations of our people—a circumstance which, we repeat, shows the absolute necessity for the Division of the Territory here petitioned for.

The establishment of a separate Territorial Government for East Florida will aid vastly in the improvement of the country, facilitate emigration into it, and ensure its speedy settlement and future prosperity; above all, it will enable the people of East Florida to make

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such laws and municipal regulations as are best suited to their condition, and to adopt such wholesome measures as are best calculated to develop the resources of the country, and to give strength and permanency to its institutions. It is not unreasonable to anticipate that in the progress of five or six years, or even in a shorter period, under a well ordered and judiciously administered Territorial Government, we may so increase in population and resources as to enable us to take our position as one of the States of the Union.

To our Southern friends, it is enough to suggest the importance in a national point of view, and with reference to Southern interests, that the Floridas should be kept separate and eventually brought in as *two* States, and not as one. The rapid increase of the Western Territories, and the prospects that the two new States of Iowa and Wisconsin will soon be admitted into the Confederacy, admonish us in the most forcible and solemn manner of the necessity of preserving a just and proper balance of power in the councils of the nation. In insisting upon a Division, and the establishment of two Territorial Governments, and eventually two States, we only claim that right which we contend was fully guaranteed to us by the Treaty of Cession. This is due to us by every consideration of policy and expediency—and no section or part of the Union can reasonably or justly object to it.

And your Memorialists most urgently and earnestly pray that in accordance with the Resolutions, already referred to, of the Legislative Council of the Territory of Florida, and the reasons which your Memorialists have herein presented, that a Division of our Territory will be made, and that Congress will take early action in the premises: And your Memorialists will ever pray, &c.

The following resolutions were then offered and adopted:

Resolved, That the proceedings of this meeting, together with those of the previous meeting, and the Memorial, be published in the papers of the Eastern District of Florida, and that 250 copies be printed separately for circulation; and that one copy be sent by the Secretary and Chairman of this meeting to the President of the United States, one to each of the Heads of Department, one to the President of the Senate, one to the Speaker of the House of Representatives, one to the Delegate from Florida, and one to the Chairman of the Committee on Territories.

Resolved, That Dr. William H. Simmons, Col. John M. Fontane,

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and George R. Fairbanks, Esq., be, and they are hereby appointed an Executive and Corresponding Committee.

The meeting then adjourned.

THOS. DOUGLAS, Chairman.

B. A. PUTNAM, Secretary.

* * *

NO. 48. REPORT OF THE COMMITTEE ON THE
TERRITORIES ON THE ADMISSION OF
FLORIDA INTO THE UNION⁷⁹

June 17, 1844.

Mr. A. V. BROWN, from the Committee on the Territories, made the following

REPORT:

The Committee on the Territories, to whom were referred certain resolutions of the Legislative Council of the Territory of Florida, respecting a division of said Territory, ask leave to report:

That the said resolutions, after setting forth sundry reasons in support of the policy and propriety of the measure they propose, proceed to ask the passage of a law dividing the Territory of Florida, and establishing two separate Territorial Governments, to be called, respectively, East and West Florida.

The committee, having given full and respectful consideration to the reasons suggested in the preamble of said resolutions, and the arguments advanced in the proceedings and memorial of a public meeting of the citizens of St. John's county, which were also referred to them, have come to the conclusion, that, although a sufficient ground exists for the erection of two *States* within the limits of the present Territory of Florida, it would be entirely out of the question, and inadmissible, to entertain for a moment a proposition to create two *Territories* there.

The whole policy of this Government, and all the principles upon which its institutions rest, are adverse to the long continuance of a Territorial Government over any portion of the citizens of the country. The right and the duty of self government are fundamental maxims of the political system of America. The territorial organization, for purposes of local police over such portions of the public

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domain as are occupied by a population too weak to maintain the forms and exercise the prerogatives of an independent and sovereign organization, is never designed for other than a temporary purpose. It is contrary to a true policy, as well as to republican propriety, that a supreme and despotic rule should be held by this Government over any portion of the freemen of the land; and if, from the necessity of the case, the Government has been obliged to prescribe regulations for, and exercise control over, the inhabitants of Territories not included in the limits of any one of the sovereign States, it has been with the design of raising them, by its fostering care and protection, with as little delay as possible, to a condition in which they may be able to assert and assume that high privilege of self-government which is the right of all men, and take their place as an independent community in the galaxy of American States. It is abhorrent to all the feelings and cherished principles of the freemen of this republic, that there should exist within its limits, for any length of time, or for any time not demanded by an unavoidable necessity, a community of free citizens, who, without participating in the conduct and control of this Government, should be completely subject to its will and dictation. Nor is it compatible with the feelings which should actuate every American to submit for one moment longer than necessity obliges to a government imposed by the will of others, and in the form or conduct of which the governed have no other direction, or voice, than is allowed by the permission or favor of the governors. The committee, therefore, feel assured that the freemen of Florida, (whose bosoms they presume, of course, heave with all the same high impulses of liberty and manly aspirations for self-government which mark the character of the rest of their fellow-citizens,) are as anxious to be rid of the burdens and tyranny of a territorial condition, as their fellow-citizens of the States are to relieve them. The States of this Union, exulting in the glory and happiness of their own sovereign and prosperous condition, have watched with anxiety the period when they might receive into equal confraternity, and hail into the circle of their Union, as an independent and free member of their political family, the bright star of the south. They have regretted the calamities which have attended the history, and embarrassed the progress, of this interesting portion of their countrymen; and, while sympathising with them, have yet looked forward to a speedy day when the title of Floridian might serve to designate a citizen of a free State of this Union, instead of an inhabitant of a subject and dependent community, enjoying no po-

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litical *rights*, but reduced to receive as a *boon* whatever of the forms and benefits of free government a superior may vouchsafe.

The Territory of Florida was acquired in the year 1821, and a Territorial Government at once established. Twenty three years have now elapsed during which this Government has incurred the expense and responsibility of governing its inhabitants. The period for which this relation of territorial dependence has existed on the part of Florida, already far exceeds, with a single exception, what has ever occurred, or been permitted before, in the case of any other Territory of this Union. The committee know too well how to appreciate the manly and American character of the people of Florida, to believe for an instant that they have any disposition to barter their independence and the glorious and inspiring right of self-government for the pecuniary benefits of a territorial condition. They well know that the high-souled people of Florida would spurn such motive. The freemen of no part of this country would be content to barter their liberties for dollars; and they feel well assured, therefore, that Florida, with her genial climate and teeming soil, harbors no spirits so base as to be lured to loiter in their onward course to the goal of free government by the little pebbles of gain which may lie scattered in the way. The committee are too deeply impressed with a sense of the degrading and injurious influences which a long habit of dependence is calculated to produce on the character of a people, to think it at all advisable on the part of this Government to protract for any considerable time the relation of sovereign and subject, as between this Government and the people of any part of its domain. The unexampled length to which the existence of this relation has extended in the case of Florida, may be attributed to a variety of causes, some of which deeply appeal to the sympathies of the nation. But now that a bright dawn of prosperity begins to spread its joyous mantle over her sunny fields, it would be contrary to all the just hopes and expectations of the country, and to all the rules which have governed the policy of this nation in respect to its Territories, to sanction a measure which would postpone again for an indefinite period the termination of a Territorial Government there, and impose upon the States of this Union the expense and trouble of maintaining, during that period, two territorial organizations.

The steps which are being taken in the Territory of Iowa, preparatory to the adoption of a State Government, and the nature of the application by that Territory at the present session upon that sub-

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ject, indicate a purpose to press for admission at the next session of this Congress. The practice has now, since the date of the Missouri compromise, very properly become one of settled policy to preserve, as nearly as possible, in one of the branches of the Legislature of the Union, that balance of power between two of the great divisions of the republic, which is so important to the harmony and security of the whole, and to the permanency of the Union. It is right that every section of this happy and prosperous confederacy should not only be, but feel itself to be, secure against any unjust or unequal action of the Federal Legislature upon those of their interests which may in some wise conflict with the interests, policy, or prejudices of other portions. It is only thus that there can be preserved that entire confidence and happy harmony which is so desirable to be maintained by all just and conciliatory means. It is in view of these considerations that the committee have thought it proper to report the project of a bill for the admission of Florida, in the anticipation that the people of that Territory do not design to withdraw their application for admission heretofore made, and the action upon which has been suspended, it is presumed, mainly in deference to the established practice above adverted to. But now, when Iowa is on the eve of placing herself by the side of her southern sister, and of entering with her, in twin like embrace, the portals of the glorious temple of the Union, it would be with great regret that a spirit should be perceived in generous and warm-hearted Florida to linger and retrace her steps.

In the project of the bill herewith reported, the committee have incorporated sundry liberal provisions, by which they believe the interests of the Government and the advantage of Florida will be mutually served. They regard these provisions as just in themselves, and conformable to that spirit of liberality and munificence which has always governed Congress upon the occasion of the admission of new States. The most important of the provisions contained in the bill, in a political point of view, is that which provides for a division of Florida into two States hereafter. This provision is due to the people of Florida, from the fact that the Territory, as now constituted, comprises within its limits what composed two separate provinces at the date of its acquisition; and, as is reasonably stated in the resolutions of the Legislature of Florida, the peculiar shape and physical features of the country would seem to render such division proper and convenient when the population should be such as to justify the measure. The line of division adopted for such event is the Suwannee river, although the Apalachicola river was in fact the bound-

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ary of the two former provinces. This has been done, because it is the line proposed in the said resolutions, and is therefore presumed to be preferred by the people of Florida. And the bill provides for the previous assent of the people of each section; for, without the assent of the people inhabiting the country between the Apalachicola and Suwannee, they could not be transferred from their connexion with East to West Florida, either now or hereafter, as it would be in violation of the spirit of the treaty under which the Territories were acquired. The population required to be inhabiting in each section at the date of the division is fixed at 35,000, because that was the ratio of representation existing at the date of the treaty.

The committee are decided in their opinion that the creation of two Territories in Florida is inadmissible, and recommend the postponement of any definite action as to the admission of Florida as a State, until the application of Iowa to be admitted is brought up for action.

* * *

**NO. 49. A BILL FOR THE ADMISSION OF FLORIDA AND
THE FUTURE DIVISION OF THE STATE⁸⁰**

H. R. 431. (No report.)

June 17, 1844.

Read, and laid upon the table.

Mr. A. V. BROWN, from the Committee on the Territories, reported the following bill:

A BILL For the admission of Florida into the Union, on certain conditions.

Whereas a constitution having been adopted by the people of Florida, in convention, on the eleventh day of January, eighteen hundred and thirty-nine—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Florida shall be admitted as a State into this Union, on an equal footing with the original States, in all respects whatever, under the constitution aforesaid, and upon the following fundamental conditions, namely: That the Legislature of Florida shall pass an act, to be irrevocable without the consent of Congress, disclaiming all title to the public domain of the United States, or any part thereof, and all right to tax the same, and shall transmit to the President of the United States an authentic

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copy of the said act; upon the receipt whereof, the President, by proclamation, shall announce the fact: whereupon, and without any further proceedings on the part of Congress, the admission of said State into this Union shall be considered as complete.

SEC. 2. *And be it further enacted*, That, until otherwise provided by Congress, or authorized by a new apportionment under the census, the said State shall be entitled to one Representative in the House of Representatives of the United States.

SEC. 3. *And be it further enacted*, That said State shall embrace the Territories of East and West Florida, which by the treaty of amity, settlement, and limits between the United States and his Catholic Majesty, on the twenty-second day of February, anno Domini eighteen hundred and nineteen, were ceded to the United States.

SEC. 4. *And be it further enacted*, That section number sixteen in every township, or other lands equivalent thereto, shall be granted to the State for the use of the inhabitants of such township, for the use of schools; also eight entire sections of land for the purpose of fixing their seat of government, to be selected by the Legislature of said State; also two entire townships of land, in addition to the two townships already reserved for the use of two seminaries of learning—one to be located east, and the other west of the Suwannee river; also five per centum of the net proceeds of the sale of lands within said State, which shall be hereafter sold by Congress, after deducting all expenses incident to the same; and which said net proceeds shall be applied by said State for the purposes of education.

SEC. 5. *And be it further enacted*, That for the relief of those of the citizens of Florida who have been impoverished by the depredations of Indians during the recent Seminole hostilities, there be granted to said State townships of land, to be selected within the limits of said State, in such manner as the Legislature thereof may direct, and located in parcels conformably to sectional divisions and subdivisions of not less than three hundred and twenty acres in any one location: *Provided*, That the whole of said grant shall be applied in such manner, and according to such rule of distribution, as the Legislature of said State shall provide, to the indemnification of those of the inhabitants of Florida who have sustained loss of property since the first day of November, anno Domini eighteen hundred and thirty-five, by reason of the Seminole hostilities in said Territory.

SEC. 6. *And be it further enacted*, That whenever Florida shall

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have been fully admitted as a State of the Union, it shall be lawful for the Legislature of said State to pass a law dividing the State of Florida into two States, making the Suwannee river the dividing line; and all that portion of Florida east of the Suwannee river shall be designated as East Florida; and all that portion of Florida west of said river shall be designated as West Florida; and all that portion designated as East Florida shall be admitted as a State, by the name of the State of East Florida; and all that portion designated as West Florida shall be admitted as a State, by the name of the State of West Florida, without any further proceedings on the part of Congress: *Provided, nevertheless,* That the fundamental conditions prescribed in the first section of this act shall be continued in force after the division as aforesaid, in the same manner as prior thereto: *And provided, also,* That said act providing for the division as aforesaid, shall not be passed by the Legislature as aforesaid, except with the assent of the majority of the members of the Senate and House of Representatives of the Legislature of Florida, east as well as west of the Suwannee river; nor until it shall have been ascertained, by a census taken under the authority of the State of Florida, that the population, east as well as west of the Suwannee river, shall exceed thirty-five thousand: and each of said States shall be entitled to one Representative in the House of Representatives of Congress, until otherwise provided by Congress, or authorized by a new apportionment under the census: *And provided, further,* That the constitutions adopted for such new States shall be republican in their form.

* * *

NO. 50. REPORT OF THE JOINT SELECT COMMITTEE ON STATE GOVERNMENT⁸¹

[January 17, 1845]

The joint select Committee of the Senate and House of Representatives, to which was referred so much of the Governors message, as relates to State Government, with instructions to report with as little delay as possible, the course proper to be pursued to obtain a speedy admission into the union,

REPORT:

That they cordially concur with the Governor in the sentiments expressed in his message on this important subject.

The people of Florida have a right to demand at the hands of the

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National Government the fulfilment of the pledge of the Treaty of cession, which has already been too long postponed; for the honor of the United States, and for the interests of the Territory.

The people of Florida have again and again asserted in various ways their claims under the Treaty, to be incorporated into the Union of the United States as soon as possible, according to the principles of the Federal Constitution.

As early as 1834, we find upon journals of the Legislative Council, that the people of Florida had become alive to the inestimable privileges which had been secured to them, and that measures were then proposed to take the initiatory steps necessary to the solemn assumption of our guaranteed rights. In 1838, the Constitutional Convention was convened at St Joseph, charged with the high duty of carrying into effect the mandate of the people of Florida in their sovereign capacity—to form a Constitution for the government of the new State, and to present to the Congress of the United States, an application for admission into the great Confederacy.

The labors of that Convention resulted in the formation of a Constitution, of which it is sufficient to say, that it subsequently met with the approval of the people of Florida, with whom alone rests the prerogative to judge whether or not its provisions are adapted to the protection of their rights and to the promotion of their interests.

The application was forthwith made, and we asked for admission into the Union, not as a boon, but as a sacred right, secured to us by the highest of all National sanctions, acknowledging the right in the Congress of the United States to enquire whether our Constitution was republican in its form, and consistent with the principles of the Federal Constitution. That right we still concede, but we owe it to ourselves to insist, the enquiry be restricted to those limits.

With this concession, we asked of a government of freemen, to be permitted to cast off the bonds of vassalage with which we were fettered, and to assume the position which was our birthright, but we were met with neglect and indifference.

We demanded of the nation, which by solemn compact with the former sovereign of Florida had guaranteed to its inhabitants, an admission into the Union as soon as possible a redemption of its pledge, and six years have passed away without our having been favored with the cold charity of a hearing.

FLORIDA BECOMES A STATE

In 1842, the public mind was again awakened in relation to this important subject and manifestations were made of a wish to reassemble the St. Joseph Convention, under a resolution of that body, which provided for its re-assembling in the event of our rejection by Congress. Twenty eight of the members of that Convention signed a request to the Committee authorized to convene it, but the call was not made. Reliance upon the justice of Congress was not yet exhausted, and it was hoped that our guaranteed rights would yet be awarded to us by the Federal Government. The measure was postponed, and the evils of our Territorial condition were yet longer borne in patience and in hope.

It is true, that some years after our first application for admission into the Union, the sufferings growing out of the Indian war, to which we were exposed prompted the Legislative Council, to ask of Congress to postpone the consideration of our application under the impression, doubtless, that our resources, impaired and embarrassed as they were, would be inadequate to the support of a State Government. This movement, however doubtful it may be whether it should have operated upon Congress, in contravention of the expressed will of the people of Florida in their sovereign capacity, we are willing to believe has contributed, in part, to the neglect which it has been our humiliating fate to have suffered at their hands. But those causes which for a time fettered our energies and dried up our resources, have happily passed away, and Florida is emerging from the difficulties and trials which she has so long endured, and is now ready to receive into her own keeping, that precious legacy of freedom and self-government, which was entrusted to the United States, in the solemn confidence that it would not be withheld or denied upon vain and unfounded pretences. The committee would, however, state, that at nearly every session of the Territorial Legislature since 1838, measures have been adopted to carry out the wishes of the people on this subject. Reports, resolutions and memorials, have been repeatedly transmitted to Congress, but they have hitherto received only neglect and inattention.

Your Committee do not deem it to be within their province, to urge upon this body, or upon the people of Florida, any considerations to excite them in the pursuit of the right of self-government. The people have already spoken upon this subject, in a voice which cannot be misunderstood. Born to the heritage of liberty, they have endured the evils of Territorial dependence, till those evils have become intolerable, and they have [been] driven to the assertion of

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their inalienable right of self-government, and to appeal at once to the sympathies and the sense of justice of their countrymen, for the vindication and acknowledgment of that right.

Florida asks nothing of the Congress of the United States inconsistent with the principles of the Constitution, under the shadow of which she seeks to place her future destiny. She asks but to share that common inheritance which was purchased by the blood of our common ancestry. She asks for freedom—for the privilege of self-government and of self support—for the privilege of pursuing her own ends in her own way.

She seeks admission upon terms of equality into the common brotherhood, prepared to share the common burdens, to participate in the common struggles, to partake the common triumphs, to bear the common sufferings.

And while she thus asks in the spirit of kindness and respect, to be received into the Union, she knows that she is asking what she has a right to demand.

The King of Spain, the former sovereign of this Territory, in transferring this country and its inhabitants to the United States was so solicitous of the future well being of his subjects, that in the very act by which he transferred us, he imposed upon the United States, a sacred obligation to admit us with as little delay as possible, into the Union of the States; and the United States by accepting us, acknowledged that obligation, and in the presence of God and man, solemnly pledged themselves to its fulfilment. Your committee will not permit themselves to apprehend that the provision so anxiously made by the King of Spain, for the future liberty of his subjects, will be thwarted and evaded by the representatives of the people of the United States. It cannot be, that the tribute which was thus paid by the *Monarch* to the spirit of liberty will be trampled under foot, and desecrated by the freest *people* in the world.

There are, at this period, other considerations added to those which have heretofore operated upon the people of Florida, in inducing them to assert their rights under the Treaty of Cession. The Territory of Iowa has formed a Constitution, and applied for admission into the Union, at the present session of Congress. To her demand it is presumed that no objection will be made, and it is probable that she will soon add her strength to the non-slave holding states in the councils of the nation; and if Florida is excluded she will thus destroy the equilibrium which now happily exists in the higher branch

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of the national Legislature. The disposition of some of the non-slave-holding states, to encroach upon the rights and interests of the South, has been too often and too boldly exhibited for us to be longer insensible to the danger of destroying this balance of power. We owe it to ourselves, we owe it to the South, we owe it to the country, (for wrong and injustice to the South, is danger to the whole) no longer to falter or to hesitate in the assertion of our rights.

Were the blessings of self-government less desirable, and the evils of Territorial vassalage more tolerable than they are, still, a regard to the common good—to the maintenance of the rights of that section of the Union with whose destiny for weal or woe our own is indissolubly connected, should prompt us to make some sacrifices, to secure the common safety. But desirous as we long have been, to be admitted to the enjoyment of our rights as freemen, the considerations to which we have adverted should add new ardor to our zeal, and give additional emphasis to our application for admission.

The Committee believe that the time has now arrived for fixed and definite action. The great blessings of self-government for which we have asked, and which have been so long withheld, are too precious to be surrendered with indifference; are too clearly our right for us to submit to their denial, without remonstrance.

Longer acquiescence in the wrong and injustice to which we have hitherto submitted, would bring upon us the contempt of the nation, and the loss of our own self-respect, without which, no people are fitted for the enjoyment of freedom.

Your Committee are satisfied that a very large majority of the people of Florida are anxious for immediate admission into the Union as a state, under the St. Joseph Constitution, and with the view of carrying those wishes into effect, the committee have prepared and recommend to the consideration of the Senate and House of Representatives—

First—A joint memorial to the Congress of the United States for the admission of Florida as a state, at the present session of Congress;

Second—Joint resolutions and a preamble on the same subject, which, if adopted, are to be transmitted to our Delegate in Congress.

WALKER ANDERSON,

Chairman of the Committee on the part of the Senate,

THOS. JEFF. HEIR.

Chairman of the Committee on the part of the House

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NO. 51. RESOLUTIONS OF THE GOVERNOR AND
LEGISLATIVE COUNCIL^{s2}

[*January 27, 1845*]

Whereas, the admission of the Territory of Iowa as a sovereign State of the Union, would, in our opinion, if Florida is not at the same time admitted, give an undue preponderance in the National Councils to the northern and non-slaveholding States; and tend to destroy that balance of power, which ever ought to prevail between the conflicting and sectional interests of the Republic: and

Whereas, we are warned by facts and circumstances most significant, that the interests and institutions peculiar to ourselves, and the South generally, will be assailed with renewed vehemence, and that it is a duty which we owe to our Southern brethern of the confederacy generally, as well as to ourselves, to seek and gain admission to the Union as an independent State, in order that we may have our due weight and just share of influence in the Congress of the United States. And although the individual interests of the people of Florida, who are but just recovering from the desolating and ruinous effects of a protracted Indian war, as well as from very general and severe pecuniary embarrassments, might, perhaps, be better advanced by remaining still longer in a Territorial Government, yet, in view of the more important and paramount interests above suggested, and believing that the people of Florida are ready and willing to make any and all reasonable sacrifices for the general good, therefore.—

Resolved, that it is expedient and proper, in our opinion, that Florida should be brought into the Union as an independent and sovereign State, at the same time that Iowa shall be admitted.

Resolved, that our Delegate in Congress be requested, in case Iowa is admitted, or seeks admission to the Union, to use his utmost endeavors to procure the passage of a law admitting Florida also to the Confederacy, and to endeavor to introduce into the same a provision for the future division of the State, which will secure to us the right of ultimately forming two States out of the present Territory, as was contemplated and secured to us by the treaty of eighteen hundred and nineteen, with Spain.

WILLIAM A. FORWARD

· Speaker of the House of Representatives

GEORGE W. MACRAE

President of the Senate

FLORIDA BECOMES A STATE

Adopted by the Senate 23rd. January

THOS. F. KING
Secy Senate

Adopted by the House 25th. January 1845

H. ARCHER
Secty Ho Rep

Approved January 27th. 1845

JN BRANCH
Gov. of Florida

* * *

NO. 52. AN ACT FOR THE ADMISSION OF
IOWA AND FLORIDA⁸³

[March 3, 1845]

28th Congress. Second Session.	}	Begun and held at the city of Washington, in the District of Colombia on Monday the second day of December, eighteen hundred and forty-four.
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*An Act for the admission of the States of Iowa and
Florida into the Union.*

Whereas, the people of the Territory of Iowa did, on the Seventh day of October, eighteen hundred and fourty-four, by a convention of delegates called and assembled for that purpose, form for themselves a constitution and State Government; and wheras the people of the Territory of Florida did, in like manner by their delegates, on the eleventh day of January, eighteen hundred and thirty-nine, form for themselves a constitution and State Government, both of which said constitutions are republican; and said conventions having asked the admission of their respective territories into the Union as States, on equal footing with the original states:—

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That the States of Iowa and Florida be and the same are hereby, declared to be States of the United States of America, and are hereby admitted into the Union on equal footing with the original States, in all respects whatsoever.

Section 2. And be it further enacted, That the following shall be

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the boundaries of the said State of Iowa, to wit:—Beginning at the mouth of the Des Moines river, at the middle of the Mississippi, thence by the middle of the channel of that river to a parallel of latitude passing through the mouth of the Mankato or Blue-Earth river, thence west along the said parallel of latitude to a point where it is intersected by a meridian line, seventeen degrees and thirty minutes west of the meridian of Washington City, thence due South to the northern boundary line of the State of Missouri, thence eastwardly following that boundary to the point at which the same intersects the Des Moines river, thence by the middle of the channel of that river to the place of beginning.

Section 3. And be it further enacted, That the said state of Iowa shall have concurrent jurisdiction on the river Mississippi, and every other river bordering on the said state of Iowa, so far as the said rivers shall form a common boundary to said State, and any other State or States now or hereafter to be formed or bounded by the same: such rivers to be common to both: and that the said river Mississippi, and the navigable waters leading into the same, shall be common highways, and forever free as well to the inhabitants of said State, as to all other citizens of the United States, without any tax, duty, impost, or toll therefor, imposed by the said State of Iowa.

Section 4. And be it further enacted, That it is made and declared to be a fundamental condition of the admission of said State of Iowa into the Union, that so much of this act as relates to the said State of Iowa shall be assented to by a majority of the qualified electors at their township elections in the manner and at the time prescribed in the sixth section of the thirteenth article of the constitution adopted at Iowa city the first day of November, anno Domini eighteen hundred and forty-four, or by the Legislature of said State. And as soon as such assent shall be given, the President of the United States shall announce the same by proclamation; and therefrom and without further proceedings on the part of Congress the admission of the said State of Iowa into the Union, on an equal footing in all respects whatever with the original States, shall be considered as complete.—

Section 5. And be it further enacted, That said State of Florida, shall embrace the territories of East and West Florida, which by the treaty of amity, settlement and limits between the United States and Spain, on the twenty-second day of February, eighteen hundred and nineteen, were ceded to the United States.

Section 6. And be it further enacted, That until the next census

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and apportionment shall be made, each of said States of Iowa and Florida, shall be entitled to one representative in the House of Representatives of the United States.—

Section 7. And be it further enacted, That said States of Iowa and Florida are admitted into the union on the express condition that they shall never interfere with the primary disposal of the public lands lying within them, nor levy any tax on the same whilst remaining the property of the United States: Provided, That the ordinance of the convention that formed the constitution of Iowa, and which is appended to the said constitution, shall not be deemed or taken to have any effect or validity, or to be recognized as in any manner obligatory upon the government of the United States.

Approved, March 3, 1845.

Department of State

March 5th, 1845—A true copy from the roll in this Department.

R. K. CRALLE

Chf Clk

* * *

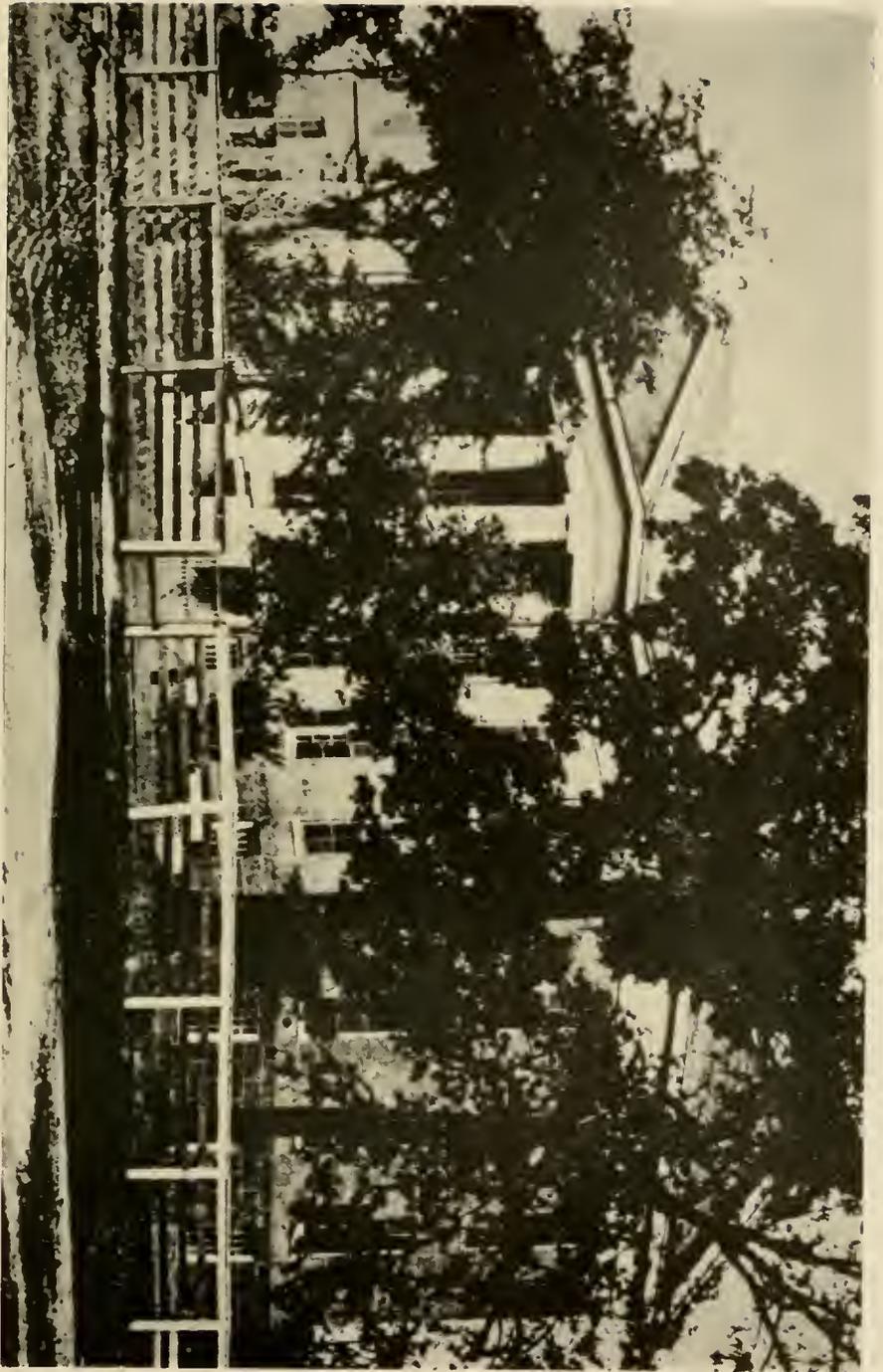
NO. 53. AN ACT SUPPLEMENTARY TO THE ACT FOR
THE ADMISSION OF IOWA AND FLORIDA⁸⁴

[March 3, 1845]

An Act supplemental to the act for the admission of Florida and Iowa into the Union, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in consideration of the concessions made by the State of Florida in respect to the public lands, there be granted to the said State eight entire sections of land for the purpose of fixing their seat of Government; also, section number sixteen in every township, or other lands equivalent thereto, for the use of the inhabitants of such township, for the support of public schools; also, two entire townships of land, in addition to the two townships already reserved, for the use of two seminaries of learning—one to be located east, and the other west of the Suwannee river; also, five per centum of the net proceeds of the sale of lands within said State, which shall be hereafter sold by Congress, after deducting all expenses incident to the same; and which said net proceeds shall be applied by said State for the purposes of education.

SEC. 2. *And be it further enacted, That all the laws of the United*



CAPITOL OF FLORIDA AS IT LOOKED IN 1845

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States which are not locally inapplicable, shall have the same force and effect within the said State of Florida, as elsewhere within the United States.

SEC. 3. *And be it further enacted*, That the said State shall compose one district, to be called the district of Florida. And a district court shall be held in said district, to consist of one judge who shall reside within the district to which he is appointed, and be called a district judge; and shall in all things have and exercise the same jurisdiction and powers which were by law given to the judge of the Kentucky district under an act entitled An act to establish the judicial courts of the United States, the said judge shall appoint a clerk at the place at which a court is holden within the district, who shall reside and keep the records of the court at the place of holding the same; and shall receive, for the services he may perform, the same fees to which the clerk of the Kentucky district is entitled for similar services.

SEC. 4. *And be it further enacted*, That the judge of the district of Florida shall hold extra sessions at any time when the public interest may, in his opinion, require the same.

SEC. 5. *And be it further enacted*, That the judge of the district of Florida shall hold one session annually at the following places, to wit: at Tallahassee, on the first Monday of January; at St. Augustine, on the first Monday of April; and at Key West, on the first Monday in August.

SEC. 6. *And be it further enacted*, That there shall be allowed to the judge aforesaid, an annual compensation of two thousand dollars, to commence from the date of his appointment, to be paid quarterly at the treasury of the United States.

SEC. 7. *And be it further enacted*, That there shall be appointed in said district a person learned in the law, to act as attorney for the United States; who shall in addition to his stated fees, be paid by the United States, two hundred dollars, as a full compensation for all extra services.

SEC. 8. *And be it further enacted*, That a marshal shall be appointed in said district, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees as are prescribed to marshals in other districts; and shall moreover, be entitled to the sum of two hundred dollars annually as a compensation for all extra services. And that the salary of the district judges of the district courts of the districts of Ohio, Indiana,

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Illinois and Missouri, shall hereafter be, one thousand five hundred dollars per annum.

APPROVED, March 3, 1845.

* * *

NO. 54. PROCLAMATION OF GOVERNOR BRANCH⁵⁵

[March 18, 1845]

Proclamation, By John Branch
Governor of the Territory of Florida.

WHEREAS I have this day received official information, that Congress have approved the *Constitution of the State of Florida*, and provided for the admission of the State of Florida, into the Union, by an Act entitled "*An Act for the admission of the States of Iowa and Florida into the Union*"; approved March 3rd. 1845, (an authentic and certified copy of which is hereunto annexed): NOW, THEREFORE, in pursuance of the Act of the Governor and Legislative Council of the Territory of Florida, entitled "*An act to facilitate the organization of the State of Florida*"; approved March 11th. 1845 (a copy of which is hereto annexed,) I DO HEREBY MAKE PROCLAMATION thereof; and, I do *enjoin and direct* the several Clerks of the County Courts of this Territory, to issue an order appointing Inspectors to hold an election, in the mode and manner prescribed by the Act, approved 15th March 1843, respecting elections; to be held in their respective Counties, on *Monday the 26th day of May 1845*, the time appointed by the surviving members of the Committee of the Constitutional Convention, or a majority thereof, referred to in said Act of March 11th 1845; *and*, as directed by said Committee; *and* I further *enjoin and direct* all Inspectors of elections & other officers, to hold elections, and make returns of the said elections, according to the requirements of said Act of March 11th. 1845; to the end, that no difficulties or embarrassments may ensue in the organization of the Government of *the State of Florida*.

Given under my hand, and the seal of said Territory, at the *Capitol in Tallahassee* March 18th. A. D. 1845, and
[Seal] of the Independence of the United States, the 69th year.

JN BRANCH
Governor of Florida.

By the Governor
THO. H. DUVAL
Sec'y of Florida.

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NO. 55. PROCLAMATION BY THE COMMITTEE OF
THE CONSTITUTIONAL CONVENTION⁸⁶

[March 20, 1845]

STATE OF FLORIDA!

PROCLAMATION

BY THE

COMMITTEE OF THE CONSTITUTIONAL CONVENTION
OF THE STATE OF FLORIDA.

WHEREAS, By the "Schedule and Ordinance" contained in article XVII of the *Constitution of the State of Florida*, it is ordained and declared, that "immediately after official information shall "have been received that Congress have approved the Constitution, and provided for the admission of Florida, the President "of this Convention shall issue writs of election to the proper "officers in the different Counties, enjoining them to cause an "election to be held for Governor, Representative in Congress, "and members of the General Assembly, in each of their respective Counties. The election shall be held on the first Monday "after the lapse of sixty days, following the day of the date of "the President's proclamation, and shall take place on the same "day throughout the State. The said election shall be conducted "according to the then existing election laws of the Territory of "Florida: *Provided however*, That in case of the absence or "disability of the President of the Convention to cause the said "election to be carried into effect, the Secretary of this Convention shall discharge the duties hereby imposed upon the President; and in case of the absence or disability of the Secretary, "a committee consisting of five, to-wit: Leigh Read, George "T. Ward, James D. Westcott, Jr., Thomas Brown and Leslie A "Thompson, or a majority of them, shall discharge the duties "herein imposed on the Secretary of the Convention; and the "members of the General Assembly, so elected, shall assemble "on the fourth Monday thereafter at the seat of government. "The Governor, Representative in Congress, and members of the "General Assembly, shall enter upon the duties of their respective offices immediately after their election under the provisions of this Constitution, and shall continue in office in the "same manner, and during the same period, they would have "done had they been elected on the first Monday in October:"

And whereas, The Hon. R. R. Reid, President of said Constitution-

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al Convention, has, since the issuing of his proclamation of the adoption and ratification of said Constitution, (a copy whereof is hereto annexed,) died;⁸⁷ *And whereas*, The Secretary of said Convention hath removed, and is now absent from Florida,⁸⁸ and the duties of said President and Secretary, prescribed as aforesaid, devolve on said committee of said Constitutional Convention above named in said "Schedule and Ordinance", or a majority of them, and one of which committee, Gen. Leigh Read, hath also died;⁸⁹ *And whereas*, Official information has been received this day by us, that Congress have approved the Constitution, and provided *for the admission of Florida*, by an act entitled, "*An act for the admission of the State of Iowa and Florida into the Union*", approved March 3d, 1845; (an authentic copy whereof is annexed to the proclamation of the Governor of the Territory of Florida, dated the 18th instant, and a copy of the communication of the Delegate from Florida to said committee transmitting said act, being hereto annexed:)

NOW THEREFORE, *in pursuance of the provisions of said Constitution hereinbefore cited*, and in virtue of the power and authority thereby invested in the undersigned, a majority of said committee, WE DO HEREBY PROCLAIM that the Congress of the United States of America have approved as "Republican" the "Constitution or form of Government for the people of Florida", formed at St. Joseph, on the 11th day of January, 1839, *and admitted the State of Florida*, under said Constitution, into the Union, on an "*equal footing with the original States, in all respects whatsoever*;" *and we do enjoin* the proper officers in the different Counties of the *State of Florida*, to cause an election to be held in each of their respective Counties, throughout the State, on *Monday, the twenty-sixth day of May, 1845*, for the following officers, viz:

1. For *Governor of the State of Florida*, to serve for four years from the twenty-sixth day of May, 1845, and until his successor be chosen and qualified.
2. For one *Representative in the 29th Congress of the United States from the State of Florida*.
3. For *Seventeen SENATORS* in the *GENERAL ASSEMBLY* of said State, to be elected from the different Senatorial Districts, as prescribed by the Constitution of Florida, to serve as directed in said Constitution; and
4. For *forty-one REPRESENTATIVES* in the *FIRST GENERAL ASSEM-*

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BLY of said State, to be elected from the different Counties recognized in said Constitution, as prescribed by said Constitution, to serve until the first Monday of October, 1846.

The said General Assembly of said State to convene and commence its first session at the Capitol, in the city of Tallahassee, in the County of Leon, on Monday, the 23d day of June, 1845. *And we enjoin* said officers to conduct said elections according to the existing election laws of the Territory of Florida, and the directions and requisitions of the Constitution of the State of Florida. *And we do further enjoin* said officers to perform all the acts necessary for the holding of said elections according to the requisitions of the *writs of election* issued herewith to the officers of each of the Counties aforesaid respectively, by the undersigned, agreeably to the provisions of the said Constitution. GOD SAVE THE STATE.

Given under our hands at Tallahassee, in the County of Leon, on the 20th day of March, ANNO DOMINI, 1845, and of the INDEPENDENCE of the UNITED STATES OF AMERICA the 69th year, and of the INDEPENDENCE OF FLORIDA the FIRST YEAR.

THOMAS BROWN,
JAMES D. WESTCOTT, Jr.
GEORGE T. WARD.

*Majority of the Committee of the Constitutional Convention
of the State of Florida.*

* * *

NO. 56. CERTIFICATE OF THE RESULTS OF THE
ELECTION OF MAY 26, 1845⁹⁰

[June 23, 1845]

These presents certify that, in pursuance of law, the undersigned have duly counted and canvassed the votes in the several precincts of the different Counties of this State, at an election held on Monday, the 26th of May, 1845, for Governor of the State of Florida, to hold his office for four years from the date of his election, and until his successor is chosen and qualified for a Representative from said State in the 29th Congress of the United States; for seventeen Senators in the General Assembly of said State, according to the Constitution of said State; and for forty-one Representatives in the first General

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Assembly of the said State from the several Counties, according to said Constitution, to serve until the first Monday of October, 1846.

And from the returns made to the Secretary of the Territory it appears:

That William D. Mosely was duly elected Governor of the State of Florida, to serve as aforesaid.

And that David Levy was duly elected Representative in the 29th Congress of the United States from the State of Florida.

And that the following named persons were duly elected Senators in the General Assembly of said State, viz:

From the first	Senatorial	District	—	B. D. Wright
" "	Second	" "		D. G. McLean ⁹¹
" "	third	" "		Thomas M. White
" "	fourth	" "		Joel Porter.
" "	fifth	" "		George S. Hawkins,
" "	Sixth	" "		Robert B. Haughton,
" "	Seventh	" "		James A. Berthelot and David S. Walker.
" "	Eighth	" "		William Bellamy.
" "	Ninth	" "		Dennit H. Mays.
" "	Tenth	" "		Daniel Bell.
" "	eleventh	" "		Jesse Carter.
" "	twelfth	" "		Gabriel Priest.
" "	thirteenth	" "		John Broward.
" "	fourteenth	" "		A. S. Goodbread.
" "	fifteenth	" "		George Center.
" "	sixteenth	" "		No return received. ⁹²

Which will appear by the original returns and the statement herewith enclosed to the Honorable Speaker of the House of Representatives, duplicates hereof having been also enclosed to the Honorable President of the Senate.

And the following named persons were duly elected Representatives in the first General Assembly of said State, to serve until the first Monday of October, 1846, viz:

From Escambia County—James R. Riley, Charles A. Tweed, William W. J. Kelly.

From Walton County—Angus Gillis.

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From Washington County—James M. Long.

From Jackson County—John Brett, Jr, William C Neal, Britton Barkley.

From Calhoun County—James Penn, J. H Stone.

From Franklin County—Robert Myres, Robert J. Floyd.

From Gadsden County—Abraham K. Allison, Isaac Ferguson Jr Joseph L. Smallwood, William Forbes.

From Leon County—Hugh Archer, Benjamin G. Waring, Amos M. Alexander, Frederick R. Cotten, Lewis H. Branch, Thomas Brown.

From Jefferson County—William R. Taylor, David P. F. Newsom Robert C. Hurst.

From Madison County—John Coleman.

From Hamilton County—Israel M Stewart.

From Columbia County—George E McClellan, Giles U. Ellis,

From Alachua County—Bennett M. Dell, Michael N. Garrison,

From Duval County—Stephen D. Fernandez, A. J. Philips,

From Nassau County E. D. Tracey,

From St John's County—Buckingham Smith William W. Loring John M. Fontane.

From Mosquito County—Douglas Dummett.

From Hillsborough County James A. Goff.

From Dade County—No return received.⁹³

From Monroe County—No return.⁹⁴

The number of votes given to each candidate, will appear in the return and statement herewith inclosed.

Witness the seal of said State, and the signature of the Secretary, Auditor, and Treasurer of said Territory, Monday June 23d 1845.

JOHN P. DUVAL,
Acting Secretary

JOHN MILLER,
Auditor Public Accts Fla

N. P. BEMIS
Treasurer of the Territory.

We certify that the foregoing persons appear, from the returns

FLORIDA BECOMES A STATE

made to the Committee of the Constitutional Convention, to be elected, as is stated in said certificate June 23d 1845.

Attest

JAMES D. WESTCOTT, Jr.
GEO. T. WARD,
THO. BROWN.

Committee of the Constitutional Convention of the state of Florida

* * *

NO. 57. AN ACT DECLARING THE ASSENT OF FLORIDA
TO THE TERMS OF ADMISSION⁹⁵

[*July 25, 1845*]

An act declaring the assent of the State of Florida to the terms of admission into the confederacy and Union.

Sec 1. Be it enacted by the Senate and House of Representatives of the State of Florida in General Assembly convened, That the State of Florida hereby makes the declaration of its assent to the terms of admission of this State into the confederacy and Union of the United States and to the provisions of the acts of Congress respecting the public lands of the United States in this State agreeably to the 6th clause of the 17th article of the Constitution of this State.

Passed the House of Representatives July 25. 1845.

M. D. PAPY

Clerk of the House of Representatives

Passed the Senate July 25, 1845.

THOS. F. KING

I FERGUSON jr

Speaker of the House of Representatives
Pro Tem

JAMES A. BERTHELOT

President of the Senate.

Approved July 25 1845 W. D. MOSELEY

Govr. of Flo.

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Records of the United States Senate, cited as U. S. Senate Files, are in the National Archives; records of the United States House of Representatives, cited as U. S. House Files, are in the Library of Congress. Transcriptions of Senate and House records are from photostats in the Florida State Library. The Enrolled Acts of Florida are in the office of R. A. Gray, Secretary of State of Florida. Manuscript journals of the Florida legislature, beginning with the session of 1836, are also in the office of the Florida secretary of state. Manuscript journals for 1831-35 are in the Florida State Library.

THE MOVEMENT FOR STATEHOOD

I. Early Agitation for Statehood

¹ Document No. 1. Extracts from the Treaty of Amity, Settlement, and Limits.

² 3 *U. S. Stat.* 637-639.

³ *Annals of Congress*, 17th Cong., 1st sess., 16.

⁴ *Ibid.*, 17.

⁵ Statement of Robert Raymond Reid, who was a member of the Sixteenth and Seventeenth Congresses, in *Florida Herald and Southern Democrat*, cited hereafter as *Florida Herald*, April 11, 1839. During the discussion of the bill, memorials for the suppression of slavery in Florida were presented in the House (*Annals of Congress*, 17th Cong., 1st sess., 910, 1377). A clause to forbid introduction of slaves into Florida except by citizens of the United States removing into the territory for actual settlement was stricken in the Senate by a vote of only 23 to 20 (*ibid.*, 277).

⁶ *Niles' Register*, XXI (December 29, 1821), 276.

⁷ *Annals of Congress*, 17th Cong., 1st sess., 142, 826.

⁸ *Ibid.*, 595.

⁹ *Ibid.*, 803.

¹⁰ *Ibid.*, 275, 276. Andrew Jackson reported, in October, 1821,

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that a majority of the people in West Florida opposed annexation to Alabama, and that a like sentiment prevailed in East Florida with regard to annexation to Georgia (*ibid.*, 2560).

¹¹ 3 *U. S. Stat.* 654-659.

¹² *Niles' Register*, XXIII (September 14, 1822), 24.

¹³ H. Doc. 19, 17th Cong., 2d sess. [76], p. 3.

¹⁴ Document No. 2. Resolution of the Legislative Council.

¹⁵ *Pensacola Gazette*, October 28, 1828.

¹⁶ *Ibid.*, November 4, 1828.

¹⁷ *Niles' Register*, XXXIX (September 11, 1830), 55.

¹⁸ Document No. 3. Extract from a Message of Acting Governor Westcott.

¹⁹ Printed Journal, 1833, p. 54.

²⁰ *Ibid.*, p. 38.

²¹ Document No. 4. Report of the Committee on the State of the Territory.

²² Printed Acts, 1822, pp. 67-78, 145.

²³ 3 *U. S. Stat.* 752, 754.

²⁴ 4 *U. S. Stat.* 265.

²⁵ Printed Acts, 1823, pp. 140, 141; 4 *U. S. Stat.* 19.

²⁶ Printed Acts, 1826, pp. 97, 98.

²⁷ *Ibid.*, 1828, p. 236.

²⁸ *Ibid.*, pp. 198, 199.

²⁹ See printed Journal, 1832, p. 86; *ibid.*, 1833, App., pp. I, II; *ibid.*, 1834, p. 144.

³⁰ *Ibid.*, 1833, App., p. XI.

³¹ *Ibid.*, 1832, pp. 126-128.

³² *Ibid.*, 1834, pp. 108, 109.

³³ *Ibid.*, p. 126.

³⁴ *Ibid.*, p. 123.

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⁸⁵ *Pensacola Gazette*, March 19, 1834.

⁸⁶ Document No. 5. Resolution of the Legislative Council.

⁸⁷ *Floridian*, August 22, September 26, 1835.

⁸⁸ Printed Journal, 1836, p. 47.

⁸⁹ Document No. 6. Extract from a Message of Governor Call.

⁹⁰ Document No. 7. An Act to Take a Vote on Statehood.

⁹¹ MS. Journal, 1837, session of February 12.

⁹² *Pensacola Gazette*, March 4, April 22, 1837.

⁹³ *Florida Herald*, April 12, 1837.

⁹⁴ Jedidiah Morse, *A Report to the Secretary of War . . . on Indian Affairs . . .* (New-Haven, 1822), App., pp. 310, 311.

⁹⁵ *Annals of Congress*, 18th Cong., 1st sess., 927.

⁹⁶ Printed Acts, 1822, p. 191.

⁹⁷ *Ibid.*

⁹⁸ The Southern Judicial District, established in 1828, was in East Florida; the Apalachicola District, established in 1838, was in West Florida. Throughout this discussion, East Florida is used to designate all that area east and south of the Suwannee River; West Florida, all territory west of the Apalachicola.

⁹⁹ See "Capital Removal," *Florida Historical Quarterly*, III, No. 4 (April, 1925), 3-10.

¹⁰⁰ See Document No. 8. Proclamation of Governor Call and Returns of the 1837 Election. Governor Call proclaimed that a majority of 1,005 votes had been cast in favor of a state, but a subsequent tabulation by precincts showed a majority of only 940. It was presumed that the difference was due to certain votes against statehood having been rejected because not given in the form prescribed by law. Examination of extant returns from 35 of the 72 precincts in the territory shows this could hardly have been the case. Of 730 votes cast against statehood, 310 were for "Territory," the form prescribed by the act, and 420 for "No State," while the second precinct in Escambia County returned "against the admittance of the Territory as a state 30 votes," and Webbville, in Jackson County, "Thirteen votes for this Territory remaining a Terri-

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tory some time longer and four votes for its being admitted into a State." (MSS. in office of Florida secretary of state.) It seems impossible, therefore, to reconcile the majority proclaimed by Governor Call with that of the later tabulation, unless some of the returns had been lost before the tabulation was made.

⁵¹ Document No. 9. Extract from a Message of Governor Call.

⁵² Document No. 10. Report of a Select Committee of the Legislative Council.

⁵³ MS. Journal, 1837, session of January 11; printed Journal, 1838, App., pp. 13, 14.

⁵⁴ MS. Journal, 1838, session of February 3.

⁵⁵ MS. in office of Florida secretary of state.

⁵⁶ Quoted in *Apalachicola Gazette*, February 3, 1838. The reference is to the battle of December 31, 1835, at a ford of the Withlacoochee River, between troops under General Duncan L. Clinch and Seminoles led by Alligator and Osceola.

⁵⁷ *Floridian*, May 19, 1838.

⁵⁸ Since proceedings on the bill were in committee of the whole house, proponents of the several amendments cannot be identified from the Journal.

⁵⁹ Printed Journal, 1838, p. 80. Hillsborough County was not represented at this session.

⁶⁰ The resolutions were printed as S. Doc. 107, 25th Cong., 2d sess. [315]

⁶¹ Printed Journal, 1838, p. 73.

⁶² *Pensacola Gazette*, December 2, 1837.

⁶³ Document No. 13. Memorial to Congress of Inhabitants of St. Augustine.

⁶⁴ Downing to, February 25, 1838, in *Florida Herald*, April 9, 1841.

⁶⁵ Quoted in *News*, December 20, 1839.

⁶⁶ *Florida Herald*, February 15, 1838.

⁶⁷ *Pensacola Gazette*, April 21, 1838.

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⁶⁸ H. R. 780, 25th Cong., 2d sess., in U. S. House Files, introduced May 11, 1838, read twice and referred to the committee of the whole house.

⁶⁹ *Floridian*, June 2, 1838.

⁷⁰ *News*, February 9, 1839.

⁷¹ Document No. 14. An Enabling Bill.

⁷² *Floridian*, October 13, 1838.

⁷³ Printed Journal, 1834, p. 46.

⁷⁴ *Ibid.*, 1832, pp. 82, 83.

⁷⁵ *Ibid.*, p. 16.

⁷⁶ The idea seems to have been borrowed from the Bank of Louisiana, recently organized in New Orleans. Where not otherwise indicated, data on banks are taken from Kathryn T. Abbey, "The Union Bank of Tallahassee," *Florida Historical Quarterly*, XV (April, 1934), 207-231, and Caroline Mays Brevard, *A History of Florida from the Treaty of 1763 to Our Own Times* (DeLand, Fla., 1924, 2 vols.), I, 202-227.

⁷⁷ Printed Journal, 1833, p. 6.

⁷⁸ *Ibid.*, p. 72.

⁷⁹ H. Doc. 111, 26th Cong., 2d sess. [385], p. 257.

⁸⁰ *Ibid.*

⁸¹ *Ibid.*, pp. 269-278.

⁸² Printed Journal, 1835, p. 66.

⁸³ *Floridian*, May 19, 1838.

⁸⁴ *Ibid.*, September 15, 1838.

⁸⁵ *Ibid.*, September 22, 1838.

⁸⁶ See Document No. 15. Census of the Territory of Florida.

⁸⁷ "Truth" in *News*, January 12, 1839.

⁸⁸ *Florida Herald*, May 19, 1838.

⁸⁹ *Ibid.*, July 7, 1838.

⁹⁰ *Ibid.*, September 29, 1838.

⁹¹ *Ibid.*, October 6, 1838.

⁹² *Ibid.*, October 13, 1838.

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II. The St. Joseph Convention

¹ The *Florida Herald* of April 25, 1839, summarized the birthplaces of convention members as follows: South Carolina, 14; Georgia, 10; Virginia, 8; North Carolina, 5; Florida, 3; Kentucky, 2; Maryland, 2; New York, 2; Pennsylvania, 1; Tennessee, 1; New Jersey, 1; Connecticut, 1; Massachusetts, 1; Rhode Island, 1; West Indies, 1; Ireland, 1; Scotland, 1; France, 1. Jose Simeon Sanchez, of St. Johns, was a native Floridian. The other two probably were William Haddock, of Nassau, and William H. Williams, of Mosquito.

² Nothing is known of many of the members beyond their names and the counties they represented. R. J. Mays, of Madison, and J. N. Partridge, of Jefferson, were ministers and planters; Benjamin D. Wright, of Escambia, and C. E. Bartlett, of Franklin, were editors; Samuel C. Bellamy, of Jackson, and Banks Meacham and John W. Malone, of Gadsden, were doctors; Thomas Brown, of Leon, was an innkeeper; William Bunce, of Hillsborough, was a sea captain and fisherman; Joseph B. Browne, of Monroe, was a merchant.

³ Former members of the council, and the years they served, were: Thomas Baltzell, of Jackson, 1832; Abram Bellamy, of Jefferson, 1824-25, 1829-33, 1835; Thomas M. Blount, of Escambia, 1833-36, 1838; Thomas Brown, of Leon, 1829, 1838; James G. Cooper, of Nassau, 1832-33; Richard Fitzpatrick, of Dade, 1831-32, 1835-38; David Levy, of St. Johns, 1837-38; Richard H. Long, of Jackson, 1837-38; William Marvin, of Monroe, 1837; John L. McKinnon, of Walton, 1834-35; Joseph McCants, of Jefferson, 1836; Banks Meacham, of Gadsden, 1833; Jackson Morton, of Escambia, 1837; Leigh Read, of Leon, 1837; Jose Simeon Sanchez, of St. Johns, 1827-32; George T. Ward, of Leon, 1833-34; Benjamin D. Wright, of Escambia, 1824, 1831-33, 1837; William Wyatt, of Leon, 1826-28, 1833, 1838. Abram Bellamy is the only man who has ever served four times as presiding officer of a Florida legislative body. He was president of the council in 1825, 1829, 1831, and 1832. Richard Fitzpatrick was president in 1836, Jackson Morton in 1837, and Thomas Brown in 1838.

⁴ James Owen Knauss, *Territorial Florida Journalism* (DeLand, Fla., 1926), pp. 130, 131. Extant newspaper reports of debates in the convention are published in this volume. Although Samuel T. Garey, of Duval, was not specifically mentioned as being absent on the first day, as were Richard J. Mays, of Madison, and James G.

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Cooper, of Nassau, available evidence seems to indicate that none of these three ever participated in the convention. There is no record in the Convention Journal of their having been seated after the first day, of having been appointed to a committee, or of having made a motion, and their votes on final passage of the constitution were cast by proxy.

⁵ Convention Journal, p. 5 (all references are to the original pagination) ; see also, Knauss, *op. cit.*, pp. 132, 134.

⁶ *Ibid.*, pp. 133, 134.

⁷ *Ibid.*, p. 134. It was supposed that William Cooley had been elected from Hillsborough County and a vote in his name was cast by proxy for Reid. When it became known that William Bunce had been elected from Hillsborough, Reid resigned the presidency and was unanimously reelected.

⁸ *Pensacola Gazette*, September 1, 1838.

⁹ *Ibid.*, February 6, 1841.

¹⁰ Knauss, *op. cit.*, pp. 135, 136 ; Convention Journal, p. 11.

¹¹ *Ibid.*, p. 8.

¹² Knauss, *op. cit.*, p. 146.

¹³ *Floridian*, December 15, 1838.

¹⁴ Only a few late-comers seem to have been slighted.

¹⁵ The committee consisted of Westcott, Richard H. Long, David Levy, Samuel C. Bellamy, Walker Anderson, and Thomas Brown. According to a correspondent of the *Floridian*, writing before the committee was appointed, the first three were anti-bank, the last three pro-bank (*Floridian*, December 15, 1838). For a list of committees and members, see Convention Journal, pp. 12, 13, 58.

¹⁶ *Ibid.*, pp. 33, 40, 41.

¹⁷ The debate is in Knauss, *op. cit.*, pp. 167-174.

¹⁸ The debate is in *ibid.*, pp. 174-180.

¹⁹ Convention Journal, p. 43.

²⁰ *Ibid.*, p. 51.

²¹ Knauss, *op. cit.*, p. 185.

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²² *Ibid.*, p. 225.

²³ The *ad valorem* system was adopted by law in 1855. Although the intervening 17 years had been a period of growth for the East, the change resulted in an increased taxation of 33 percent for that section, as contrasted with 51 percent for Middle Florida. The increase for the five big planting counties of Jackson, Gadsden, Leon, Jefferson, and Madison was 83 percent. That for West Florida was 29 percent. See printed Senate Journal, 1856, App., pp. 6, 7.

²⁴ Convention Journal, p. 63.

²⁵ *Ibid.*, p. 64.

²⁶ *Ibid.*, p. 69.

²⁷ *Ibid.*, p. 61.

²⁸ *Ibid.*, p. 57.

²⁹ J. N. Partridge, a Methodist minister, voted for this section (*ibid.*, p. 58).

³⁰ *Ibid.*, p. 55.

³¹ Dual officeholding was quite common in the territory and probably could be justified in sparsely settled counties. Federal officers were made ineligible for the Legislative Council in 1828, but the prohibition was rescinded in 1831.

³² *Ibid.*, pp. 34-36.

³³ *Ibid.*, pp. 39-41.

³⁴ *Ibid.*, p. 40.

³⁵ Thomas Baltzell to Joseph McBride, March 15, 1839, in *News*, April 13, 1839.

³⁶ Convention Journal, pp. 60, 61.

³⁷ *Ibid.*, p. 61.

³⁸ Knauss, *op. cit.*, p. 199.

³⁹ *Ibid.*, p. 197.

⁴⁰ *Ibid.*, pp. 199, 200, 213.

⁴¹ *Ibid.*, pp. 191, 205.

⁴² *Ibid.*, pp. 192, 194.

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⁴³ *Ibid.*, pp. 211-214.

⁴⁴ The final text of the resolutions is in *Convention Journal*, pp. 72, 73. They were printed as H. Doc. 156, 25th Cong., 3d sess. [347] and are in Knauss, *op. cit.*, pp. 223, 224.

⁴⁵ *Convention Journal*, p. 71.

⁴⁶ *Ibid.*, p. 73. Brown was recorded as voting for Baltzell's resolutions, but in a formal protest he stated that he had understood that he was voting to strike out and insert his own (*ibid.*, p. 78).

⁴⁷ On an undated Sunday afternoon, DuVal called a caucus for the purpose of breaking up the convention "if the Democrats didn't give in to the Bank Party's desire of the Faith Bond Banks," but the meeting was invaded by anti-bank leaders who talked the bank men out of their purpose (R. R. Reid to U. S. Secretary of State, December 10, 1840, quoted in Sidney Walter Martin, *Florida During the Territorial Days* [Athens, Ga., 1944], p. 157). The *Florida Herald* of September 12, 1840, told the same story.

⁴⁸ The use of the proxy system makes it impossible to tell from the *Journal* when a quorum was present, but there were frequent calls of the convention.

⁴⁹ *Convention Journal*, p. 82.

⁵⁰ *Ibid.*

⁵¹ *Ibid.*, pp. 84, 85.

⁵² *Ibid.*, p. 85.

⁵³ *Ibid.*, p. 86.

⁵⁴ *Ibid.*, p. 113.

⁵⁵ *Ibid.*, p. 116.

⁵⁶ *Ibid.*, p. 114.

⁵⁷ *Ibid.*, pp. 115, 116.

⁵⁸ *News*, February 16, 1839.

⁵⁹ 4 *U. S. Stat.* 677.

⁶⁰ *Convention Journal*, p. 102.

⁶¹ 5 *U. S. Stat.* 263.

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⁶² Convention Journal, p. 89.

⁶³ *Ibid.*, pp. 87, 88. Delegates from Washington and Hamilton voted with the East on this, as well as on several other motions.

⁶⁴ *Ibid.*, pp. 88, 89, 102.

⁶⁵ Only 16 senatorial districts were provided, but Leon county was given two senators.

⁶⁶ See *ibid.*, pp. 87, 92.

⁶⁷ *Ibid.*, p. 101.

⁶⁸ *Ibid.*, pp. 97, 100, 113.

⁶⁹ *Ibid.*, pp. 37, 38.

⁷⁰ *Ibid.*, pp. 104, 105.

⁷¹ *Ibid.*, pp. 106, 107.

⁷² *Ibid.*, p. 110.

⁷³ *Ibid.*, p. 117.

⁷⁴ Floyd was collector of customs for the Apalachicola district.

⁷⁵ Document No. 19. Organization Proceedings of the Democratic Party.

III. The Struggle for Admission

¹ Document No. 18. Memorial to Congress of the People of the Territory of Florida.

² House Journal, 25th Cong., 3d sess. [343], p. 382.

³ *News*, February 9, 1839.

⁴ Document No. 20. Petition to Congress of Members of the Legislative Council.

⁵ Printed Senate Journal, 1839, pp. 44, 45.

⁶ Printed House Journal, 1839, pp. 67, 68.

⁷ *Ibid.*, p. 72.

⁸ *Ibid.*, pp. 73, 74.

⁹ The bill cannot be found. Its title was, "An act to repeal an act

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entitled an act to call a Convention for the purpose of organizing a State Government.”

¹⁰ *Ibid.*, p. 105.

¹¹ Printed Senate Journal, 1839, pp. 89, 91. Convention delegates in the council who voted to repeal the convention act were Fitzpatrick, Thomas M. Blount, and DuVal; those voting against the bill were Joseph B. Browne, E. T. Jenckes, William Marvin, and Benjamin D. Wright. The vote was the same on Burritt’s resolutions, except that DuVal voted against them. William Williams, of Mosquito, also voted against the resolutions, but did not vote on the bill.

¹² Printed House Journal, 1839, App., auditor’s report, unpagued.

¹³ See printed House Journal, 1840, App., auditor’s report, unpagued.

¹⁴ By an act of March 2, 1839, the governor was authorized to borrow \$500,000 at 8 percent interest for the pay and subsistence of 12 militia companies (John P. DuVal, *Compilation of the Public Acts of the Legislative Council of the Territory of Florida, Passed Prior to 1840* [Tallahassee, 1839], pp. 412-414, cited hereafter as DuVal’s *Compilation*).

¹⁵ Printed Senate Journal, 1839, pp. 105, 106.

¹⁶ Specifically by Reid, Levy, and Sanchez (see *News*, March 19, 1839; *Florida Herald*, April 11, 1839).

¹⁷ *Ibid.*, March 8, 1839.

¹⁸ *News*, April 27, 1839.

¹⁹ *Ibid.*, June 1, 1839.

²⁰ See *Pensacola Gazette*, May 4, 1839, in which the editor points out that the vote was not on the expediency of a state government but on the acceptance or rejection of the constitution, which he thought was probably as good as could be hoped for.

²¹ *Florida Herald*, February 7, 1839.

²² *Pensacola Gazette*, April 24, 1841.

²³ *News*, March 2, 1839.

²⁴ *Florida Herald*, January 9, 1840. Baltzell was later quoted as saying that he changed his party affiliation from Whig to Democrat in the summer of 1840 (*Florida Sentinel*, September 23, 1842).

FLORIDA BECOMES A STATE

²⁵ Roland H. Rerick, *Memoirs of Florida* (Atlanta, Ga., 1902, 2 vols.), II, 172; see also *Florida Journal*, February 4, 1843.

²⁶ Thomas Baltzell to Joseph McBride, March 15, 1839, in *News*, April 13, 1839.

²⁷ Downing's circular of March 14, 1839, in *News*, April 6, 1839.

²⁸ *Ibid.*; *Floridian*, April 6, 1839.

²⁹ The final vote, as given in the *Floridian*, September 28, 1839, was Downing, 2,535; Baltzell, 1,724.

³⁰ Cf. *Pensacola Gazette*, June 8, 1839; *Florida Herald*, June 27, 1839, quoting *Apalachicola Gazette*, n. d.; *News*, June 29, 1839.

³¹ *Pensacola Gazette*, September 21, 1839.

³² *Florida Herald*, October 11, 1839.

³³ Document No. 22. Proclamation of President of the Constitutional Convention.

³⁴ Document No. 35. Statement of the Votes for and Against the Constitution.

³⁵ The final report of the *Floridian*, September 28, 1839, showed a majority of only 21.

³⁶ *Florida Herald*, June 27, 1839, quoting *Apalachicola Gazette*, n. d.

³⁷ The *Pensacola Gazette* (quoted in *Apalachicola Gazette*, January 4, 1840) said that the people of West Florida voted against the constitution not because they disliked its provisions but because they were opposed to every step calculated to lead to a state government.

³⁸ H. Doc. 111, 26th Cong., 2d sess. [385], p. 249.

³⁹ At a Democratic meeting at Centreville, Leon County, June 22, 1839, planters resolved not to receive the bank's bills for the growing crop of cotton if it did not resume specie payments by October 1 (*Floridian*, June 29, 1839). See also *Florida Herald*, December 31, 1840.

⁴⁰ *Floridian*, June 22, 1839.

⁴¹ *Ibid.*, August 3, 17, and 29, 1839.

⁴² *News*, October 11, 1839.

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⁴³ The *Florida Herald*, October 10, 1839, said that there were not 20 men in the county who did not favor division. The *Apalachicola Gazette*, January 4, 1840, asserted that St. Augustine sighed for the days "when she was all Florida, and all Florida was comprised in her," and that "she had determined to dismember the Territory rather than give up the idle distinction of being the *seat of a government*."

⁴⁴ Joshua Knowles, secretary of the convention and editor of the *Florida Watchman*, seems to have originated the charge (see *News*, February 16, March 23, 1839), which was taken up and agitated for a year or so, by several newspapers, including, in a covert way, the Democratic *Florida Herald*, of St. Augustine. The facts advanced in support of this rather ridiculous allegation were that Peter Sken Smith, a rabid bank man, was a brother of Gerrit Smith, the abolitionist; that officers of the Southern Life Insurance and Trust Company were Northern men who proposed to promote colonization from the North and Europe in connection with their East Florida land speculations; and that a certain Shadgett, who had been indicted for abolition activities in East Florida, had since set up in New York as an agent for the sale and settlement of Florida lands (see *ibid.*, April 13, June 29, July 13, 1839, and May 1, 1840; *Florida Herald*, July 5, 1839, and April 5, 1840; *Floridian*, April 4, 1840).

⁴⁵ See Document No. 21. Memorial to Congress of Citizens of East Florida. In addition to the St. Augustine meeting of August 29, meetings were held at Mandarin on September 24, at Jacksonville on October 14, and Tampa on October 15. East Florida sentiment was not unanimous on the subject, however, for there was a statehood meeting at Jacksonville on September 27, and the Mandarin meeting, while demanding division of the territory at the Suwannee River, cautiously desired the privilege of reuniting with Middle and West Florida if East Florida should not gain sufficient population for statehood within 10 years. (*News*, October 5 and 25, November 8, 1839.)

⁴⁶ Allen Johnson and Dumas Malone (eds.), *Dictionary of American Biography* (New York, 1928-1937, 20 vols. and index), III, 423.

⁴⁷ Printed House Journal, 1839, pp. 6, 7.

⁴⁸ *Floridian*, December 28, 1839. Joseph McCants, of Jefferson County, one of the organizers of the Jeffersonian Republican Democratic party, had been appointed secretary of the territory on November 15, vice John P. DuVal, and had taken office December 16.

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⁴⁹ See D. Levy to Joel R. Poinsett, January 19, 1839 [1840?], in Grace E. Heilman and Bernard S. Levin (eds.), *Calendar of Joel R. Poinsett Papers in the Henry D. Gilpin Collection* (Philadelphia, 1941), p. 76. Reid took the oath of office at St. Augustine, December 28, 1839, under a commission dated December 13. Call issued the bonds on December 20.

⁵⁰ Printed Senate Journal, 1840, p. 126, quoted in Abbey, *loc. cit.*, p. 222. This paragraph is based on *ibid.*, pp. 221-224.

⁵¹ Document No. 23. Extract from a Message of Governor Reid. Reid apparently took the abolition charge seriously, as witness a letter of January 31, 1840, to J. R. Poinsett, in which he said that, if East Florida were admitted as a separate state, native Floridians and Southerners would be forced out and abolitionists would gain such a firm foothold that it would be politically a Northern state (*Calendar of Joel R. Poinsett Papers*, p. 84).

⁵² Printed House Journal, 1840, pp. 56, 59.

⁵³ Document No. 25. Report of a Minority of a Select Committee of the House of Representatives.

⁵⁴ Document No. 24. Report of a Select Committee of the House of Representatives.

⁵⁵ Document No. 26. Resolutions of the House of Representatives.

⁵⁶ See Document No. 27. Protest of Representatives from East Florida.

⁵⁷ Printed Senate Journal, 1840, pp. 35-40, 42-45; Document No. 28. Resolutions of the Senate.

⁵⁸ Document No. 29. An Enabling Bill for Middle and West Florida.

⁵⁹ House Journal, 26th Cong., 1st sess. [362], p. 507.

⁶⁰ *Address of Charles Downing, of Florida, to His Constituents* (Washington, 1840), pp. 9, 10. This address is also in the *News*, October 17, 1840.

⁶¹ Document No. 30. Petition to Congress of Inhabitants of East Florida.

⁶² *Florida Sentinel*, March 27, 1840; *Floridian*, April 4, 1840. At this time the *Sentinel* was edited by Joshua Knowles, secretary of the

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convention, who had long been an advocate of statehood. The *Floridian* also pointed out that John Pope, of Kentucky, chairman of the Committee on the Territories, who introduced the bill, was a family connection of William P. DuVal, "the attorney for the Union Bank, and their chief champion in the Convention."

⁶³ Westcott to Poinsett, April 3, 1840, in *Calendar of Joel R. Poinsett Papers*, pp. 92, 93.

⁶⁴ *Apalachicola Gazette*, April 4, 1840.

⁶⁵ *Pensacola Gazette*, February 29, 1840. In the issue of November 16, 1839, the *Gazette* had suggested that, if Florida was to be dismembered, West Florida should go to Alabama, leaving "Middle Florida and the Union Bank and the loco focos, alone in their glory."

⁶⁶ Document No. 31. Petition to Congress of Citizens of Escambia County.

⁶⁷ Cf. *Apalachicola Gazette*, January 4 and 25, 1840; *Pensacola Gazette*, March 28, 1840.

⁶⁸ Senate Journal, 26th Cong., 1st sess. [353], p. 173. Speaking to the motion to appoint a select committee, A. H. Sevier, of Arkansas, said, "when Iowa came in, East Florida must come in; and when Wisconsin came in, another slave State must come in, if they expected to get his vote for admission" (*Congressional Globe*, 26th Cong., 1st sess., p. 186).

⁶⁹ Document No. 32. A Bill for the Admission of Florida.

⁷⁰ Document No. 33. A Bill for the Future Division of Florida.

⁷¹ Levy was in Washington in 1840 as an agent to press against the government the claims of Florida volunteers in the Indian War (*Floridian*, April 17, 1841).

⁷² *Address of Charles Downing*, 1840, pp. 3, 11.

⁷³ *St. Joseph Times*, September 4, 1840.

⁷⁴ James A. James, "National Politics and the Admission of Iowa into the Union," *Annual Report of the American Historical Association*, 1897, p. 163.

⁷⁵ *Pensacola Gazette*, January 19, 1841.

⁷⁶ *Florida Sentinel*, November 27, December 4 and 11, 1840. For

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the St. Joseph meeting, see Document No. 34. Proceedings of a Meeting of Citizens of Calhoun County.

⁷⁷ *Pensacola Gazette*, December 12, 1840.

⁷⁸ Printed House Journal, 1841, pp. 18, 20.

⁷⁹ Document No. 35. Statement of the Votes for and Against the Constitution. Reid's insistence upon the letter of the law is understandable, but it was apparently contrary to territorial practice. In this case, in particular, it hardly seems fair since the referendum vote was *viva voce* and errors in the form of the returns were obviously due to election officials rather than to voters.

⁸⁰ Printed Senate Journal, 1841, p. 124.

⁸¹ Printed House Journal, 1841, pp. 214, 215.

⁸² Document No. 36. Memorial to Congress of the House of Representatives.

⁸³ Document No. 37. Protest of Members from East Florida.

⁸⁴ *Pensacola Gazette*, February 27, 1841.

⁸⁵ *Floridian*, February 20, 1841.

⁸⁶ Downing's address of March 10, 1841, in *News*, April 30, 1841.

⁸⁷ *Florida Herald*, April 2, 1841.

⁸⁸ *Florida Journal*, May 1, 1841. Ward introduced the Union Bank bill in the council in 1833 and had been a director since 1835. He owned 363 shares of its stock in 1840.

⁸⁹ See his speech of April 1, 1839, in *Florida Herald*, April 11, 1839.

⁹⁰ *Ibid.*, April 2, 1841.

⁹¹ Official returns are in the *Floridian*, June 18, 1841.

⁹² Abbey, *loc. cit.*, p. 225.

⁹³ *Pensacola Gazette*, October 23, 1841.

⁹⁴ Printed House Journal, 1842, pp. 13-22.

⁹⁵ Printed Acts, 1842, p. 52.

⁹⁶ *Ibid.*, p. 45.

⁹⁷ Abbey, *loc. cit.*, p. 226.

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⁹⁸ Printed Acts, 1840, p. 56; 1841, p. 71.

⁹⁹ Printed House Journal, 1842, App., treasurer's report, p. 8.

¹⁰⁰ Printed Acts, 1842, p. 54.

¹⁰¹ *Ibid.*, p. 22. Reid vetoed a stay law in 1841 (*Pensacola Gazette*, March 20, 1841). For the economic distress, see printed House Journal, 1841, App., pp. lxxv, lxxviii; printed Senate Journal, 1843, App., p. 21.

¹⁰² See *Pensacola Gazette*, December 4, 1841.

¹⁰³ Document No. 38. Resolutions of the Governor and Legislative Council.

¹⁰⁴ Printed House Journal, 1842, pp. 220, 221.

¹⁰⁵ *Florida Sentinel*, January 22, 1842.

¹⁰⁶ Thomas H. DuVal succeeded Joseph McCants as secretary in 1841.

¹⁰⁷ Presentment of the Leon county grand jury, April term, 1842, in *Florida Sentinel*, May 13, 1842. According to John G. Gamble, president of the Union Bank, property purchased in 1840 for \$13,000 was sold under execution for \$900 (Reginald C. McGrane, *Foreign Bondholders and American State Debts* [New York, 1935], p. 242).

¹⁰⁸ "Publicola" in *Florida Sentinel*, May 6, 1842.

¹⁰⁹ *Ibid.*, June 3, 1842.

¹¹⁰ "Publicola" in *ibid.*, May 6, 1842.

¹¹¹ *National Intelligencer*, March 24, 1842.

¹¹² *News*, June 25, 1842, quoting *New York Observer*, n. d.

¹¹³ The *Star of Florida*, April 28, 1842, carried a stop-press announcement of "the glorious news."

¹¹⁴ Document No. 39. Proceedings of a Meeting of Citizens of Gadsden County.

¹¹⁵ *Star of Florida*, May 26, June 9, 1842; *Florida Sentinel*, May 13, June 3, 1842.

¹¹⁶ *Ibid.*, June 3, 1842.

¹¹⁷ *Ibid.*, May 13, 1842.

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¹¹⁸ Document No. 40. Address of the Committee of the Leon County State Government Meeting.

¹¹⁹ The requisition, which is in printed Senate Journal (Ter.), 1845, pp. 43-45, was finally signed by exactly one-half of the members of the convention. Of the 28 signers, 16 were from Middle Florida, 9 from West Florida, and only 3—Fitzpatrick, of Dade, and Webb and McClellan, of Columbia—from East Florida. Six of the delegates who signed it had, in 1839, formally protested the resolution providing for the reassembling of the convention because it exceeded the powers of that body (Convention Journal, p. 115).

¹²⁰ *Florida Journal*, June 4 and 11, 1842.

¹²¹ *Florida Sentinel*, June 3, 1842.

¹²² Document No. 41. Proceedings of a Meeting of Citizens of Escambia County.

¹²³ Document No. 42. Call for a General Meeting of the Friends of State Government.

¹²⁴ Document No. 43. Proceedings of the General Meeting of the Friends of State Government.

¹²⁵ See Document No. 44. Memorial to Congress of Inhabitants of Leon County.

¹²⁶ *Star of Florida*, June 23, 1842.

¹²⁷ *National Intelligencer*, September 19, 1842.

¹²⁸ *News*, September 10, 1842.

¹²⁹ *Florida Sentinel*, September 30, 1842.

¹³⁰ *Ibid.*, September 2, 1842.

¹³¹ Printed Senate Journal, 1843, pp. 53, 54.

¹³² Document No. 45. Resolutions of the Governor and Legislative Council.

¹³³ Printed House Journal, 1843, pp. 116, 139.

¹³⁴ Document No. 46. Resolutions of the Governor and Legislative Council.

¹³⁵ Document No. 47. Memorial to Congress of Citizens of St. Johns County.

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¹³⁶ Senate Journal, 28th Cong., 1st sess. [430], p. 390; Document No. 48. Report of the Committee on the Territories on the Admission of Florida into the Union.

¹³⁷ Document No. 49. A Bill for the Admission of Florida and the Future Division of the State.

¹³⁸ *Florida Herald*, October 22, 1844. The *Herald* ran the address in three parts in its issues of October 22 and 29 and November 5.

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¹ Charles Francis Adams (ed.), *Memoirs of John Quincy Adams* (Philadelphia, 1874-1877, 12 vols.), XII, 164.

² *Commercial Advertiser*, February 1, 1845.

³ H. R. 497, January 7, 1845, in U. S. House Files, 28th Cong., 2d sess.

⁴ Printed Senate Journal (Ter.), 1845, p. 8.

⁵ Document No. 50. Report of the Joint Select Committee on State Government.

⁶ Printed Senate Journal (Ter.), 1845, pp. 53, 63, 72.

⁷ Document No. 51. Resolutions of the Governor and Legislative Council.

⁸ *Congressional Globe*, 28th Cong., 2d sess., pp. 275, 285.

⁹ House Journal, 28th Cong., 2d sess. [462], pp. 378, 379.

¹⁰ *Congressional Globe*, 28th Cong., 2d sess., p. 383.

¹¹ *Ibid.*, p. 378; Senate Journal, 28th Cong., 2d sess. [448], p. 233.

¹² Document No. 52. An Act for the Admission of Iowa and Florida.

¹³ Document No. 53. An Act Supplementary to the Act for the Admission of Iowa and Florida.

¹⁴ For typical editorials, see "Contemporaneous Reactions to Statehood," *Florida Historical Quarterly*, XXIII (April, 1945), pp. 201-211.

¹⁵ *News*, March 15, 1845.

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¹⁶ Printed Acts (Ter.), 1845, pp. 9-16.

¹⁷ Document No. 54. Proclamation of Governor Branch.

¹⁸ Document No. 55. Proclamation by the Committee of the Constitutional Convention. Leslie A. Thompson did not act with the committee because he was in Washington attending a session of the Supreme Court (*Florida Sentinel*, September 16, 1845).

¹⁹ *Ibid.*, May 13, 1845.

²⁰ *Commercial Advertiser*, April 26, 1845.

²¹ *Florida Sentinel*, May 3, 1845.

²² *Ibid.*, January 28, 1845.

²³ *Commercial Advertiser*, April 19, 1845, quoting *Pensacola Gazette*, n. d.

²⁴ *Commercial Advertiser*, April 26, 1845.

²⁵ *Ibid.*; *News*, May 10, 1845.

²⁶ T. Frederick Davis, "Pioneer Florida: Admission to Statehood, 1845," *Florida Historical Quarterly*, XXII (January, 1944), 135, citing *Niles' Register*, July 5, 1845.

²⁷ *Commercial Advertiser*, June 24, 1845.

²⁸ For a list of members of the first General Assembly, see Document No. 56. Certificate of the Results of the Election of May 26, 1845.

²⁹ *Florida Sentinel*, June 24, 1845.

³⁰ Printed House Journal, 1845, p. 9.

³¹ *Florida Sentinel*, July 1, 1845. This account of the inauguration is based on the *Sentinel* of June 24 and July 1.

³² Iowa did not actually enter the Union until 1846 because of her delay in accepting certain conditions in the act of admission.

³³ See Dorothy Dodd, "The Flags of the State of Florida," *Florida Historical Quarterly*, XXIII (January, 1945), 160-163.

³⁴ *Florida Sentinel*, July 1, 1845. The address is also in the *Florida Historical Quarterly*, XXIII (April, 1945), 212-219.

³⁵ *Florida Sentinel*, July 1, 1845.

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³⁶ *News*, July 19, 1845.

³⁷ Printed House Journal, 1845, p. 28. The only member not voting was John P. Baldwin, of Dade, who did not take his seat until July 2.

³⁸ *Florida Sentinel*, July 8, 1845.

³⁹ Printed Senate Journal, 1845, pp. 23-27.

⁴⁰ *Ibid.*, pp. 56, 59.

⁴¹ *Ibid.*, p. 32.

⁴² Printed House Journal, 1845, p. 41.

⁴³ *News*, July 26, 1845.

⁴⁴ Taxes assessed under this act were: West Florida, \$8,890.67; Middle Florida, \$18,046.84; East Florida, \$10,655.96; total, \$37,593.47 (printed House Journal, 1846, App., p. 26).

⁴⁵ Printed Acts, 1845, Ch. 10.

⁴⁶ *News*, August 2, 1845.

⁴⁷ *Ibid.*

⁴⁸ Printed Senate Journal, 1845, p. 96.

⁴⁹ Document No. 57. An Act Declaring the Assent of Florida to the Terms of Admission.

DOCUMENTS

¹ Hunt Miller (ed.), *Treaties and Other International Acts of the United States of America* (Washington, 1931- , Vols. I-), III, 4, 5, 8.

² MS. in Florida State Library; printed in *Pensacola Gazette*, June 1, 1827.

³ MS. Journal, 1832, session of January 3; printed Journal, 1832, pp. 8, 9.

⁴ See James D. Richardson (ed.), *A Compilation of the Messages and Papers of the Presidents, 1789-1897* (Washington, 1896-1898, 9 vols.), II, 483, 493.

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⁵ MS. Journal, 1834, session of February 13; printed Journal, 1834, pp. 106-109.

⁶ This report was made in compliance with a resolution introduced by Thomas Jefferson Green, of Leon County, and adopted without a roll call.

⁷ "Adequate" in printed Journal.

⁸ Enrolled Acts, 1836; printed Journal, 1836, p. 57.

⁹ MS. Journal, 1837, session of January 3.

¹⁰ James Webb and J. A. Cameron, associate justices of the Court of Appeals, in a letter to the president of the Legislative Council, protested the accuracy of Governor Call's statement. A session of the court was held in 1834, they said, but there was no session in 1835 because of the absence of two associate justices, nor in 1836 because the presiding judge could not take his seat, as he had not received his commission. (*Ibid.*, session of January 9.)

¹¹ Enrolled Acts, 1837; printed Acts, 1837, pp. 49, 50; DuVal's *Compilation*, pp. 430,431.

¹² MS. Senate Journal (Ter.), 1845, session of January 17; printed Senate Journal (Ter.), 1845, pp. 45-47.

¹³ This tabulation apparently was made in 1845 by the joint select committee of the Senate and House of Representatives to which the subject of statehood was referred. No absolutely contemporary tabulation has been found, but such original returns as are extant in the office of the secretary of state attest the accuracy of the committee's count. The committee was in error in stating that the act called for a vote on "No State." The vote, under the act, was to be on "State" or "Territory."

¹⁴ MS. Journal, 1838, session of January 2; printed Journal, 1838, pp. 11, 12.

¹⁵ Returns were made from Gadsden, Madison, and Jackson Counties (printed Journal, 1838, App., treasurer's report, unpagged).

¹⁶ MS. Journal, 1838, session of January 15; printed Journal, 1838, pp. 34-39. Insertions in brackets are made from the printed Journal.

¹⁷ Arkansas was admitted June 15, 1836; Michigan, January 26, 1837.

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¹⁸ This incomplete sentence doubtless refers to one of the several acts relative to public lands then pending in Congress. Clay's Distribution Act was not passed until 1841.

¹⁹ The Distribution, or Deposit, Act of 1836 provided that the surplus revenue should be distributed to the several states in proportion to their electoral votes. The share of each Arkansas and Michigan was \$382,335.31. Three of four contemplated instalments were paid before the Panic of 1837 caused suspension of payments by the act of October 2, 1837.

²⁰ Enrolled Acts, 1838; printed Acts, 1838, pp. 8, 9; DuVal's *Compilation*, pp. 431, 432.

²¹ Enrolled Acts, 1838; printed Acts, 1838, pp. 15-17; DuVal's *Compilation*, pp. 433, 434.

²² A printed petition, U. S. House Files, 25th Cong., 3d sess. Presented and referred to the Committee on the Territories, March 5, 1838; again presented and referred, January 26, 1839.

²³ A printed bill, U. S. House Files, 25th Cong., 2d sess.

²⁴ Printed in H. Doc. 208, 25th Cong., 3d sess. [347], pp. 24, 25.

²⁵ Several additions in the tabulation are incorrect. Total population of St. Johns County should be 2,302; total number of slaves in the territory, 21,131; total population of the territory, 47,232. Returns of the census of Nassau County evidently were made after this table was compiled, for an abstract published in 1845 shows a total population for Nassau, under the census of 1838, of 1,592 (printed Senate Journal [Ter.], 1845, p. 87). This would give a total population of 48,824, with no returns from Hamilton and Mosquito. The federal census of 1840 gave totals of 1,464 for Hamilton and 73 for Mosquito.

²⁶ *Journal of the Proceedings of a Convention of Delegates to Form a Constitution for the People of Florida, Held at St. Joseph, December, 1838*. St. Joseph: Printed at the "Times" Office, 1839. The original page numbers are given in brackets.

The location of the original journal, if still extant, is not known. On August 18, 1845, Governor Moseley wrote to Joseph Clisby, of Tallahassee, as follows:

"I learn that Joshua Knowles, Esq., Secretary of the Constitutional Convention of the State of Florida, when he left the State, left in

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your custody and care the original MS. journals and papers of the Convention, and that they are now in your possession, but that you desire to dispose of them suitably for the public.

"I would respectfully suggest to you, that you place them in the custody and care of James T. Archer, Secretary of State, taking a correct inventory thereof, and a receipt therefor, and the General Assembly will, I doubt not, at its next Session, make that officer the legal custodian thereof." (MS. letterbook in Florida State Library.)

No record can be found of a receipt to Clisby, but the archives of the secretary of state are far from complete. Certainly, the General Assembly took no action concerning the convention records. There is in the office of the secretary of state a MS. Journal which breaks off during the session of Wednesday, December 26, and which may have been copied from the printed Journal.

²⁷ See Document No. 15. Census of the Territory of Florida.

²⁸ *Constitution or Form of Government for the People of Florida*. St. Joseph: Printed at the "Times" Office, 1839. A certified copy in U. S. Senate Files, 25th Cong., 3d sess.

The original constitution cannot be found. It was sent, by Mrs. Robert Raymond Reid, to Governor Moseley, who transmitted it to the General Assembly on July 3, 1845 (printed Senate Journal, 1845, p. 33). That body placed it in the custody of the secretary of state (printed Acts, 1845, Ch. 1, sec. 2). The last reference to it that can be found is the record of the payment, on February 11, 1847, of \$1.50 for "1 Tin Case for Constitution of Florida" (Comptroller's Reports on Claims, B, 395, MS. in Florida State Library).

²⁹ A printed copy, H. Doc. 208, 25th Cong., 3d sess. [347], pp. 1-4, from U. S. Senate Files, 26th Cong., 1st sess. Read and laid on the table, February 20, 1839; referred to a select committee, February 12, 1840.

³⁰ See *American State Papers, Foreign Relations* (Washington, 1832-1859, 6 vols.), IV, 702, 703.

³¹ For the form of Andrew Jackson's proclamation of July 17, 1821, see *ibid.*, pp. 752, 753.

³² The Northwest Ordinance made 60,000 population requisite for the admission of states to be formed in the territory northwest of the Ohio River.

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³³ *News*, February 23, 1839, quoting *St. Joseph Times*, January 19, 1839.

³⁴ U. S. House Files, 26th Cong., 1st sess. Presented and referred to the Committee on the Territories, February 18, 1839; again presented and referred, February 5, 1840.

³⁵ The Territory of Iowa was created by the act of June 12, 1838.

³⁶ A printed petition, U. S. Senate Files, 26th Cong., 1st sess.; also printed as S. Doc. 67, 26th Cong., 1st sess. [356]

³⁷ Including 46 petitioners who are obviously from Hillsborough County and 43 from Nassau County, although residences are not given. There are four similar petitions in U. S. House Files, 26th Cong., 1st sess.: from Duval County, with 63 signatures; Black Creek, in Duval County, with 40 signatures; Newnansville, in Alachua County, with 45 signatures of residents of Alachua and Columbia Counties; and Alachua County, with 30 signatures.

³⁸ MS. Senate Journal (Ter.), 1845, session of January 17; printed Senate Journal (Ter.), 1845, p. 49.

³⁹ MS. House Journal, 1840, session of January 14; printed House Journal, 1840, pp. 13-16.

⁴⁰ U. S. Senate Files, 26th Cong., 1st sess.; printed House Journal, 1840, pp. 69-77. Insertions in brackets are made from the printed Journal.

⁴¹ No report on statehood was made to the Legislative Council in 1837.

⁴² The source of these figures is unknown. Governor Call proclaimed a majority of 1,005 votes, while a subsequent tabulation showed a majority of 940 out of a total of 3,492 votes cast. See Document No. 8. Proclamation of Governor Call and Returns of the 1837 Election.

⁴³ By a resolution of February 1, 1836, Congress directed the President to have rations from the public stores delivered to victims of Indian depredations in Florida until they could be reestablished, or so long as he might consider it necessary (5 *U. S. Stat.* 131).

⁴⁴ The ratio under the act of May 22, 1832 was 47,700. It was increased by the act of June 25, 1842 to 70,680.

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⁴⁵ "Republic" in printed Journal.

⁴⁶ "50,000" in printed Journal.

⁴⁷ The territory expended \$32,449.66 during the 1839 fiscal year, as against total receipts from all sources of \$15,683. Of the latter amount, only \$10,773.50 was received under the revenue act of 1839. The territory ended the year with a cash balance of \$342.43 and an indebtedness of \$6,913.28 in unpaid auditor's warrants. (Printed House Journal, 1840, App., unpagued.)

⁴⁸ Thomas Brown.

⁴⁹ The committee's resolutions are in printed House Journal, 1840, p. 77. For the substitute preamble and resolutions offered by Richard Fitzpatrick and adopted by the House, see Document No. 26. Resolutions of the House of Representatives.

⁵⁰ MS. House Journal, 1840, session of February 4; printed House Journal, 1840, pp. 77-83.

⁵¹ The committee consisted of Hamlin V. Snell, of Calhoun; Elias E. Blackburn, of Jefferson; Nathaniel W. Walker, of Leon; Kingsley B. Gibbs, of St. Johns; Jesse Carter, of Alachua; Richard Fitzpatrick, of Dade; and John L. McKinnon, of Walton.

⁵² Florida was administered by Spain as one province until 1763. The division into East and West Florida was effected by the British Proclamation of October 7, 1763.

⁵³ U. S. Senate Files, 26th Cong., 1st sess. These resolutions and the majority report (see Document No. 24) were presented March 11, 1840, and referred to the Select Committee on the Division of Florida and its Admission into the Union.

⁵⁴ For the memorial presented on January 10, 1840, by Robert J. Walker, of Mississippi, see Document No. 21. Memorial to Congress of Citizens of East Florida.

⁵⁵ MS. House Journal, 1840, session of February 14; printed House Journal, 1840, pp. 114, 115.

⁵⁶ U. S. Senate Files, 26th Cong., 1st sess. Presented March 6, 1840, and referred to the Select Committee on the Division of Florida and its Admission into the Union.

⁵⁷ A printed bill, U. S. House Files, 26th Cong., 1st sess.

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⁵⁸ U. S. House Files, 26th Cong., 2d sess. Presented and referred to the Committee on the Territories, May 19, 1840; again presented and referred, December 21, 1840.

⁵⁹ U. S. House Files, 26th Cong., 1st sess.; printed as H. Doc. 232, 26th Cong., 1st sess. [368]

⁶⁰ A printed bill, U. S. Senate Files, 26th Cong., 1st sess.

⁶¹ A printed bill, U. S. Senate Files, 26th Cong., 1st sess.

⁶² U. S. Senate Files, 26th Cong., 2d sess. Presented and referred to the Committee on the Judiciary, February 2, 1841.

⁶³ MS. House Journal, 1841, session of February 11; printed House Journal, 1841, pp. 104, 105; printed Senate Journal (Ter.), 1845, pp. 47-49.

⁶⁴ MS. House Journal, 1841, session of February 22; printed House Journal, 1841, pp. 156-158.

⁶⁵ *Ibid.*, 1841, pp. 158, 159.

⁶⁶ By his ordinance of July 21, 1821, Andrew Jackson divided the Provinces of the Floridas into the counties of Escambia and St. Johns, with the Suwannee River as their dividing line.

⁶⁷ Enrolled Acts, 1842; printed Acts, 1842, pp. 55, 56.

⁶⁸ *Florida Sentinel*, May 13, 1842.

⁶⁹ *Ibid.*, May 27, 1842. The Appendix is published in *ibid.*, June 3, 1842.

⁷⁰ Franklin County made no returns under the 1839 revenue act. Although Alachua County made returns, the tax collector was enjoined by the Superior Court for East Florida from enforcing the collection of the tax on lands of non-residents, with the result that the collection of taxes in that county failed. Hamilton County paid its taxes in full in 1839. See printed House Journal, 1840, App., unpagged, and 1841, pp. 94, 95; printed Senate Journal, 1844, App., pp. 22-24.

⁷¹ There follows a list of "Grants of Land by the Federal Government to the new States, as far as Ascertained."

⁷² *Florida Sentinel*, June 17, 1842.

⁷³ *Ibid.*, June 3, 1842.

⁷⁴ *Ibid.*, June 24, 1842.

⁷⁵ A printed memorial, U. S. Senate Files, 27th Cong., 2d sess. This is one of 13 identical memorials presented to the Senate by John C. Calhoun during July and August, 1842: four others from Leon County with 31, 37, 54, and 138 signatures; one from Calhoun with 73 signatures; four from Gadsden with 25, 25, 49, and 75 signatures; two from Jackson with 18 and 29 signatures; and one from Washington with 17 signatures. At the next session of Congress, duplicates of these memorials were presented to the House of Representatives by David Levy on December 27, 1842.

⁷⁶ Enrolled Acts, 1843; printed Acts, 1843, p. 66.

⁷⁷ U. S. Senate Files, 28th Cong., 1st sess. Presented and referred to the Committee on Territories, March 26, 1844; an adverse report made and agreed to, June 17.

⁷⁸ A printed memorial, U. S. Senate Files, 28th Cong., 1st sess. Presented and referred to the Committee on Territories, April 15, 1844; an adverse report made and agreed to, June 17.

⁷⁹ Printed as H. Report 577, 28th Cong., 1st sess. [447]

⁸⁰ A printed bill, U. S. House Files, 28th Cong., 1st sess.

⁸¹ MS. Senate Journal (Ter.), 1845, session of January 17; printed Senate Journal (Ter.), 1845, pp. 36-39.

⁸² Enrolled Acts (Ter.), 1845; printed Acts (Ter.), 1845, pp. 106, 107; also printed as H. Doc. 111, 28th Cong., 2d sess. [465]

⁸³ MS. in office of Florida secretary of state; 5 *U. S. Stat.* 742, 743.

⁸⁴ *Ibid.*, 738.

⁸⁵ MS. in office of Florida secretary of state.

⁸⁶ *Commercial Advertiser*, March 29, 1845.

⁸⁷ Reid died of yellow fever near Tallahassee, July 1, 1841.

⁸⁸ Joshua Knowles removed from Florida to Georgia in 1844.

⁸⁹ Leigh Read died April 27, 1841, of a gunshot wound inflicted by Willis Alston.

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⁹⁰ MS. House Journal, 1845, session of June 23; printed House Journal, 1845, pp. 3-5.

⁹¹ "Washington Tabor" in printed Journal. D. G. McLean was seated on the basis of a certificate from the clerk of the County Court that differed from the returns received by the secretary of the territory and the committee of the constitutional convention, which were incomplete (printed Senate Journal, 1845, pp. 3, 4).

⁹² W. H. Wall took his seat on June 28.

⁹³ John P. Baldwin took his seat on July 2.

⁹⁴ Joseph B. Browne took his seat on June 26.

⁹⁵ Enrolled Acts, 1845; printed Acts, 1845, Ch. 14.

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