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THE FIRST SESSION OF THE
LEGISLATIVE COUNCIL OF FLORIDA
AT PENSACOLA, JULY 22, 1822

The legislative council of Florida met and organized at Pensacola on the 22d July. The governor administered the oath to the members to support the constitution of the United States, &c. A motion was made by Mr. Miller to proceed to elect a president—the council adjourned without going into an election. On the 23d the council having met, Mr. Bronaugh was called to the chair, when they proceeded to elect a president, and the choice was unanimous of **James C. Bronaugh**, esq. of Pensacola.

The president then made his acknowledgments to the council, in the following neat and appropriate address.

Gentlemen of the legislative council:

The flattering manner in which you have called me to preside over this honorable body, has excited in my mind emotions which I shall not attempt to describe. I should, however, do great injustice to my feelings, were I to withhold from you an expression of my sincere and grateful acknowledgments for this distinguished mark of your confidence.

Conscious of possessing but little practical experience of the forms of legislation, I am but too sensible of my inadequacy to discharge the duties of the station assigned me, in a manner calculated to meet even your most just expectations—I therefore assume its functions with great diffidence, and the most anxious solicitude for the result—confidently relying on your liberality for a charitable indulgence of any errors

¹Apparently the official records of this session are lost, hence this account of the proceedings through August 9 is reprinted from *Niles' Register*, vol. XXIII, pp. 23-25 (Sept. 14, 1822). We are indebted to Miss Dorothy Dodd, who is well known to readers of the *QUARTERLY*, for the transcription.

which I may commit, and on your wisdom for guidance and support—all I dare promise, is rectitude of intention, strict impartiality, and a constant, zealous exertion, on my part, so to discharge the duties assigned me, as to merit your approbation.

As the first legislative body assembled in this territory, we are called upon to perform a task of great importance to its future welfare—we are required to lay the foundation of the laws and government of a Territory, which, at present, although but little known, is perhaps destined, at no very distant day, to become one of the most wealthy and respectable members of the American confederacy. Let us, therefore, unite in the work with harmony and good will, and by the usefulness of our labors, satisfy the expectations of the people of Florida, and justify the confidence of the president and congress of the United States.

The council then proceeded to elect their officers—when John Coppinger Connor was chosen clerk and Jabez N. Brown was elected sergeant at arms.

The council being now organized,

Mr. Murray moved, that the governor be informed that the legislative council is now ready to proceed to business. And Messrs. Miller and Gaither were appointed a committee for that purpose.

Mr. Miller reported, that the committee had waited on the governor and received for answer, that he would immediately communicate his message to the council.

On motion—

Messrs. Law, Call and Murray, were appointed a committee to draft rules and regulations for the house.

A message was received from the governor, by col. Walton, secretary, and was read as follows:²

Gentlemen of the legislative council:

Circumstances, over which we had no controul, have prevented us from meeting earlier; I trust how-

² See Knauss, *William Pope DuVal*, Fla. Hist. Soc. QUARTERLY, XI, 103.

ever, no serious inconvenience will result from the delay.

Permit me to draw your attention to some few of the many subjects on which you will find it necessary to legislate—the superior courts for this territory cannot exercise jurisdiction in matters of debt or contract, under one hundred dollars ; inferior courts ought, therefore, to be established for the purpose of adjudicating upon such small sums, and with such further powers as may be thought expedient and warranted by the organic law—as also to be intrusted with the controul over roads, mills, ferries, and other matters of police within their respective counties. They should also possess the power to try all offenders in penal and criminal cases, not made capital by the acts of congress.

Some provisions are also required by which the causes now pending in the several courts of Florida may be transferred to the superior courts, and to such inferior tribunals as you may create.

In all cases of a penal or criminal character the common law is better calculated, than any other, to secure the accused a fair and impartial trial. By the act of congress establishing the government of the territory of Florida, the laws in force at the passage of the act, not inconsistent with the constitution and the laws of the United States relating to Florida, as declared by the act, shall continue in force, until altered, modified or repealed by the legislature.

The uncertainty as to the laws actually in force in Florida, renders it your duty to give to the territory the basis of such a code, as can be clearly and certainly understood by the great body of the people. The civil code, as in force under the Spanish government, was not always the same in her several provinces : many of her laws were of necessity local in their character, and rested on decrees, and ordinances not now to be obtained.

I advise, therefore, that the common law be adopted as the basis of our code, engrafting upon it such provisions of the civil law, as are best calculated to secure to our citizens an ample, speedy and certain redress for any injuries they may sustain.

That there exist serious objections to the common

law, cannot be denied. Too often we see justice yielding her best and most sacred rights to the skill of the cunning pleader, or fettered under its unbending forms and rigid rules ; yet, divest it of these evils ; call in the aid of the civil law to simplify the rules and forms of judicial proceeding, and to do away the absurd fictions on which several of the common law actions rest, and you may combine whatever is excellent in both systems, and avoid what is objectionable in either, as a distinct code. The civil law has long been in force in Florida ; the titles to real and personal estate being founded upon it you cannot make any radical alteration so as to affect existing rights.

It will readily occur to you, gentlemen, that a revenue is indispensably necessary to meet the expenses which must arise in the execution of our local laws ; and the subjects proper for taxation, to meet this object, will claim your attention.

Gentlemen of the legislative council, the subjects on which you will necessarily be compelled to legislate, are so various, that, to call your attention specially to each of them, would be as tedious as it is unnecessary. To regulate with prudence and wisdom the government of the territory, is not less your desire than mine. The interest, feeling and wishes of the people who have lately become citizens of the United States, ought to be consulted, and treated with candor and liberality. Let us, by our acts, prove to them, that they are regarded by us as brothers of the same great family.

Gentlemen, I rely with confidence on your support, and, with candor and promptness on my part, you shall ever find me ready to sanction and execute such of your acts as will tend to the harmony and prosperity of our new country. That Florida will, in a few years, assume a rank among the states of our great and happy union, if her citizens are united and her government just and wise, cannot be doubted.

On these great principles then, let us all cordially unite to encrease the respectability and wealth of our country, by inviting into our territory a population active and enterprising, and by promoting her agriculture and commerce. Your fellow citizen,

Pensacola, July 22, 1822.

WM. P. DUVAL

The legislative council of Florida appear to be diligently engaged in the discharge of their duties. As the business of their first session embraces, as far as practicable, the enactment of a general code of laws for the territory, it is both important and arduous. Down to the 9th of August many bills had been under consideration and some of the most interesting had finally passed. Among the former were bills to raise a revenue—to regulate civil proceedings and chancery proceedings—to regulate damages on bills of exchange—to establish inferior courts—to regulate descents—bills concerning awards and arbitration, proceedings on attachments—to prevent frauds and perjuries—for the distribution of intestate estates—for regulating executions, &c.

The bill providing for the election of a delegate to congress had been matured and passed. By this bill the council have extended the right of suffrage to soldiers, sailors, and marines, in the public service. On this principle, however, the council was nearly divided; a motion being made to exclude that description of persons from voting for delegates to congress, it was rejected by the casting vote of the president, Mr. Bronaugh. The members in favor of granting the privilege, were Messrs. Gaither, Hanham, Miller, and White; those against it were Messrs. Call, Law, Murray, and Reynolds.

The territory has been, by one of the acts, divided into four counties—in the St. John's and Duval in the west, Escambia and Jackson.

The following resolution was adopted by the council on the 9th of August, and a committee appointed to draft a memorial accordingly.

Resolved, by the legislative council of the territory of Florida, that a respectful memorial ought to be addressed to the president of the United States, upon

¹ *Ibid.*, p. 104.

the subjects of general interest to the inhabitants of this territory, and particularly to request his excellency to direct the officers of engineer corps, who are expected shortly to make a survey of Tampa bay, by order of the secretary of war, to explore the interior of the country, and report to the governor of this territory the most eligible place for the permanent seat of government, and to lay out the nearest practicable road from St. Augustine to the place designated, and from thence to Pensacola.