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THE RAILROAD BACKGROUND OF THE FLORIDA
SENATORIAL ELECTION OF 1851

by ARTHUR W. THOMPSON

The national schism concerning the state of the Union following the Mexican War affected the character and intensity of political debate on the Florida scene no less than it did that of other areas throughout the nation. In Congress, Jefferson Davis and other eminent defenders of the Southern position gained the ardent support of Florida's Democratic senior Senator, David L. Yulee. In his advocacy of the principle of the concurrent majority, as applied to the bicameral nature of the national legislature, Yulee was dealt a devastating blow by Webster and Clay. ¹ By late July of 1850, the proponents of the "Omnibus Bill" were still hopeful, and remained so until Maryland's James A. Pearce suddenly allowed Yulee's parliamentary maneuvers to divide the bill. The "ultras" had won a temporary victory, though the final compromise could not be averted." In the final tabulation, Yulee was joined by his Whig colleagues from Florida, Senator Jackson Morton and Representative Edward C. Cabell, in opposing the California and District of Columbia slave-trade bills and approving the extension of slavery in the new Territories. Morton and Yulee also joined hands in support of the fugitive slave bill, with Cabell absent or not voting in the House.

Despite the stand of their Congressional delegation, public reaction in Florida was overwhelmingly in favor of the Compromise. The Committee on Federal Relations of the State's General Assembly reported a resolution against the new law, but this was tabled permanently. ³ The Congressional canvass

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1. J. T. Carpenter, *The South as a Conscious Minority* (New York, 1930), p. 102; Allan Nevins, *Ordeal of the Union* (New York, 1947), I, 320.
 2. *Congressional Globe*, 31st Congress, 1st Session, Appendix, p. 1162-63, 1447-91; Nevins, *op. cit.*, 340; G. G. Van Deusen, *The Life of Henry Clay* (Boston, 1937), p. 411.
 3. *Florida House Journal*, v (1850-51), p. 60.

of that year was conducted primarily on that issue, with Edward C. Cabell soundly thrashing the Democratic candidate, John Beard, who would gladly have accepted the end of the Union in preference to compromise.⁴ The Democratic *Floridian and Journal* of Tallahassee wrote that "the result of the election proved that there was a majority of the people who heartily approved Clay, Foote & Co's Compromise." Reports of Union Nationalist meetings held in various sections of the state serve to substantiate this view; and the second Nashville Convention was virtually ignored.⁵ Even Whig Governor Brown's request for authority to call a convention, in the event of the repeal of the fugitive slave law, was tabled.⁶

It must be added, however, that the more urgent task of selecting a United States Senator was a contributing factor in determining the public attitude. The subsequent election of Stephen R. Mallory over David L. Yulee has been accepted, by virtually every historian of the subject, as conclusive evidence of Florida's wholehearted endorsement of the famous compromise.⁷ That Floridians approved the Compromise of 1850 has been amply demonstrated, but to attribute Yulee's defeat to that fact would seem an error. Moreover, it would obscure the more important domestic clash on the issue of internal improvements. The role of the railroad question in the 1851 Senate election offers a more substantial clue to David Yulee's defeat.

The development of a transportation system was guided during Florida's Territorial period by the needs of an agrarian

4. J. B. Mool, "Florida in Federal Politics," (Master's thesis, Duke University, 1940), p. 58-59; Herbert J. Doherty, Jr., "The Florida Whigs," (Master's thesis, University of Florida, 1949), p. 155.

5. Tallahassee *Floridian and Journal*, September 20, 1851; Edwin Williams, "Florida in the Union," (Ph.D. dissertation, University of North Carolina, 1951), p. 512, 519.

6. *Florida Senate Journal*, v (1850-51), p. 9.

7. A. C. Cole, *The Whig Party in the South* (Washington, 1913), p. 193-94; R. S. Cotterill, "David L. Yulee," *Dictionary of American Biography* (New York, 1936), XX, 683; Dorothy Dodd, "The Seseession Movement in Florida," *Florida Historical Quarterly*, XII (July, 1933) 14; Doherty, *op. cit.*, p. 167-68; Mool, *op. cit.*, p. 71.

economy. In this frontier region, internal improvements would serve to promote settlement. The Territory's Legislative Council freely granted charters for almost any kind of transportation that would increase mobility within its jurisdiction. Its governors consistently urged that action be taken. John H. Eaton, for example, recommended that the people use the opportunity available to a Territory to get National aid, particularly since there would be no constitutional questions involved.⁸ Despite this, the period prior to 1845 was one of promotion and agitation rather than one of construction. When Florida achieved statehood in 1845, there were only four short railroad lines, totalling sixty-three miles,⁹ and these were virtually abandoned during the next several years. Engineering difficulties, labor shortages, inadequate capital, Indian warfare, and the panic of 1837 had all taken their toll.

The only major undertakings had been military roads constructed by the Federal Government during the Seminole War. The canal fever was short-lived and ended with the depression of 1837; steamboats played an increasingly significant role in the forties; but it was not until the mid-fifties that the railroad began to be really developed in Florida.¹⁰

In the over-all development of internal improvements in the United States prior to 1830, government aid had played a large part. Unfortunately for Florida, however, her relatively late appearance as a full-fledged member of the political community brought her face to face with a fairly tightly closed pork barrel - at least insofar as the traditional distribution was concerned. But Federal aid could still be approached by other avenues, and the engineering surveys, right of way through the public domain, and the outright land grant emerged as the new stimuli. Behind this movement for Federal aid, so

8. *Journal of the Florida Legislative Council*, 13th Session, 1835, p. 6.

9. Dorothy Dodd, "Railroad Projects in Territorial Florida," (Master's thesis, Florida State University, 1929), p. 3.

10. Williams, *op.cit.*, p. 255-60.

far as Florida was concerned both before and after 1845, lay persistent attempts to construct a connecting link across the peninsula between the Atlantic Ocean and the Gulf of Mexico. The resolve to execute such a project dominated internal-improvement thinking throughout the thirties. During the following decade David Yulee, both as Territorial Delegate and United States Senator, rarely missed an opportunity to further the project.

Throughout both these decades, Whig advocates of a trans-peninsular railroad also sought government aid to expedite its construction by private enterprise. But the laws of incorporation, passed by the 1837 Legislative Council, called for a measure of state participation,¹¹ and the charters of the four short lines built during the Territorial period contained provisions permitting government purchase of all stock at par, with interest.¹² The Democratic view of the matter was ably stated by Yulee in his *Circular Letter . . . to the People of Florida . . .* in 1844. Such a road, he wrote, "ought to be . . . the property of the State" for the use of its citizens "without the impositions and exactions which a private chartered monopoly would impose."¹³

The culmination of the seven-year political battle between the planter-dominated Whigs and the growing middle class strength of the Democratic Party helped to resolve the clash between divergent attitudes as to the role of the State in railroad construction. The complete triumph by 1845 of the Florida Jacksonians had broken the back of Whig political power. Under Democratic control, freer and more widespread enterprise was possible, and their earlier advocacy of government ownership, as a counter-force to the economic

11. *Acts of the Legislative Council of the Territory of Florida, 1837* (Tallahassee, 1837), p.30.

12. *Executive Documents*, No. 126, 23rd. Congress, 2nd Session, p.6.

13. D. Levy, *Circular Letter of D. Levy to the People of Florida Relative to the Admission of Florida Into the Union* (n.p. 1844). In 1845, David Levy changed his name to David Levy Yulee.

power of the politically entrenched Whigs, rapidly diminished. In the five years that followed admission to the Union, agitation for railroad development reached new heights. The press, town meetings, and railroad conventions maintained a constant clamor for rail transportation.¹⁴

As a result of this agitation a number of roads were planned in the years between 1847 and 1851, among them Yulee's Atlantic and Gulf Railroad. In the meantime, the recommendations of the various Southern Commercial Conventions of the 1840's, that the South carry on commerce directly with Europe as well as tap the trade of the Valley of the Mississippi, gave greater scope to the Yulee enterprise.¹⁵ It is certainly clear that by 1850 Yulee conceived of the Atlantic and Gulf not merely as a means to serve local needs or as a plantation carrier, but as a transit line which would tie the Mississippi Valley as well as the Pacific (the latter by isthmian road across Tehuantepec), through the lower South and across Florida, with Europe. That these developments would, as well, regenerate Southern economic life, encourage immigration, and increase the South's national power, was an added spur to Yulee's existing interest in the railroad.¹⁶

The new road, incorporated in 1849, was to construct and maintain "a railroad within the state between the Atlantic Ocean, or the waters tributary to or connecting with the same, and the Gulf of Mexico, or the waters emptying into or connecting the same."¹⁷ Wide latitude had been permitted in the choice of terminal sites. In the selection of these termini, Yulee would be influenced 'not only by the report of the

14. Williams, *op.cit.*, p. 265.

15. W. W. Davis, "Southern Commercial Conventions," *Transactions of the Alabama Historical Society*, v (1904), 159; Herbert Wender, *Southern Commercial Conventions, 1837-1859* (Baltimore, 1930), p. 49.

16. R. R. Russel, "A Reevaluation of the Period Before the Civil War: Railroads," *Mississippi Valley Historical Review*, XV (December, 1928), 346.

17. *Laws of Florida*, 4th Session, 1848-49, Chapters 242, 244-45, p. 49-63.

Federal survey he had requested two years earlier,¹⁸ but also by the amount of additional aid forthcoming from the government. In January 1849, almost immediately after the road's incorporation, Yulee presented to the U. S. Senate a Florida legislative resolution in favor of establishing a port of entry and delivery at Cedar Key.¹⁹ A week later he introduced a bill granting a right of way to his new road. On the 25th of January it was given two readings, and passed on the following day without amendment.²⁰ In the meantime, as Chairman of the Senate Naval Affairs Committee, Yulee had written to Secretary of State James Buchanan regarding the establishment of steamship and postal communications between Mexico and Florida's Gulf region. Mr. Buchanan's reply, based upon his Minister's report from Mexico, indicated that this would indeed be a desirable step.²¹ In February, consequently, Florida's enterprising Senator introduced another resolution, this time calling on the Post Office and Post Roads Committee to inquire into the "practicability and expediency of expediting the transmission of mails between New York and New Orleans."²² That it might be expedited *via* his projected Fernandina-Cedar Key route probably occurred to Yulee at the time.

It is rather interesting to note at this point how Yulee justified his invocation of governmental assistance in the light of his earlier Jacksonian *laissez-faire* position. The road, he observed, was to be built by private enterprise, not as a private monopoly, but as a *public trust*, one which would promote the prosperity and welfare of the State and of the maximum number of its citizens.²³ The news that Yulee had

18. An engineering survey report of the Federal Government in 1848 had recommended the Fernandina to Cedar Key route as most advisable.

19. *Congressional Globe*, 30th Congress, 2nd Session, p. 274.

20. *Ibid.*, p. 364.

21. J. Buchanan to D. L. Yulee, Washington, January 29, 1849.

22. *Congressional Globe*, 30th Congress, 2nd Session, p. 600.

23. David Yulee undated memoranda, 1848-52 (Yulee Papers, University of Florida).

interested Northern capitalists in the project strangely enough pleased and impressed many in the State despite the sectional struggle which was raging at the time.²⁴

In the spring of 1849, however, not all Floridians were pleased with the prospect of this road. There were those among the Democrats who felt that plank roads were still the most important and unpretentious means of giving maximum utility to most.²⁵ Others, among them Abel Baldwin of Jacksonville, had their own railroad ambitions. The Whigs opposed Yulee's scheme on both political and economic grounds. Some planters favored plank roads as an inexpensive and easily maintained form of transportation which they themselves could own. Others would have preferred to see any trans-peninsular railroad in Whig hands. In any case, the Whigs did not care to have Mr. Yulee's political prestige enhanced by his economic activities. These groups were to present formidable opposition when the Fifth Session of the General Assembly convened in November 1851. The opening gun was fired when Whig Governor Thomas Brown, in his message to the Legislature, called for the creation of a Board of Internal Improvements to draft a plan for an over-all state system, and thereby eliminate what he termed "local disorganized projects." Having received legislative sanction, the newly created board was composed of the following: James W. Bryant of Duval County, A. T. Bennett of Franklin County, Richard Keith Call of Leon County, with Governor Brown as *ex officio* president, and three other Whigs of his Cabinet, Attorney General David Hogue, Treasurer William R. Haywood, and Comptroller Simon Towle, as members.²⁶

At the same session, Yulee and his associates attempted to

24. St. Augustine *Florida Herald and Southern Democrat*, March 10, 1849; Tallahassee *Floridian and Journal*, March 17, 1849.

25. Yulee memoranda, May 25 and June 8, 1850 (Yulee Papers, U.F.).

26. *Florida Senate Journal*, v (1850-51), p. 9-11; Doherty, *op.cit.*, p. 123, 164; Tallahassee *Florida Sentinel*, January 28, 1851.

amend the charter of their Atlantic and Gulf Railroad to increase the company's capitalization, as well as to empower the enterprise to own real estate, warehouses, and storage facilities in accordance with their plan to establish the road as an intersectional and international carrier. After much difficulty the amended charter was passed, only to be vetoed by Governor Brown. His argument that its route was confined entirely to East Florida had some justification. Yet his signature of the heavily Whig-sponsored railroad bill two weeks later, chartering the Florida, Atlantic and Gulf Central Railroad, served to cast some doubt upon his earlier motives, and made manifest his support of the newer road.²⁷ What is of particular significance in the case of this new trans-peninsular competitor was the fact that James W. Bryant and Richard Keith Call were among those designated to superintend the stock subscription in Jacksonville and Tallahassee.

It may be seen, therefore, that insofar as the Whigs and Democrats were divided on the question of internal improvements, it was not a matter of one group's advocacy of railroad construction and the other's opposition to it. Rather, differences seem to have been confined to determining which party would initiate and successfully complete the system, creating thereby not only political capital for the perpetuation of party power - so essential in the light of national events, - but also private capital for the advancement of those concerned.

It was against this background of divergent party views, relating to both national and local issues and encompassing economic as well as political differences, that David L. Yulee came before the General Assembly of Florida for re-election to the United States Senate. Despite Edward C. Cabell's victory in 1850, the Democrats had captured a majority in the Legislature and anticipated no difficulty in electing "D. L.

27. T. Brown to M. A. Long, February 3, 1851; Tallahassee *Floridian and Journal*, March 22, 1851.

Yulee, or some other Democrat and friend of the Southern Convention." ²⁸ But if the Democrats and their newspaper supporters were sure of success for one of their party, Yulee was not entirely confident that he would be the chosen Democrat. By late fall of 1850, he had become aware of the growing combination against him. ²⁹

In December, when the Democrats met in caucus, there was no apparent opposition to Yulee, at least so far as the public was concerned, and he easily won the party's nomination. But the election would prove to be quite another matter. The party caucus had taken place sometime during the second week of December, yet it was not until January 13 that the Democrats were willing, however reluctantly, to allow the matter to come before the combined membership of both houses for a final vote. The fact is that even before the caucus vote took place, it was apparent that Yulee would have serious opposition from some within his own party. Although Yulee had received the nomination by a comfortable majority, what made this party defection serious for his supporters was the fact that the Democrats enjoyed only a very narrow majority in the Assembly. Fear that this dissident group would join with the large Whig minority in preventing Yulee's re-election was very real. ³⁰

What men constituted this opposition? To begin with, John P. Baldwin and James T. Magbee, both of South Florida, felt personally aggrieved because they believed the Senator had not given adequate attention to, or obtained sufficient favor for, their districts. In addition, the extreme South Florida representation - particularly Key West - was disgruntled. Stephen R. Mallory of Key West had written in November:

28. *Ibid.*, August 31 and October 26, 1850.

29. Mrs. D. L. Yulee to Mrs. J. Holt, Washington, December 17, 1850 (Holt Papers, Library of Congress).

30. W. A. Forward to D. L. Yulee, Tallahassee, December 10, 1850 (Yulee Papers, U.F.).

We are but of little use to the State, & are fit subjects for independent government. . . . At present -our only vocation seems to be to give large Democratic majorities for any & every candidate whom the wisdom of others may designate, - to pay a large portion of the State taxes & to send a certain number of legislators to vote for the benefit of others.³¹

Furthermore, the commercial interests of Key West were apprehensive of Yulee's trans-state railroad, which they feared might draw off much of their trade.³² That these views strongly motivated the extraordinarily bitter opposition of Monroe County's William W. McCall to Yulee seems evident. In addition, the railroad interests of both Jacksonville and St. Augustine, the latter under the leadership of Dr. John Westcott,³³ were in Tallahassee during the session aiding "B[aldwin] in his schemes."³⁴ It is evident, therefore, that a few Democrats sought the defeat of Yulee, some because they desired to advance their own railroad ambitions, and others because they would have preferred no railroad at all.

On the other hand, there was also a strong rival railroad faction in East Florida. The two Whig representatives from Duval County, James W. Bryant and James Plummer, clearly reflected the interests of the Jacksonville to Pensacola rail route projected by the Florida, Atlantic and Gulf Central which sought to defeat Yulee's proposed Atlantic and Gulf road, its potential competitor for trans-state commerce. In this the Duval legislators undoubtedly had general Whig support. As for the majority of the Whigs, little was required to convince them that their votes should be cast against the incumbent.

31. S. R. Mallory to C. Byrne, Key West, November 22, 1850 (Yulee Papers, U.F.).

32. A. H. Cole to D. L. Yulee, February 20, 1854 (Yulee Papers, U.F.).

33. Rowland H. Rerick, *Memoirs of Florida* (Atlanta, 1902), II, 157-58.

34. W. Anderson to D. L. Yulee, Tallahassee, January 1, 1851 (Yulee Papers, U.F.).

How many of them opposed Yulee on political grounds, and how many because of economic hostility, it would be almost impossible to say. For the majority of them, Yulee's nomination by the Democratic Party was undoubtedly sufficient reason.

Election of United States Senator

On January 13, 1851, a committee of three from the lower chamber informed the Senate that they were ready to proceed with the major business of the day. When the upper body had filed into the great hall, and its president, R. J. Floyd, succeeded the House speaker, Hugh Archer, as presiding officer of the joint session, the long-delayed election was under way. John Milton of Jackson County rose and nominated David Yulee. There were no further nominations and the voting began. The four balloting that ensued on the 13th and 15th of January have been discussed elsewhere and there is little need to recount them here.³⁵ When the smoke of party battle had cleared, it was evident that the earlier misgivings of Yulee's supporters had been justified. The Baldwin and Mallory factions of South Florida had joined a great majority of the Whigs. This, coupled with some effective parliamentary maneuvering, resulted in the election of Stephen R. Mallory as Senator, and of a group of Whig judges.³⁶ The exact number of Whig judges elected is difficult to determine, little evidence being available in any of the contemporary records now at hand which would indicate party affiliation. Nevertheless, checking the Assembly votes as well as previous and subsequent political and economic views and contacts of these men, it seems probable that at least three of the four Circuit

35. An accurate description of the balloting in the General Assembly is given in Walker Anderson's letter to the Senate of the United States, which is appended to this article.

36. W. A. Forward to D. L. Yulee, Tallahassee, January 17, 1851; I. H. Bronson to D. L. Yulee, Tallahassee, January 17, 1851; and J. B. Browne to D. L. Yulee, Key West, January 29, 1851 (all in the Yulee Papers, U.F.).

Court justices were Whigs as well as both of the associate justices of the Supreme Court. Walker Anderson, the new chief justice, was clearly in the Democratic ranks.

In the light of these developments, it would seem necessary to call into question the original interpretation of this senatorial election, namely, that Yulee was defeated because of his radical stand in 1850. The obvious question must also be raised: What was Mallory's attitude toward the Compromise? There is every indication in his correspondence with Yulee and, more significantly, with his own political supporters, that he completely endorsed his predecessor's position.³⁷ To Charles Byrne, one of his close friends, he wrote before the Fifth Session convened, "I agree with you perfectly in your views of Mr. Yulee's course, & in his right to the position he has so nobly sustained. In that course, - I am with him - even unto the end."³⁸ And to Yulee, before the balloting took place, he wrote, "Your re-election will nerve the action of our friends throughout the State, and speak a lesson to the North."³⁹

The incumbent's defeat, therefore, was regarded with grave concern, not because it was a repudiation of his radical stand, but because it might be regarded as such.⁴⁰ The traditional interpretation of the disputed election,⁴¹ cannot be completely rejected. The narrowed margin between Democrats and Whigs

37. S. R. Mallory to B. M. Pearson, Key West, June 8, 1850, in *Tallahassee Floridian and Journal*, February 8, 1851.

38. S. R. Mallory to C. Byrne, Key West, November 22, 1850 (Yulee Papers, U.F.).

39. S. R. Mallory to D. L. Yulee, Key West, January 4 and February 22, 1851 (Yulee Papers, U.F.).

40. M. S. Perry to D. L. Yulee, Fort Crain, August 18, 1851 (Yulee Papers, U.F.).

41. Yulee contested Mallory's right to a seat in the Senate, claiming he had been elected on the first ballot 29 to 0. There was little debate on the issue of the blank ballots. The major question in the minds of those on the Senate Elections Committee centered on the point of whether Yulee needed an absolute majority of all those elected to both houses. In his defense, Yulee enlisted the legal aid of Reverdy Johnson and Edwin M. Stanton, but to no avail. *Congressional Globe*, 32nd. Congress, 1st Session, p. 1170-76; *Senate Miscellaneous Documents*, No. 2, 32nd. Congress, Special Session.

in the Assembly, which made the political maneuver possible, was, after all, the result of previous elections which *had* been fought on the issues of the Compromise.

* * * * *

(The following letter by Florida's Supreme Court Chief Justice Walker Anderson is included not only because it offers a succinct summarization of the election details, but also because it presents additional evidence of someone in accord with Yulee's political views who nevertheless voted for Mallory on the final ballot.⁴²)

To the Honorable Senate of the U. States.

The following statement is respectfully submitted by the undersigned, at the request of the Hon. S. R. Mallory.

I was a member of the last Legislature of the State of Florida and took part in the Senatorial election which in January 1851 resulted in the election of Mr Mallory.

Of the 59 members constituting the Legislature, 31 were members of the democratic party and 28 were whigs - but of the former one was unable to attend in his seat but a short time and had left Tallahassee before the election for Senator took place. At the democratic caucus which was held before the election, 16 of the remaining democrats voted for the nomination of Mr Yulee. This vote was increased in the subsequent ballotings to a two thirds vote and in consequence thereof all the democrats with the exception of two members, agreed to cast their votes for Mr Yulee. These two gentlemen repeatedly declared that under no circumstances, could they be induced to vote for Mr Yulee. In addition to the remaining 28 democrats, it was known that one whig would vote for Mr Yulee. In all the consultations of the party to which I was admitted, it was taken for granted that 30 votes were necessary to an election and the chances of procuring one more vote were repeatedly and anxiously canvassed before the election. Every member not embraced in the 29, was regarded

42. This is taken from a true copy in the Yulee Papers, U.F.

as certainly hostile to Mr Yulee's election with a single exception - for some time hopes were entertained that a second whig would lend the aid of his vote to make up the requisite number of 30. Efforts were made to control this doubtful vote, on both sides & until the Legislature went into joint meeting hopes were entertained by some of the democrats that it would be cast for Mr Yulee. The two first ballotings dispelled the hope. The 28 democrats with the one whig voted for Mr Yulee, while the whig who was supposed to be doubtful voted with the other whigs and the two dissenting democrats. The vote being thus 29 for Mr Yulee and 29 Blank, the Chairman of the joint meeting declared there was no election-and it never occurred to me for an instant that a doubt could be entertained of the correctness of his decision. In all the discussion that ensued I never heard a doubt suggested, so well established and settled was the rule that it required a majority of the Legislature to elect and also that blank votes should be counted. At the third balloting, one of the democrats who had voted for Mr Yulee with reluctance under the influence of the caucus nomination, withdrew his vote, leaving but 28 for Mr Yulee and rendering it certain that any further effort to elect him was hopeless. At the fourth balloting,⁴³ I with others, who had previously voted for Mr Yulee voted for Mr Mallory and he was elected.⁴⁴ I have stated the foregoing circumstances to shew [*sic*] two things - first the universal acquiescence which prevailed, in the rule requiring a majority to elect and secondly the fact that it was well known that the blank votes were opposed to Mr Yulee's election and not indifferent.

I was myself a supporter of Mr Yulee, both on the ground of a long standing and sincere personal regard and because

43. The fourth balloting took place on January 15th, 1851.

44. The final vote: Mallory-31, Yulee-23.

FLORIDA SENATORIAL ELECTION OF 1851

195

he was the tried and approved representative of political principles which I have long and dearly cherished.

I am respectfully &c

WALKER ANDERSON

late member of the Florida Ho: of
Representatives from the County of
Es-cambia