Lansing, Iowa, via Red Wing and Reed's Landing, in Wabasha county, in said Territory."

> Very respectfully, Your obedient servant, ALEX. RAMSEY.

EXECUTIVE DEPARTMENT, Saint Paul, March 1, 1852.

## To the Honorable, the Speaker of the House of Representatives :---

SIR:—I return, without my approval, to the House of Representatives, in which it originated, an act entitled "an act to dissolve the marriage contract of Abram Hull and Julia A. Hull."

In briefly stating some of the reasons which induce me to withhold my signature from this act, it is unnecessary to moot the point whether the jurisdiction over divorces ought not to be confined to the judicial tribunals, under the limitations prescribed by law, inasmuch as the question of divorce involves investigations which are properly of a judicial nature. On this point there is a great variety of practice and opinion; nor has an examination of the several papers which have been submitted to me in connection with this act, and which constitute, I presume, the evidence upon which the Legislative Assembly have predicated their action, removed from my mind any of the objections which are generally urged to legislative divorces, on the ground that there is constant liability to imposition, and no opportunity for a careful scrutiny of the allegations and proofs of the parties.

The statement of the petitioner to the Legislature is of the briefest possible character; the name of the wife and several dates are in pencil mark; the place of marriage, the domicil of the parties at the time of the alleged desertion, or indeed at any other time, are not even mentioned; nor are the facts which are set forth, verified by the affidavit of the petitioner. Under the designation of "proofs accompanying the petition," are submitted the depositions of Richard Morris, Alex. Hull and Milton Bevans, taken some three months since before James M. Davidson, a Notary Public for Fulton county, Illinois, in the absence of the wife, and without notice to her. The deponents state in substance that "the conduct of the said Julia was characterized by obstinacy, ill-temper, and a spiteful disposition—that in the spring of 1849, the said Julia left the residence of her husband, and went to her father's residence, and has not since returned to her said husband." A paper is also submitted, which purports to be an agreement between the husband and wife to separate upon terms.

It does not appear how long the petitioner has been a resident of this Territory. I learn, however, that he has been here but a few months—that the parties were married either in Ohio or Illlinois, and that the wife has never been within the limits of Minnesota.

In a case like this, where the wrong complained of is of the mildest character that could possibly justify a divorce; where the parties entered into the contract which is sought to be dissolved, in another State; where the alleged wrong was committed in another State; where the wife has never come within the limits of this Territory, nor submitted herself to the jurisdiction of our courts or Legislature; where no notice of this proceeding has been given to her, rendering a divorce, if obtained, in all probability invalid, as contravening the common rule, that a judgment rendered against a party who had no notice of the proceedings, is in violation of the first principles of justice, and is null and void—may not the propriety of legislative interference well be questioned?

If legislative bodies assume the exercise of judicial powers, they should at least not entirely disregard those obvious rules of justice which every where govern the courts of law.

Why should not Julia A. Hull have notice of this application for the dissolution of

a contract entered into between herself and Abram Hull, the petitioner? Is it not quite possible that she might have something to allege in reply?

The facts complained of in the petitition, occurred in the State of Illinois; the parties were domiciled there; the petitioner's case properly belongs there; and is it not clear, that if the person of the party against whom the complaint is made is not subject to our jurisdiction, any attempt to bind her without such jurisdiction, and without hearing or notice, would be extravagant?

The statute of this Territory, which confers jurisdiction upon our courts in applications for divorce, is certainly very liberal. It provides that for certain causes divorces may be granted on the petition of the party aggrieved, and that all persons who shall have resided in the Territory one year, shall be entitled to the benefit of the act. The requirements are moderate; and I see nothing in the papers accompanying this bill, even if full force is given to the *ex parte* depositions, that presents a case of such henious character as to justify a repeal in this special instance of the reasonable restrictions of the statute.

If the rule of our law is just, that no divorce shall be granted, unless the party applying therefor shall have resided in this Territory, one year immediately preceding the time of exhibiting the complaint, is the alleged, "obstinate, contrary, self-willed, illtempered" deportment of the wife an occurrence of such rare enormity as to demand legislative intervention, and an abatement of the legal period of residence?

Is the mere charge of desertion, of which perhaps satisfactory explanation might have been rendered, if proper notice had been given; and the opinion of certain deponents "that it frequently seemed to be her pleasure to annoy her husband by doing what she knew he did not approve," sufficient to warrant hasty proceedings, without notice, against a helpless woman?

Though there is a great variety of practice and opinion upon the subject of divorces, the stronger authority and the better policy is in favor of the stability of the marriage union. Were it necessary, in the present instance, additional reasons might be urged against the propriety of this act, in the revision to which all our legislative enactments are subject from the Congress of the United States, and the embarrassing position in which the parties might be subsequently placed, by Congress annulling the enactment. An act of Congress, of May 15, 1826, disapproves and annuls several acts passed by the Governor and Legislative Assembly of the *Territory* of Florida, granting divorces. The passage of this act, as well as the opinions which were expressed at the time by leading statesmen in debate, present an instance of strong national reprobation of the practice of granting legislative divorces.

It has been justly said that "though in particular cases the repugnance of the law to dissolve the obligations of matrimonial cohabitation may operate with great severity upon individuals, yet it must be carefully remembered, that the general happiness of the married life is secured by its indissolubility. When people understand that they must live together, except for a few reasons known to the law, they learn to soften by mutual accommodation that yoke which they know they cannot shake off; they become good husbands and good wives, from the necessity of remaining husbands and wives; for necessity is a powerful master in teaching the duties which it imposes. If it were once understood that upon mutual disgust married persons might be legally separated, many couples who now pass through the world with mutual comfort, with attention to their common offspring, and to the moral order of civil society, might have been at this moment living in a state of mutual unkindness, and in a state of estrangement from their common offspring. In this case as in many others, the happiness of some individuals must be sacrificed to the greater and more general good.

"If two persons have pledged themselves at the altar of God to spend their lives together, for purposes that reach much beyond themselves, it is a doctrine to which the morality of the law gives no countenance, that they may by private contract dissolve the bands of this solemn tie, and throw themselves upon society, in the undefined and dangerous characters of a wife without a husband, and a husband without a wife.

"There are, undoubtedly, cases for which a separation is provided; but it must be lawfully decreed by public authority, and for reasons which the public wisdom approves. Mere turbulence of temper, petulance of manners, infirmity of body or mind, are not numbered amongst these causes. When they occur, their effects are to be subdued by management if possible, or submitted to with patience, for the engagement was to take for better for worse; and painful as the performance of this duty may be, painful as it certainly is in many instances, which exhibit a great deal of the misery that clouds human life, it must be attempted to be sweetened by the consciousness of its being a duty, and a duty of the very first class and importance."

Upon a review then of the testimony presented in the present case, I am constrained to withhold my signature from this act, because among other reasons, legislative divorces at all times, and in Territories especially, are surrounded with danger; because in this instance the petitioner has not a legal residence in the Territory; because the wife has had no notice of the pendency of the proceeding, and no opportunity of being heard; because the "proofs" are wholly exparte; and because, finally, even if every other objection were removed, the causes alleged as matters of grievance are scarcely sufficient to justify a divorce. as the set of a divorce as a

The House then proceeded to reconsider and it and it. Provide months with

No. 3, (H. of R.) "A bill entitled an act to dissolve the marriage contract of Abram Hull and Julia A. Hull."

And the question recurring on its passage, the objections of the Governor notwitha torrae Esteerit Liff standing.

And the yeas and nays being called for and ordered, the result was yeas 3, nays 13.

Those who voted in the affirmative, are the the there are additioned both of the Messre. Fullerton, Leavitt and Murphy 33, a other detail of the the work of the work of the work of the work of the second back of the second

Those who voted in the negative, are attimated hiss as boundary realized and had

Messrs, Beatty, Black, Cave, Day, Findley, Gingras, Murray, Randall, Richards, Rolette, Selby, Taylor and Ludden, (Speaker)-14.

So the House refused to pass the bill, the the number of this Art (A. C. A. C. On motion of Mr. Black 1 to direct all be read of what sector great a good of 

The committee on EuroPell Bills, have examined and found correctly enrolled : No. 17. (H. of R.) "A bill untitled at 2012 0 own ze. Pembina country."

(H. of R.) " I till to amond an act providing for the appointment of

The House met, and was called to order by the Speaker at 2 o'clock P. M. Bills No. 34 and 42, and the reports of the committee upon them, presented this morning,

Were taken up, and anaod .211600.1 .8 .0

On motion of Mr. Cave, ACTAN A

The House went into a committee of the Whole on said bills;

And after some time passed therein, when so is the source is real this when the state of the source is the state of the source is the source of the source o The Sergeant-at-Arms announced a message from the Council, the method and the Speaker resumed the chair to receive it.

And the Speaker resumed the chair to receive it; Whereupon, S. Trask, Esq., Secretary thereof, appeared and presented a message.

The Speaker then vacated the chair, and the committee resumed its sitting;

And after some further time passed therein, rose and through its Chairman, reported the bill back to the House with the following amendments :

1st amendment: In line 1, Sec. 1, of bill 34, after the word "of," insert "office of."

20